

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: GENERAL BUSINESS LICENSING

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Cross-reference:

Automobile renting occupation tax, see §§ 37.001 et seq.

Automobile renting use tax, see §§ 37.015 et seq.

Hotel accommodations tax, see §§ 37.025 et seq.

Motorcycle leasing and renting, see §§ 73.20 et seq.

Municipal retailer's occupation tax, see §§ 37.045 et seq.

Municipal service occupation tax, see §§ 37.060 et seq.

GENERAL PROVISIONS**§ 110.01 GENERAL BUSINESS LICENSES.**

(A) It shall be necessary to obtain a license from the village in order to engage in any general business or service in the village, provided, however, that if such service or business being conducted in the village consists of displays for trade shows, craft shows, or short term events, and said events are for a period of no more than five consecutive days, and are not held more than three times in any one fiscal year, then in such event, said business or service shall not be required to obtain a general business license as required herein.

(B) In the event there is no specific fee set for the engagement of a particular business or service, then an annual license fee for business or service not otherwise classified shall be in the sum of \$150. If said annual fee is not paid on or before January 31, said annual fee shall be \$200 and if said annual fee is paid after January 31, said annual fee shall be \$250.
('79 Code, § 118.100) (Ord. 957, passed 12-19-77; Am. Ord. 1348, passed 4-18-88; Am. Ord. 1479, passed 9-3-91; Am. Ord. 1659, passed 2-18-97; Am. Ord. 1905, passed 4-21-2003)

§ 110.02 LICENSE REQUIRED.

No person, firm, or corporation shall engage in any of the businesses hereinafter referred to in this title within the municipality without having obtained a license.
('79 Code, § 110.01) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 110.03 APPLICATIONS FOR LICENSES.

Applications for all licenses and permits required by ordinance shall be made in writing to the Village Clerk in the absence of provisions to the contrary. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered, and the fee to be paid. Each application shall contain such additional information as may be needed for the proper guidance of municipal officials in the issuing of the permit or license applied for.
('79 Code, § 110.02) (Ord. 381, passed 8-1-49)

§ 110.04 FORMS FOR LICENSES.

Forms for all licenses, permits, and applications therefor shall be prepared and kept on file by the Village Clerk.
('79 Code, § 110.03) (Ord. 381, passed 8-1-49)

§ 110.05 SIGNATURES.

Each license or permit issued shall bear the signature of the President and the Village Clerk in the absence of any provision to the contrary.

('79 Code, § 110.04) (Ord. 381, passed 8-1-49)

§ 110.06 INVESTIGATIONS.

On the receipt of an application for a license or permit where the ordinances of the municipality require an inspection or investigation before the issuance of such permit or license, the Village Clerk shall refer such applications to the proper officer for making such investigation. The officer charged with the duty of making the investigation or inspection shall do so promptly and make a report thereon favorable or otherwise.

('79 Code, § 110.05) (Ord. 381, passed 8-1-49)

§ 110.07 FEES FOR LICENSES.

(A) In the absence of provisions to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Village Clerk.

(B) When a business is commenced after the beginning of the license year, the annual license fee for the balance of the year will be charged in full, and there shall be no proportionate deduction of the annual fee.

(C) (1) In addition to their business license fee food establishments shall pay an inspection fee in accordance with the following schedule:

<i>Category</i>	<i>Fee</i>
Retail Food Store	\$100
Food Service Establishment	\$200

(2) The category of a food establishment shall be determined in accordance with the definitions of **RETAIL FOOD STORE** and **FOOD SERVICE ESTABLISHMENT** as contained in the Illinois Department of Public Health's publications titled "*Retail Food Store Sanitation Code*" and "*Food Service Sanitation Code*", respectively

('79 Code, § 110.06) (Ord. 381, passed 8-1-49; Am. Ord. 1137, passed 4-5-82; Am. Ord. 1905, passed 4-21-2003)

§ 110.08 TERMINATION OF LICENSES.

(A) Commencing on May 1, 1997, all annual licenses that are issued shall terminate on December 31, 1997. All annual licenses issued on or after January 1, 1998, shall terminate on December 31 of the year issued.

(B) Notwithstanding the above, all licenses issued pursuant to Chapter 111, Alcoholic Beverages, shall continue to terminate on April 30 next following its issuance.
('79 Code, § 110.07) (Ord. 381, passed 8-1-49; Am. Ord. 1659, passed 2-18-97)

§ 110.09 BUILDING AND PREMISES.

No licenses shall be issued for the conduct of any business if the premises and the building to be used for the purpose do not fully comply with the requirements of the municipality. No licenses or permit shall be issued for the conduct of any business or the performance of any act which would involve a violation of the zoning code of the municipality.
('79 Code, § 110.08) (Ord. 381, passed 8-1-49)

§ 110.10 TRANSFER; CHANGE OF LOCATION.

(A) Licenses issued may be transferred by the original licensee, provided that written notice thereof is given to the Village Clerk within ten days before the transfer is made.

(B) The location of any licensed business or occupation may be changed provided ten days notice thereof is given to the Clerk, in the absence of any provision to the contrary, provided the building, zoning, and fronting consent requirements of the municipal ordinances are complied with.
('79 Code, § 110.09) (Ord. 381, passed 8-1-49)

§ 110.11 INSPECTIONS OF THE PREMISES.

Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provisions or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to be inspected to admit thereto any proper official of the municipality for the purpose of making such inspection at any reasonable time that admission is requested.
('79 Code, § 110.10) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 110.12 BUSINESS NOT TO BE A NUISANCE.

No business, whether licensed or not, shall be so conducted or operated as to amount to a nuisance in fact.

('79 Code, § 110.11) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 110.13 REVOCATION OF LICENSES.

Any license or permit may be revoked by the President at any time during the life of such license or permit for any violation by the licensee of this chapter or provisions relating to the license or permit, the subject matter of the license or permit, or to the premises occupied. Such revocation may be in addition to any fine imposed.

('79 Code, § 110.12) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 110.14 POSTING LICENSE.

It shall be the duty of any person conducting a licensed business in the municipality to keep his/her license posted in a prominent place on the premises at all times.

('79 Code, § 110.13) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 110.15 LIGHTING OF OFF-STREET PARKING AREAS.

It is required that all owners, managers, or their agent, be required to illuminate all lights installed in all off-street parking areas located within commercial areas and shopping centers, on all days that business is being conducted, from the period of dusk to and including one hour after the closing of the business establishments located adjacent to the off-street parking area.

('79 Code, § 118.130) (Ord. 1054, passed 5-19-80) Penalty, see § 10.99

CONTRACTORS

§ 110.20 CONTRACTOR LICENSING.

(A) ***CONTRACTOR*** shall mean any person, firm or corporation that has agreed to perform work that is regulated by the building, plumbing, electrical, mechanical and related codes and ordinances of the village for a property owner or his/her agent.

(B) Any contractor intending to perform work for which a permit is required within the corporate limits shall first obtain a license. A license shall be in effect for a period of one year from the date it

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is issued providing the contractor maintains compliance with all of the requirements of this section. The contractor shall make application to the village and pay an annual fee of \$100. In addition, the contractor shall provide proof of general liability insurance written by an insurer licensed to do business in the State of Illinois in the following amounts:

Minimum Coverage

Personal Injury	\$500,000
Property Damage	\$500,000
Workers Compensation	As required by law

The village shall be named as a certificate holder. In addition, all contractors shall post a license and permit bond in the amount of \$10,000 naming the village as obligee. In the event a contractor's insurance or bond is cancelled during the license year, the contractor may reinstate such license or bond and regain active status as a contractor without payment of an additional fee for that year.

(C) In addition to the above requirements, a contractor seeking an electrical contractor's license shall provide evidence of his/her qualifications through one of the following means:

(1) Provide a copy of his/her electrical contractor's license from another municipality or state that performs licensure testing acceptable to the Village Building Commissioner or his/her designee.

(2) Provide proof of passing a residential, journeyman or master electrical exam from a recognized testing service acceptable to the Village Building Commissioner or his/her designee. Contractors passing only a residential exam will be issued permits for residential electrical work only.

(Ord. 1912, passed 5-5-2003)

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CHAPTER 111: ALCOHOLIC BEVERAGES

Section

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GENERAL PROVISIONS**§ 111.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC LIQUOR. Includes alcohol, spirits, wine, and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being. The provisions of this chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated thereunder, nor to any liquid or solid containing .50% or less of alcohol by volume.

CLUB. A corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used, and maintained by its members through the payment of annual dues, and owning, hiring, or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, and provided with suitable and adequate kitchen and dining room space and equipment, and maintaining a sufficient number of servants and employees for cooking, preparing, and serving food and meals for its members and their guests; provided that such club files with the President at the time of its application for a license under this chapter two copies of a list of names and residences of its members, and similarly files within ten days of the election of any additional member his/her name and address; and provided that its affairs and management are conducted by a Board of Trustees, Executive Committee, or similar body chosen by the members at their annual meeting, and that no member or any officer, agent, or employee of the club is paid or directly or indirectly receives, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting of the members or by its Board of Directors, or other governing body, out of the general revenue of the club.

HOTEL. Every building or other structure kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed, and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which 25 or more rooms are used for sleeping accommodations of such guests, and having one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

RESTAURANT. Any public place kept, used, maintained, advertised, and held out to the public where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room

equipment and capacity, and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests.

RETAIL SALE. The sale for use or consumption, and not for resale.
('79 Code, § 111.01)

§ 111.02 LICENSE REQUIRED TO SELL LIQUOR.

It shall be unlawful to sell or offer for sale at retail in the municipality any alcoholic liquor without having a retail liquor dealer's license.

('79 Code, § 111.02) (Ord. 596, passed 2-3-64) Penalty, see § 10.99

§ 111.03 APPLICATIONS FOR LICENSES.

(A) All applications for retail liquor dealer's licenses shall be accompanied by a payment of a \$200 nonrefundable pre-application fee.

(B) The application fee shall be made to the Village President in writing, signed by the applicant if an individual, or by a duly authorized agent thereof if a club or corporation, verified by oath or affidavit, and shall contain the following information and statements:

(1) The name, age, and address of the applicant in the case of an individual; in the case of a co-partnership, the name, ages, and addresses of all the persons entitled to share in the profits thereof; and in the case of a corporation or a club, the date of the incorporation, the objects for which it was organized, the names, ages, and addresses of the officers and directors, and the names, ages, and addresses of all stockholders;

(2) The citizenship of the applicant, his/her place of birth, and, if a naturalized citizen, the time and place of his/her naturalization;

(3) A description of the business conducted by the applicant and his/her employment in the two years immediately prior to the date of his/her application hereunder, and the address;

(4) The location, address, and description of the premises at which the applicant proposes to sell alcoholic liquor if a license is issued to him/her under this chapter;

(5) A statement that the applicant is the owner of the premises at which he/she proposes to sell alcoholic liquor under a license issued pursuant to this chapter, or that he/she has a lease on said premises for the full period for which the license is to be issued. In his/her discretion, the President

shall, as a condition to the issuance of a license, require the production of evidence of applicant's ownership or leasing of such premises, including title policies, Torrens certificates, and executed leases and deeds;

(6) Whether the applicant has applied elsewhere for a liquor license, and the full particulars with respect to the disposition of such other application or applications;

(7) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the laws of this state, or this chapter of this code;

(8) Whether a previous license by any state or subdivision thereof, or by a federal government, has been revoked, and the reasons therefor;

(9) A statement that the applicant will not violate any of the laws of the State of Illinois or of the United States, or any ordinance of the municipality in the conduct of his/her place of business. ('79 Code, § 111.03) (Ord. 596, passed 2-3-64; Am. Ord. 1201, passed 12-5-83; Am. Ord. 1315, passed 3-16-87)

§ 111.04 WHEN LICENSE SHALL NOT BE ISSUED.

No license shall be issued to:

(A) A person who is not a resident of the municipality;

(B) A person who is not of good character and reputation of the community in which he/she resides;

(C) A person who is not a citizen of the United States;

(D) A person who has been convicted of a felony under any federal or state law;

(E) A person who has been convicted of being the keeper of or is keeping a house of ill fame;

(F) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;

(G) A person whose license issued under this chapter has been revoked for cause;

(H) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license on a first application;

(I) A co-partnership, unless all of the members of such co-partnership shall be qualified to obtain a license;

(J) A corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision;

(K) A person whose place of business is conducted by a manager or agent, unless said manager or agent possesses the same qualifications required of the licensee;

(L) A person who has been convicted of a violation of a federal or state law concerning the manufacture, possession, or sale of alcoholic liquor, subsequent to the passage of this chapter, or shall have forfeited his/her bond to appear in court to answer charges for any such violation;

(M) A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;

(N) Any law-enforcing public officials, including, but not limited to, any President or the Board of Trustees or any President or member of a County Board; and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale, or distribution of alcoholic liquor;

(O) Any person, association, or corporation not eligible for a state retail liquor dealer's license. ('79 Code, § 111.04) (Ord. 596, passed 2-3-64)

§ 111.05 TERMINATION OF LICENSE.

(A) All licenses shall terminate on April 30, next following its issuance. The annual fee shall be paid in full for all or any part of the year ending April 30.

(B) All licenses issued pursuant to this chapter shall be issued for the full year, and there shall be given to the village a bond conditioned for the payment of the license fee with sufficient sureties to be approved by the President and Board of Trustees. The sureties shall be held responsible for any unpaid license fee on the part of the licensee. ('79 Code, § 111.05) (Ord. 596, passed 2-3-64; Am. Ord. 1138, passed 4-5-82)

§ 111.06 FEES TO BE PAID TO MUNICIPALITY.

The fees shall be paid to the President at the time application is made, and shall be turned over to the Treasurer. In the event the license applied for is denied, the fee shall be returned to the applicant;

if the license is granted, then the fee shall be deposited in the general corporate fund or in such other fund as shall have been designated by the Board of Trustees by prior action.

(‘79 Code, § 111.13) (Ord. 596, passed 2-3-64)

§ 111.07 NUMBER OF LICENSES TO BE ISSUED.

There shall be issued in the village not more than no Class “A” Licenses; two Class “B” Licenses; three Class “C” Licenses; one Class “C-1” License; six Class “D” Licenses; four Class “E” Licenses; six Class “F” Licenses; one Class “G” License; and one Class “I” License to be in effect at any one time.

(‘79 Code, § 111.14) (Am. Ord. 1701, passed 5-4-98; Am. Ord. 1711, passed 11-16-98; Am. Ord. 1744, passed 9-20-99; Am. Ord. 1795, passed 3-19-2001; Am. Ord. 1797, passed 4-2-2001; Am. Ord. 1815, passed 6-18-2001; Am. Ord. 1823, passed 9-17-2001; Am. Ord. 1825, passed 10-15-2001; Am. Ord. 1836, passed 3-4-2002; Am. Ord. 1838, passed 4-1-2002; Am. Ord. 1916, passed 5-19-2003; Am. Ord. 1948, passed 1-5-2004; Am. Ord. 1966, passed 3-1-2004; Am. Ord. 2040, passed 6-6-2005; Am. Ord. 2058, passed 11-21-2005; Am. Ord. 2094, passed 1-16-2007; Am. Ord. 3050, passed 3-17-2008; Am. Ord. 3083, passed 12-1-2008; Am. Ord. 3085, passed 12-15-2008; Am. Ord. 4003, passed 6-1-2009)

§ 111.08 RECORD TO BE KEPT OF LICENSES ISSUED.

The President shall keep or cause to be kept a complete record of all such licenses issued by him; and shall furnish the Village Clerk, Treasurer, Chief of Police, and the License Committee each with a copy thereof. On the issuance of any new license or the revocation of any old license, the President shall give written notice of the action to each of these officers within 48 hours of the notice.

(‘79 Code, § 111.15) (Ord. 596, passed 2-3-64)

§ 111.09 DURATION OF LICENSE.

A license shall be and is purely a personal privilege good and valid for not more than one year after issuance, unless sooner revoked as provided in § 111.14. A license shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A license shall not descend by the laws of testacy or intestate devolution, but it shall cease on the death of the licensee, provided that the executor or administrator of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of a license hereunder and of alcoholic liquor, may continue the business of the sale of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than six months after the death, bankruptcy, or insolvency of such licensee. A refund shall be made of that portion of the license fees paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this section.

(‘79 Code, § 111.16) (Ord. 596, passed 2-3-64)

§ 111.10 RENEWAL OF LICENSE.

(A) Any licensee may renew his/her license at the expiration thereof, provided he/she is then qualified to receive a license, and the premises for which such renewal license is sought are suitable for such purposes. The renewal privilege provided for herein shall not be construed as a vested right which shall prevent the President from decreasing the number of licenses to be issued within his/her jurisdiction.

(B) Applications for renewal may be made on application forms to be supplied by the Village Clerk, which forms need not contain all of the information required on an original application for initial license. Said renewal applications shall, however, include a statement under oath by the license holder requesting a renewal that there have been no changes whatsoever in the circumstances of the renewal applicant or in the operation of the subject business, which would change the answers to any of the questions originally answered in the original application on file with the village. Such form may require such additional information as the Liquor Control Commissioner may deem necessary.

(C) Whenever there has been a change in circumstances in regard to the renewal applicant or the operation of the business currently being licensed, a new complete application shall be filed prior to issuance of a renewal of any existing license. In the event that any license holder desires to apply for a different classification of liquor license, such applicant shall be required to complete and file a new complete application as if he/she were a new applicant.
('79 Code, § 111.17) (Am. Ord. 1585, passed 2-21-95)

§ 111.11 CLOSING HOURS.

(A) It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 1:00 a.m. and 5:00 a.m., except on Sunday. However, it shall be lawful for holders of Class "A" and "Club" licenses to sell or offer for sale at retail any alcoholic liquor in the village until 2:00 a.m. on Saturday.

(B) It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the village, between the hours of 3:00 a.m. and 12:00 p.m. on Sunday.

(C) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year's Eve continuing into New Year's Day shall be extended for one additional hour, but in no event to be any later than 3:00 a.m.
('79 Code, § 111.18) (Am. Ord. 925, passed 12-20-76; Am. Ord. 1237, passed 12-3-84) Penalty, see § 10.99

§ 111.12 RESTAURANTS, CLUBS, CLOSING HOURS.

It shall be unlawful to keep open for business or to admit the public to any premises in or on which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited, provided that in the case of restaurants, clubs, and hotels, such establishments may be kept open during such hours, but no alcoholic liquor may be sold to or consumed by the public during such hours.

('79 Code, § 111.19) (Ord. 596, passed 2-3-64) Penalty, see § 10.99

§ 111.13 REGULATIONS FOR PREMISES WHERE LIQUOR IS CONSUMED.

In premises on which the sale of alcoholic liquor for consumption on the premises is licensed, other than as a restaurant, hotel, or club, no screen, blind, curtain, partition, article, or thing shall be permitted in the windows or on the doors of such licensed premises, nor inside such premises, which shall prevent a clear view into the interior of such licensed premises from the street, road, or sidewalk at all times. No booth, screen, partition, or other obstruction, nor any arrangement of lights or lighting, shall be permitted in or about the interior of such premises from the street, road, or sidewalk. Said premises must be so located that there shall be a full view of the entire interior of such premises from the street, road, or sidewalk. All rooms where liquor is sold for consumption on the premises shall be continuously lighted during business hours by natural light or artificial white light so that all parts of the interior of the premises shall be clearly visible. In case the view into any such licensed premises required by the foregoing provisions shall be willfully obscured or permitted to be obscured by the licensee, or in any manner obstructed, then such license shall be subject to revocation in the manner herein provided. In order to enforce the provisions of this section, the President shall have the right to require the filing with him/her of plans, drawings, and photographs showing the clearance of the view as above required.

('79 Code, § 111.20) (Ord. 596, passed 2-3-64) Penalty, see § 10.99

§ 111.14 REVOCATION OF LICENSE.

The President may revoke any retail liquor dealer's license for any violation of this chapter, or for any violation of any state law pertaining to the sale of alcoholic liquor.

('79 Code, § 111.21) (Ord. 596, passed 2-3-64)

§ 111.15 AGE OF EMPLOYEES.

Any person under the age of 21 years is prohibited from at any time attending any bar and from drawing, pouring, or mixing any alcoholic liquor in any licensed retail premises.

('79 Code, § 111.22) (Ord. 1042, passed 1-7-80) Penalty, see § 10.99

LICENSE CLASSIFICATIONS

§ 111.25 LICENSES TO BE DIVIDED INTO GROUPS.

Licenses are divided into eight classes.

('79 Code, § 111.06) (Ord. 596, passed 2-3-64; Am. Ord. 698, passed 4-14-69; Am. Ord. 1138, passed 4-5-82)

§ 111.26 CLASS “A” LICENSE.

(A) Class “A” license shall authorize the retail sale on the premises specified in the license of alcoholic liquor for consumption on the premises. Class “A” license shall also authorize the sale of alcoholic liquor in package form. Class “A” license shall also authorize the furnishing of live music on the premises for dancing, exhibitions, or live musical entertainment. The annual fee for the license shall be \$1,500, payable annually in advance.

(B) For holders of Class “A” licenses it shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 1:00 a.m. and 5:00 a.m., except on Sunday. However, it shall be lawful for holders of Class “A” licenses to sell or offer for sale at retail any alcoholic liquor in the village until 2:00 a.m. on Saturday.

(C) It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the village, between the hours of 3:00 a.m. and 12:00 p.m. on Sunday.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year's Eve continuing into New Year's Day shall be extended for one additional hour, but in no event to be any later than 3:00 a.m.

('79 Code, § 111.07) (Ord. 596, passed 2-3-64; Am. Ord. 1138, passed 4-5-82; Am. Ord. 1315, passed 3-16-87; Am. Ord. 1424, passed 3-19-90; Am. Ord. 1898, passed 4-7-2003)

§ 111.27 CLASS “B” LICENSE.

(A) Class “B” license shall authorize the retail sale on the premises specified in the license of alcoholic liquor for consumption on the premises. Class “B” license shall also authorize the sale of alcoholic liquors in package form. The annual fee for the license shall be \$1,400, payable annually in advance.

(B) It shall be unlawful for holders of Class “B” licenses to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 1:00 a.m. and 5:00 a.m., except on Sunday; however

it shall be lawful for holders of Class “B” licenses to sell or offer for sale at retail any alcoholic liquor in the village until 2:00 a.m. on Saturday.

(C) It shall be unlawful for holders of Class “B” licenses to sell or offer for sale at retail any alcoholic liquor in the village, between the hours of 3:00 a.m. and 12:00 p.m. on Sunday.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year's Eve continuing into New Year's Day shall be extended for one additional hour, but in no event to be any later than 3:00 a.m.

('79 Code, § 111.08) (Ord. 596, passed 2-3-64; Am. Ord. 1138, passed 4-5-82; Am. Ord. 1315, passed 3-16-87; Am. Ord. 1424, passed 3-19-90; Am. Ord. 1898, passed 4-7-2003)

§ 111.28 CLASS “C” LICENSE.

(A) Class “C” license shall authorize the retail sale on the premises specified in the license of alcoholic liquor solely for consumption on the premises. Class “C” license shall also authorize the furnishing of live music on the premises for dancing, exhibitions, or live musical entertainment. The annual fee for the license shall be \$1,500, payable annually in advance.

(B) It shall be unlawful for holders of Class “C” licenses to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 1:00 a.m. and 5:00 a.m., except on Sunday; however, it shall be lawful for holders of Class “C” licenses to sell or offer for sale at retail any alcoholic liquor in the village until 2:00 a.m. on Saturday.

(C) It shall be unlawful for holders of Class “C” licenses to sell or offer for sale at retail any alcoholic liquor in the village, between the hours of 3:00 a.m. and 12:00 p.m. on Sunday.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year's Eve continuing into New Year's Day shall be extended for one additional hour, but in no event to be any later than 3:00 a.m.

('79 Code, § 111.09) (Ord. 596, passed 2-3-64; Am. Ord. 1138, passed 4-5-82; Am. Ord. 1315, passed 3-16-87; Am. Ord. 1424, passed 3-19-90; Am. Ord. 1898, passed 4-7-2003)

§ 111.28.1 CLASS “C-1” LICENSE.

(A) Class “C-1” license shall authorize the retail sale on the premises specified in the license of alcoholic liquor solely for consumption on the premises. Class “C-1” license shall also authorize for only one day of each week, the furnishing of live music on the premises for dancing, exhibitions, or live musical entertainment. The annual fee for the license shall be \$1,500, payable annually in advance.

(B) It shall be unlawful for holders of Class “C-1” licenses to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 1:00 a.m. and 5:00 a.m., except on Sunday; however, it shall be lawful for holders of Class “C-1” licenses to sell or offer for sale at retail any alcoholic liquor in the village until 2:00 a.m. on Saturday.

(C) It shall be unlawful for holders of Class “C-1” licenses to sell or offer for sale at retail any alcoholic liquor in the village, between the hours of 3:00 a.m. and 12:00 p.m. on Sunday.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year's Eve continuing into New Year's Day shall be extended for one additional hour, but in no event to be any later than 3:00 a.m.
(Ord. 4003, passed 6-1-2009)

§ 111.29 CLASS “D” LICENSE.

(A) Class “D” license shall authorize the retail sale on the premises specified in the license of alcoholic liquor solely for consumption on the premises. The annual fee for the license shall be \$1,500, payable annually in advance.

(B) It shall be unlawful for holders of Class “D” licenses to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 1:00 a.m. and 5:00 a.m., except on Sunday; however, it shall be lawful for holders of Class “D” licenses to sell or offer for sale at retail any alcoholic liquor in the village until 2:00 a.m. on Saturday.

(C) It shall be unlawful for holders of Class “D” licenses to sell or offer for sale at retail any alcoholic liquor in the village, between the hours of 3:00 a.m. and 12:00 p.m. on Sunday.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year's Eve continuing into New Year's Day shall be extended for one additional hour, but in no event to be any later than 3:00 a.m.
(‘79 Code, § 111.10) (Ord. 596, passed 2-3-64; Am. Ord. 1138, passed 4-5-82; Am. Ord. 1315, passed 3-16-87; Am. Ord. 1424, passed 3-19-90; Am. Ord. 1898, passed 4-7-2003)

§ 111.30 CLASS “E” LICENSE; CONDITIONS.

(A) Class “E” license shall authorize the retail sale on the premises specified in the license of beer and wine only for consumption on the premises in conjunction with the service of food. The annual fee for the license shall be \$1,100, payable annually in advance.

(B) Class “E” licenses shall be strictly subject to the following conditions:

(1) No beer nor wine shall be served or sold to any person except in connection with the taking of a food order to be served to the person. The food order shall consist of not less than one sandwich for any person being served or sold beer or wine.

(2) No beer nor wine shall be served, sold, or furnished to any person for consumption away from the premises to which the license is applicable but all beer and wine sold under a Class “E” license shall be for consumption on the premises of the licensee to which the license is applicable.

(3) No counter or bar will be permitted on the premises for the sale of beer or wine to any patrons. The licensee may, however, have a service bar for employees to place beer and wine orders and receive beer and wine for service to patrons of the licensee in accordance with the order of the patrons.

(4) The holder of a Class "E" license may not sell beer nor wine in package form.

(C) The sale and service of beer or wine shall be restricted to hours when meals and food are served on the premises to which the license is applicable but under no circumstances shall any beer or wine be served prior to 11:00 a.m. or after 11:00 p.m. on any day, except that on Sunday no beer or wine shall be sold prior to 12:00 p.m.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for each New Year's Eve continuing into New Year's Day shall be extended for one additional hour.

('79 Code, § 111.11) (Ord. 596, passed 2-3-64; Am. Ord. 1138, passed 4-5-82; Am. Ord. 1315, passed 3-16-87; Am. Ord. 1424, passed 3-19-90; Am. Ord. 1898, passed 4-7-2003)

§ 111.31 CLASS "F" LICENSE.

(A) Class "F" license shall authorize the retail sale on the premises specified in the license of packaged alcoholic liquor, but shall not authorize the retail sale of alcoholic liquor for consumption on the premises. The annual fee for the license shall be \$1,300, payable annually in advance.

(B) It shall be unlawful for holders of Class "F" licenses to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 12:00 a.m. and 5:00 a.m. the following day, except on Sunday.

(C) It shall be unlawful for holders of Class "F" license to sell or offer for sale at retail any alcoholic liquor in the village prior to 12:00 p.m. on Sunday.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year's Eve continuing into New Year's Day shall be extended for one additional hour.

('79 Code, § 111.12) (Ord. 1049, passed 3-3-80; Am. Ord. 1138, passed 4-5-82; Am. Ord. 1315, passed 3-16-87; Am. Ord. 1424, passed 3-19-90; Am. Ord. 1889, passed 1-6-2003; Am. Ord. 1898, passed 4-7-2003)

§ 111.32 CLASS "G" CLUB LICENSE.

(A) Class "G" club license shall authorize the retail sale of alcoholic liquors by a club for the use or consumption on the premises permanently occupied by the club. Class "G" license shall also authorize the sale of alcoholic liquors in package form to members only. The annual license fee for such club license is \$900, payable annually in advance.

(B) It shall be unlawful for holders of Class “G” licenses to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 1:00 a.m. and 5:00 a.m., except on Sunday. However, it shall be lawful for holders of Class “G” licenses to sell or offer for sale at retail any alcoholic liquor in the village until 2:00 a.m. on Saturday.

(C) It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the village, between the hours of 3:00 a.m. and 12:00 p.m. on Sunday.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year's Eve continuing into New Year's Day shall be extended for one additional hour, but in no event to be any later than 3:00 a.m.

('79 Code, § 111.25) (Ord. 1127, passed 1-18-82; Am. Ord. 1138, passed 4-5-82; Am. Ord. 1315, passed 3-16-87; Am. Ord. 1898, passed 4-7-2003)

§ 111.33 CLASS “H” LICENSE.

(A) The Liquor Commissioner is authorized in his/her discretion to issue Class “H” special event or temporary liquor licenses for the sale of alcoholic beverages for consumption on the premises. A Class “H” special event or temporary license shall be issued solely in connection with an event held to raise funds for religious, charitable, benevolent, or educational purposes. No such Class “H” license may be for a period of more than three days. No fee shall be charged for the Class “H” license.

(B) It shall be unlawful for holders of Class “H” licenses to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 1:00 a.m. and 5:00 a.m., except on Sunday; however, it shall be lawful for holders of Class “H” licenses to sell or offer for sale at retail any alcoholic liquor in the village until 2:00 a.m. on Saturday.

(C) It shall be unlawful for holders of Class “H” licenses to sell or offer for sale at retail any alcoholic liquor in the village, between the hours of 3:00 a.m. and 12:00 p.m. on Sunday.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year's Eve continuing into New Year's Day shall be extended for one additional hour but in no event to be any later than 3:00 a.m.

('79 Code, § 111.26) (Ord. 1138, passed 4-5-82; Ord. 1138, passed 4-5-82; Am. Ord. 1315, passed 3-16-87)

§ 111.33.1 CLASS “I” LICENSE.

(A) Class “I” license shall authorize the retail sale on the premises specified in the license of alcoholic liquor solely for consumption on the premises. Provided, however, the package sales of wine only shall be permitted in conjunction with the sale of carry out orders of food. The annual fee for the license shall be \$1,500 payable annually in advance.

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(B) It shall be unlawful for holders of Class “I” licenses to sell or offer for sale at retail any alcoholic liquor in the village between the hours of 1:00 a.m. and 5:00 a.m., except on Sunday; however, it shall be lawful for holders of Class “I” licenses to sell or offer for sale at retail any alcoholic liquor in the village until 2:00 a.m. on Saturday.

(C) It shall be unlawful for holders of Class “I” licenses to sell or offer for sale at retail any alcoholic liquor in the village, between the hours of 3:00 a.m. and 12:00 p.m. on Sunday.

(D) Notwithstanding any of the closing hour restrictions contained in this section, the closing hours specified herein for New Year’s Eve continuing into New Year’s Day shall be extended for one additional hour, but in no event to be any later than 3:00 a.m.
(Ord. 1823, passed 9-17-2001; Am. Ord. 1898, passed 4-7-2003)

§ 111.34 ADDITIONAL REQUIRED FEES.

In addition to the annual fee for the license as required in this chapter, an additional fee in the sum of \$200 shall be assessed for each additional permanent bar that is being operated on the licensed premises, which bar is under the same ownership and management as the licensee for the premises for which the license has been issued.
(Ord. 1585, passed 2-21-95)

CHAPTER 112: AMUSEMENTS AND GAMES

Section

Amusements

- 112.01 Applicability
- 112.02 License required to operate
- 112.03 Street shows
- 112.04 Inspections of exhibitions and amusements
- 112.05 License required for coin-operated amusement devices
- 112.06 License required for motion pictures and theatricals

Charitable Games

- 112.15 Charitable games permitted
- 112.16 State Department of Revenue license required

AMUSEMENTS

§ 112.01 APPLICABILITY.

The provisions of this subchapter, except as to licensing and fees, shall apply to all public shows, theatricals, circuses, and other amusements in the village.
(‘79 Code, § 118.001) (Ord. 381, passed 8-1-49)

§ 112.02 LICENSE REQUIRED TO OPERATE.

It shall be unlawful to conduct or operate any amusement which is open to the public and to which a fee for admission is charged, without securing a license. For such licenses the following fees shall be paid:

- (A) Carnivals, \$50 per day;

(B) Circuses, \$100 per day;

(C) Other amusements, \$5 per day.

('79 Code, § 118.002) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 112.03 STREET SHOWS.

No permit for any carnival, circus, exhibition, show, or any amusement shall be given on any public street or in such a place that the only main accommodation for the public or the audience will be in a public place, except on order of the Board of Trustees.

('79 Code, § 118.003) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 112.04 INSPECTIONS OF EXHIBITIONS AND AMUSEMENTS.

It shall be the duty of the Chief of Police to see that every exhibition, amusement, or any other public show is inspected by a member of the Police Department to insure conformity with the ordinances of the municipality.

('79 Code, § 118.004) (Ord. 381, passed 8-1-49)

§ 112.05 LICENSE REQUIRED FOR COIN-OPERATED AMUSEMENT DEVICES.

(A) No person, firm, or corporation shall operate or have on any premises, any coin-operated amusement device, without first having obtained a license.

(B) The annual license fee for a coin-operated amusement device shall be as follows:

(1) Pinball devices as per fee schedule.

(2) Electromechanical-video machines as per fee schedule.

('79 Code, § 118.005) (Ord. 873, passed 7-7-75; Am. Ord. 1139, passed 4-5-82; Am. Ord. 1265, passed 8-5-85; Am. Ord. 1444, passed 9-17-90) Penalty, see § 10.99

§ 112.06 LICENSE REQUIRED FOR MOTION PICTURES AND THEATRICALS.

It shall be unlawful for any person to give, present, or conduct any motion picture or theatricals to which a fee for admittance is charged, excepting performances given solely for the benefit of and under the supervision and auspices of a religious, educational, or charitable organization, without having secured a license. The annual license fee for the presentation or conducting of any motion picture or

theatrical shall be \$80 for the period from May 1, 1997, to December 31, 1997, being the date of termination. Commencing on January 1, 1998, and on January 1 of each year following issuance, the annual fee shall be \$125.

('79 Code, § 118.006) (Ord. 956, passed 12-19-77; Am. Ord. 1659, passed 2-18-97) Penalty, see § 10.99

CHARITABLE GAMES

§ 112.15 CHARITABLE GAMES PERMITTED.

Charitable games as described in ILCS Ch. 230, Act 30, §§ 1 *et seq.*, entitled “Charitable Games Act,” be and the same are hereby allowed and permitted within the village limits.

('79 Code, § 118.150) (Ord. 1394, passed 4-3-89)

§ 112.16 STATE DEPARTMENT OF REVENUE LICENSE REQUIRED.

All charitable games allowed and permitted within the village shall comply with all of the provisions of the ILCS Ch. 230, Act 30, §§ 1 *et seq.*, including but not limited to prior issuance of licenses by the Illinois Department of Revenue, as required therein.

('79 Code, § 118.151) (Ord. 1394, passed 4-3-89) Penalty, see § 10.99

CHAPTER 113: TELECOMMUNICATIONS

Section

Cable Communications

- 113.01 Short title
- 113.02 Definitions
- 113.03 Rights and privileges of grantee
- 113.04 Agreement and incorporation of application by reference
- 113.05 Franchise territory
- 113.06 Duration and acceptance of franchise
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- 113.08 Franchise renewal in the event of change in federal law
- 113.09 Police powers
- 113.10 Cable television franchise required
- 113.11 Use of grantee facilities
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Municipal Telecommunications Infrastructure Maintenance Fee

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Cable/Video Service Provider Fee and PEG Access Support Fee

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Cable and Video Customer Protection Law

- 113.85 Customer service and privacy protection law
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- 113.87 Penalties
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- 113.99 Penalty

Cross-reference:

Emergency 911 telephone system surcharge, see §§ 37.085 et seq.

§ 113.01 SHORT TITLE.

This chapter shall be known and may be cited as the “Matteson Cable Television Franchise Ordinance,” hereinafter “franchise” or “ordinance.”
(Ord. 1678, passed 7-21-97)

§ 113.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADDITIONAL SERVICE. Any subscriber service provided by the grantee for which a special charge is made based on program or service content, time, or spectrum space usage.

BASIC SERVICE. All subscriber services provided by the grantee in one or more service tiers, which includes the delivery of local broadcast stations, and public, educational and government access channels. Basic service does not include optional program and satellite service tiers, a la carte services, per channel, per program, or auxiliary services for which a separate charge is made. However, grantee may include other satellite signals on the basic service tier.

BOARD. The Matteson Village Board.

CABLE COMMUNICATIONS SYSTEM. CABLE SYSTEM or SYSTEM or CABLE TELEVISION SYSTEM means a system of antennas, cables, wires, lines, towers, wave guides, or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing audio, video, and other forms of electronic, electrical or optical signals, which includes cable television service and which is located in the village. The definition shall not include any such facility that serves or will serve only subscribers without using village rights-of-way.

CLASS IV CHANNEL. A signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the cable communications system.

COMPLAINT. Any complaint regarding service, picture quality, charges or other matter relating to the cable system made by a customer to the grantee, whether in written or oral form.

CONTROL or CONTROLLING INTEREST. Actual working control or ownership of a system in whatever manner exercised. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person or entity (except underwriters during the period in which they are offering securities to the public) of 5% or more of a cable system or the franchise under which the system is operated. A change in the control or controlling interest of an entity which has control or a controlling interest in a grantee shall constitute a change in the control or controlling interest of the system under the same criteria. **CONTROL or CONTROLLING INTEREST** as used herein may be held simultaneously by more than one person or entity.

CONVERTER. An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view more than 12 channels delivered by the system at designated converter dial locations.

FCC. The Federal Communications Commission and any legally appointed, designated or elected agent or successor.

GRANTEE. A person or entity to whom or which a franchise under this chapter is granted by the village, along with the lawful successors or assigns of such person or entity.

GROSS REVENUES. All revenue collected directly or indirectly by the grantee, arising from or attributable to the provision of cable service by the grantee within the village including, but not limited to: periodic fees charged subscribers for any basic, optional, premium, per-channel or per-program service; installation and reconnection fees; leased channel fees; converter rentals and/or sales; program guide revenues; studio or production equipment rentals; late or administrative fees; upgrade, downgrade or other change-in-service fees; advertising revenues; revenues from home shopping and bank-at-home channels; revenues from the sale, exchange, use or cable cast of any programming developed on the system for community or institutional use; and any value (at retail price levels) of any non-monetary remuneration received by grantee in consideration of the performance of advertising or any other cable service of the system; and franchise fees, provided, however, that this shall not include any taxes on services furnished by the grantee herein imposed directly upon any subscriber or user by the state, local or other governmental unit and collected by the grantee on behalf of the governmental unit.

INITIAL SERVICE AREA. All areas in the village having a density of at least 20 dwelling units per street mile.

INSTALLATION. The connection of the system from feeder cable to subscribers' terminals.

MAY. This term is permissive.

MONITORING. Observing a communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever; provided monitoring shall not include system-wide, non-individually addressed sweeps of the system for purposes of verifying system integrity, controlling return paths transmissions, or billing for pay services.

NORMAL BUSINESS HOURS. As applied to the grantee shall mean those hours during which similar businesses in the village are open to serve customers. In all cases, **NORMAL BUSINESS HOURS** must include some evening hours at least one night per week, and some weekend hours.

NORMAL OPERATING CONDITIONS. Those service conditions that are within the control of the grantee. Those conditions that are not within the control of the grantee include, but are not limited to: natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

SHALL. This term is mandatory.

SERVICE INTERRUPTION. The loss of either picture or sound or both for a single or multiple subscriber(s).

STREET. The surface of and all rights-of-way and the space above and below any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the village for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the village which shall, within their proper use and meaning entitle the grantee to the use thereof for the purposes of installing poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable television system.

SUBSCRIBER. Any person, firm, grantee, corporation, or association lawfully receiving any service provided by a grantee pursuant to this chapter.

USER. A party utilizing a cable television system channel for purposes of production or transmission of material to subscribers, as contrasted with receipt thereof in a subscriber capacity.

VILLAGE. The Village of Matteson, Illinois.
(Ord. 1678, passed 7-21-97)

§ 113.03 RIGHTS AND PRIVILEGES OF GRANTEE.

Any franchise granted by the village pursuant to state statutes (ILCS Ch. 65, Act 5, § 11-42-11) shall grant to the grantee the right and privilege to erect, construct, operate and maintain in, upon, along, across, above, over and under the streets now in existence and as may be created or established during its terms any poles, wires, cable, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation of a cable system. Any such franchise granted shall be on the same and similar terms and conditions.

(Ord. 1678, passed 7-21-97)

§ 113.04 AGREEMENT AND INCORPORATION OF APPLICATION BY REFERENCE.

(A) Upon adoption of any franchise agreement and execution thereof by the grantee, the grantee agrees to be bound by all the terms and conditions contained in this chapter.

(B) Any grantee also agrees to provide all services specifically set forth in its application and to provide cable television service within the confines of the village; and by its acceptance of the franchise, the grantee specifically grants and agrees that its application is thereby incorporated by reference and

made a part of the franchise. In the event of a conflict between such proposals and the provisions of this chapter, the provisions of the franchise agreement shall control.
(Ord. 1678, passed 7-21-97)

§ 113.05 FRANCHISE TERRITORY.

Any franchise is for the current territorial limits of the village and for any area henceforth added thereto during the term of the franchise.
(Ord. 1678, passed 7-21-97)

§ 113.06 DURATION AND ACCEPTANCE OF FRANCHISE.

Any franchise and the rights, privileges and authority hereby authorized shall take effect and be in force from and after the signing of a franchise agreement by the village, as provided by law, and shall continue in force and effect for an initial term of no longer than 12 years, provided that within 15 days after the date of village approval of the franchise the grantee shall file with the village its unconditional acceptance of the franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed and sworn to, by, or on behalf of the grantee before a notary public or other officer authorized by law to administer oaths. Such franchise shall be non-exclusive and revokable.
(Ord. 1678, passed 7-21-97)

§ 113.07 FRANCHISE RENEWAL.

Pursuant to 47 USC 546, the following procedure shall apply:

(A) The village may, on its own initiative, during the six-month period which begins with the 36th month before the franchise expiration, commence a proceeding which affords the public in the village appropriate notice and participation for the purpose of identifying the future cable-related community needs and interests and reviewing the performance of the grantee under the franchise. If the grantee submits, during such six-month period, a written renewal notice requesting the commencement of such proceeding, the village shall commence such proceeding not later than six months after the date such notice is submitted.

(B) Upon completion of the proceeding under division (A) of this section, the grantee may, on its own initiative or at the request of the village, submit a proposal for renewal. The village may establish a date by which such proposal shall be submitted.

(C) Upon submittal by the grantee of a proposal to the village for the renewal of the franchise, the village shall provide prompt, public notice of such proposal and renew the franchise or issue a

preliminary assessment that the franchise should not be renewed, and at the request of the grantee or on its own initiative, commence an administrative proceeding, after providing prompt, public notice of such proceeding.

(D) The village shall consider in any administrative proceeding whether:

(1) The grantee has substantially complied with material terms of the existing franchise and with applicable law;

(2) The quality of the grantee's service, including signal quality, response to consumer complaints and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in the light of community needs;

(3) The grantee has the financial, legal and technical ability to provide the services, facilities and equipment as set forth in the grantee's proposal; and

(4) The grantee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the costs of meeting such needs and interests.

(E) In any proceeding under division (D) of this section, the grantee shall be afforded adequate notice and the grantee and the village, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceedings under division (A) of this section), to require the production of evidence and to question witnesses. A transcript shall be made of any such proceeding.

(F) At the completion of a proceeding under division (D) of this section, the village shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding and transmit a copy of such decision to the grantee. Such decision shall state the reasons therefor.

(G) Any denial of a proposal for renewal that has been submitted in compliance with the procedures set forth above, shall be based on one or more adverse findings made with respect to the factors described at subdivisions (1) through (4) of division (D) pursuant to the record of the proceeding under said division. The village may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise or on events considered under subdivision (D)(2) unless the village has provided the grantee with notice and the opportunity to cure or in any case in which it is documented that the village has waived its right to object.

(H) The grantee may appeal any final decision or failure of the village to act in accordance with the procedural requirements of this section. The court shall grant appropriate relief if the court finds that any action of the village is not in compliance with the procedural requirements of this section; or in the event of a final decision of the village denying the renewal proposal, the grantee has demonstrated that

the adverse finding of the village with respect to each of the factors described in subdivisions (D)(1) through (4) on which the denial is based is not supported by a preponderance of the evidence, based on the record of the administrative proceeding.
(Ord. 1678, passed 7-21-97)

§ 113.08 FRANCHISE RENEWAL IN THE EVENT OF CHANGE IN FEDERAL LAW.

In the event that any or all of the above-referenced provisions of federal law are repealed, the following relevant section(s) shall apply:

(A) At least 24 months prior to the expiration of the franchise, the grantee shall inform the village in writing of its intent to seek renewal of the franchise.

(B) The grantee shall submit a proposal for renewal which demonstrates:

(1) That it has been and continues to be in substantial compliance with the material terms, conditions, and limitations of this chapter and its franchise;

(2) That its system has been installed, constructed, maintained and operated in accordance with the accepted standards of the industry, and this chapter and its franchise;

(3) That it has the legal, technical, financial, and other qualifications to provide the facilities, services and equipment set forth in its proposal; and

(4) That it has made a good faith effort to provide services and facilities which accommodate the demonstrated needs of the community as may be reasonably ascertained by the village through a public process.

(C) After giving public notice, the village shall proceed to determine whether the grantee has satisfactorily performed its obligations under the franchise. To determine satisfactory performance, the village shall consider technical developments and performance of the system, programming, other services offered, cost of services, and any other particular requirements set forth in this chapter. The village shall also consider the grantee's reports made to the village and to the FCC, and the village may require the grantee to make available specified records, documents, and information for this purpose, and may inquire specifically whether the grantee will supply services sufficient to meet community needs and interests. Industry performance on a national basis shall also be considered. Provision shall be made for public comment with adequate prior notice of at least ten days.

(D) The village shall then prepare any amendments to this chapter that it believes necessary.

(E) If the village finds the grantee's performance satisfactory, and finds the grantee's technical, legal, and financial abilities acceptable, and finds the grantee's renewal proposal meets the future cable-

related needs of the village, a new franchise may be granted pursuant to this chapter as amended for a period to be determined.

(F) If the grantee is determined by the village to have performed unsatisfactorily, new applicants may be sought and evaluated and a franchise award shall be made by the village according to franchising procedures adopted by the village.
(Ord. 1678, passed 7-21-97)

§ 113.09 POLICE POWERS.

(A) In accepting a franchise, the grantee acknowledges that its rights thereunder are subject to the police power of the village to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the village pursuant to such power.

(B) Any conflict between the provisions of a franchise and any other present or future lawful exercise of the village's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the jurisdiction, or applies exclusively to the grantee or cable television systems which contains provisions inconsistent with this chapter, shall prevail only if upon such exercise the village finds a danger to health, safety, property or the general welfare or if such exercise is mandated by law.
(Ord. 1678, passed 7-21-97)

§ 113.10 CABLE TELEVISION FRANCHISE REQUIRED.

No cable television system shall be allowed to operate or to occupy or use the streets (that is, rights-of-way) for system installation and maintenance purposes without a franchise.
(Ord. 1678, passed 7-21-97)

§ 113.11 USE OF GRANTEE FACILITIES.

The village and the grantee shall work together to agree to terms and conditions which allow the village to install and maintain upon the poles of the grantee, any wire or pole fixtures that do not unreasonably interfere with the cable television system operations of the grantee, so long as the village maintains a similar right with the utilities operating in the village. The village shall indemnify and hold harmless the grantee from any claim that might arise due to or as a result of the village's use.
(Ord. 1678, passed 7-21-97)

§ 113.12 INITIAL FRANCHISE COSTS.

Costs to be borne by a grantee shall include any requirements or charges incidental to the awarding or enforcing of its initial franchise, but shall not be limited to: reasonable administrative, engineering, legal and consulting expenses, all costs of publications of notices prior to any public meeting provided for pursuant to this chapter, and any costs not covered by application fees incurred by the village in its study, preparation of proposal documents, evaluation of all applications, and examinations of the applicant's qualifications.

(Ord. 1678, passed 7-21-97)

§ 113.13 NOTICES.

All notices from the grantee to the village pursuant to any franchise shall be sent to the Mayor's office, with a copy to the chief administrative officer. The grantee shall maintain with the village, throughout the term of the franchise, an address for service of notices by mail. The grantee shall maintain a central office to address any issues relating to operating under this cable television ordinance.

(Ord. 1678, passed 7-21-97)

§ 113.14 LETTER OF CREDIT/SECURITY DEPOSIT.

(A) Within 15 days after the award of an initial franchise, the grantee shall deposit with the village either an irrevocable letter of credit from a financial institution or a security deposit in the amount of \$100,000 with the form to be established by the village.

(B) Within 15 days after the award of a renewal franchise, the grantee shall deposit with the village either an irrevocable letter of credit from a financial institution or a security deposit in the amount of \$10,000 with the form to be established by the village.

(C) The form and content of such letter of credit or security deposit shall be approved by the Village Attorney. These instruments shall be used to ensure the faithful performance of the grantee of all provisions of this chapter, and to ensure compliance with all orders, permits and directions of any agency, commission, board, department, division, or office of the village having jurisdiction over its acts or defaults under this ordinance, and to ensure the payment by the grantee of any claims, liens, and taxes due the village which arise by reason of the construction, operation or maintenance of the system.

(D) The letter of credit or security deposit shall be maintained at the amount established in division (A) of this section for the entire term of the franchise, even if amounts have to be withdrawn pursuant to this chapter.

(E) If the grantee fails to pay to the village any compensation within the time fixed herein; or fails to pay to the village any taxes due and unpaid; or fails to repay the village any damages, costs or

expenses which the village is compelled to pay by reason of any act or default of the grantee in connection with the franchise, the village shall provide grantee with written notice informing grantee that such amounts are due to the village. The written notice shall describe in reasonable detail the specific reasons for the assessment. The grantee shall have 30 days subsequent to receipt of the notice in which to pay the amounts the village has stated it is owed, or within ten days of receipt of the village notice, notify the village that there is a dispute as to whether grantee believes such amounts are due the village. Such notice by the grantee to the village shall specify with particularity the basis of grantee's belief that such monies are not due the village, and shall stay the running of the 30-day cure period pending a Board decision. The Board shall hear the grantee's dispute. Grantee must be given at least ten days notice of the hearing. At the hearing, the grantee shall be entitled to the right to present evidence and the right to be represented by counsel. After the hearing, the village shall provide grantee a copy of its action, along with supporting documents. In the event the village upholds the finding of outstanding monies due the village by grantee, the village may immediately withdraw the amount thereof, with interest from the letter of credit or security deposit.

(F) The rights reserved to the village with respect to the letter of credit are in addition to all other rights of the village, whether reserved by the franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other right the village may have.

(G) The letter of credit shall contain the following endorsement: "It is hereby understood and agreed that this letter of credit or security deposit may not be canceled by the surety nor the intention not to renew be stated by the surety until 30 days after receipt by the village, by registered mail, of a written notice of such intention to cancel or not to renew."

(H) Upon receipt of the 30-day notice, this shall be construed as a default granting the village the right to demand payment from the bank for either the security deposit or letter of credit.

(I) The village at any time during the term of this chapter, may waive grantee's requirement to maintain a letter of credit or security deposit. The waiver of the requirement can be initiated by the village or grantee.

(Ord. 1678, passed 7-21-97)

§ 113.15 PERFORMANCE BOND.

(A) Within 30 days after the award of an initial or renewal franchise, the grantee shall file with the village a performance bond in the amount of \$100,000. This bond shall be maintained throughout the construction period, and until such time as determined by the village, unless specified in the franchise agreement.

(B) If the grantee fails to comply with any law, ordinance or resolution governing the franchise, or fails to well and truly observe, fulfill and perform each term and condition of the franchise, as it

relates to the conditions relative to the construction, operation or maintenance of the system, including the franchise agreement that is incorporated herein by reference, there shall be recoverable jointly and severally, from the principal and surety of the bond, any damages or loss suffered by the village as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee, plus a reasonable allowance for attorney's fees, including the village's legal staff, and costs, up to the full amount of the bond. This section shall be an additional remedy for any and all violations outlined in § 113.14.

(C) The village may, upon completion of construction of the service area, waive or reduce the requirement of the grantee to maintain the bond. However, the village may require a performance bond to be posted by the grantee for any construction subsequent to the completion of the initial service areas, in a reasonable amount and upon such terms as determined by the village.

(D) The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety nor the intention not to renew be stated by the surety until 30 days after receipt by the village, by registered mail, a written notice of such intent to cancel and not to renew."

(E) Upon receipt of a 30-day notice, this shall be construed as default granting the village the right to demand payment on the bond.

(F) The village, at any time during the term of this chapter, may waive grantee's requirement to maintain a performance bond. The waiver of the requirement can be initiated by the village or the grantee.

(Ord. 1678, passed 7-21-97)

§ 113.16 LIABILITY AND INSURANCE.

(A) The grantee shall maintain, and by its acceptance of the franchise specifically agrees that it will maintain throughout the term of the franchise, liability insurance insuring the village and the grantee in the minimum amount of:

- (1) \$1,000,000 for property damage to any one person;
- (2) \$3,000,000 for property damage from any one accident;
- (3) \$1,000,000 for personal injury to any one person; and
- (4) \$3,000,000 for personal injury from any one accident.

(B) The certificate of insurance obtained by the grantee in compliance with this section must be approved by the Village Attorney and such insurance policy certificate of insurance, along with written

evidence of payment of required premiums, shall be filed and maintained with the village during the term of the franchise. The grantee shall immediately advise the Village Attorney of any litigation that may develop that would affect this insurance.

(C) Neither the provisions of this section nor any damages recovered by the village thereunder, shall be construed to or limit the liability of the grantee under any franchise issued hereunder or for damages.

(D) Such insurance policies provided for herein shall name the grantor, its officers, boards, commissions, agents and employees as additional insured, and shall be primary to any insurance carried by the grantor, and shall contain the following endorsement: "It is hereby understood and agreed that this insurance policy may not be canceled by the surety nor the intention not to renew be stated by the surety until 30 days after receipt by the village, by registered mail, of written notice of such intention to cancel or not to renew."

(Ord. 1678, passed 7-21-97)

§ 113.17 INDEMNIFICATION.

(A) *Disclaimer of liability.* The village shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of the grantee's cable television system or due to the act or omission of any person or entity other than the village or those persons or entities for which the village is legally liable as a matter of law.

(B) *Indemnification.* The grantee shall, at its sole cost and expense, indemnify and hold harmless the village, all associated, affiliated, allied and subsidiary entities of the village now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys and contractors (hereinafter referred to as "indemnitees") from and against:

(1) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any act or omission of the grantee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person, or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the cable television system caused by grantee, its subcontractors or agents or the grantee's failure to comply with any federal, state or local statute, ordinance or regulation.

(2) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which are imposed upon, incurred by or asserted against the indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to the grantee, its contractors or subcontractors, for the installation, construction, operation or maintenance of the cable television system. Upon the written request of the village such claim or lien shall be discharged or bonded within 15 days following such request.

(3) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any financing or securities offering by grantee or its affiliates for violations of the common law or any laws, statutes or regulations of the State of Illinois or of the United States, including those of the Federal Securities and Exchange Commission, whether by the grantee or otherwise; excluding therefrom, however, claims which are solely based upon and arise solely out of information supplied by the village to the grantee in writing and included in the offering materials with the express written approval of the village prior to the offering.

(C) *Assumption of risk.* The grantee undertakes and assumes for its officers, agents, contractors and subcontractors and employees all risk of dangerous conditions, if any, on or about any village-owned or controlled property, including public rights-of-way and easements, and the grantee hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the cable television system or the grantee's failure to comply with any federal, state or local statute, ordinance or regulation.

(D) *Defense of indemnitees.* In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, the grantee shall, upon notice from any of the indemnitees, at the grantee's sole cost and expense, resist and defend the same with legal counsel acceptable to the Village Attorney, provided further, however, that the grantee shall not admit liability in any such matter on behalf of the indemnitees without the written consent of the Village Attorney or the Village Attorney's designee.

(E) *Notice.* The village shall give the grantee prompt notice of the making of any written claim or the commencement of any action, suit or other proceeding covered by the provisions of this section.

(F) *Nonwaiver of statutory limits.* Nothing in this agreement is intended to express or imply a waiver by the village of statutory provisions, privileges or immunities of any kind or nature as set forth in Illinois Statutes, including the limits of liability of the village as exists presently or as may be increased from time to time by the legislature.

(Ord. 1678, passed 7-21-97)

§ 113.18 RIGHTS OF INDIVIDUALS.

(A) The grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, income, gender, marital status, sexual preference or age. The grantee shall comply at all times with all other applicable federal, state and local laws and regulations and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this chapter by reference.

(B) The grantee shall strictly adhere to the equal employment opportunity requirements of the Federal Communications Commission and of state and local governments, and as amended from time to time.

(C) The grantee shall, at all times, comply with the privacy requirements of state and federal law.

(D) Grantee is required to make all services available to all residential dwellings throughout the service area.

(Ord. 1678, passed 7-21-97)

§ 113.19 PUBLIC NOTICE.

Minimum public notice of any public meeting relating to the franchise shall be by publication at least once in a local newspaper of general circulation at least ten days prior to the meeting, by posting at the Village Municipal Center by announcement and shall be on at least one channel of the grantee's system between the hours of 7:00 p.m. and 9:00 p.m., for five consecutive days prior to the meeting.

(Ord. 1678, passed 7-21-97)

§ 113.20 SERVICE AVAILABILITY AND RECORD REQUEST.

The grantee shall provide cable television service throughout the entire franchise area pursuant to the provisions of the franchise and shall keep a record for at least three years of all requests for service received by the grantee. This record shall be available for public inspection at the local office of the grantee during regular office hours.

(Ord. 1678, passed 7-21-97)

§ 113.21 SYSTEM CONSTRUCTION.

(A) New construction timetable.

(1) Within two years from the date of the award of an initial franchise, the grantee must make cable television service available to every dwelling unit within the service area.

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(a) The grantee must make cable television service available to at least 20% of the dwelling units within the service area within six months from the date of the award of the franchise.

(b) The grantee must make cable television service available to at least 50% of the dwelling units within the service area within one year from the date of the award of the franchise.

(2) The grantee, in its application, may propose a timetable of construction which will make cable television service available in the service area sooner than the above minimum requirements, in which case the said schedule will be made part of the franchise agreement, and will be binding upon the grantee.

(3) Any delay beyond the terms of this timetable, unless specifically approved by the village, will be considered a violation of this chapter for which the provisions of either §§ 113.38 or 113.47 shall apply, as determined by the village.

(4) In special circumstances the village may waive 100% completion within the two year time frame, provided substantial completion is accomplished within the allotted time frame, substantial completion to be not less than 95%. Justification for less than 100% must be submitted subject to the approval of the village.

(B) Line extensions:

(1) In areas of the franchise territory not included in the initial service areas, the grantee shall be required to extend its system pursuant to the following requirements:

(a) No customer shall be refused service arbitrarily. Grantee is hereby authorized to extend the cable system as necessary within the village. To expedite the process of extending the cable system into a new subdivision, the village will forward to the grantee an approved engineering plan of each project. Subject to the density requirements, the grantee shall commence the design and construction process upon receipt of the final engineering plan. Upon notification from the village that the first home in the project has been approved for a building permit, the grantee shall have a maximum of three months to complete the construction/activation process within the applicable project phase.

(b) The grantee shall extend and make cable television service available to every dwelling unit in all unserved, developing areas having at least 20 dwelling units planned per street mile, as measured from the existing system, and shall make every effort to extend its system simultaneously with the installation of utility lines, provided that it can enter into such joint trench agreements on reasonable terms and conditions.

(2) In areas not meeting the requirements for mandatory extension of service, the grantee shall provide, upon the request of a potential subscriber desiring service, an estimate of the grantee's costs required to extend service to the subscriber. The grantee shall then extend service upon request of the

potential subscriber. The grantee may require advance payment or assurance of payment satisfactory to the Grantee. In the event the area subsequently reaches the density required for mandatory extension, such payments shall be refunded to the subscriber.

(3) In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give the grantee reasonable notice of such construction or development, and of the particular date on which open trenching will be available for the grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at the grantee's expense. The grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if the grantee fails to install its conduit, pedestals and/or vaults, and laterals within ten working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the ten day period, the cost of new trenching is to be borne by the grantee. Except for the notice from the developer or property owner of the particular date on which trenching will be available to the grantee, notice provided to the grantee by the village of the opening of a trench shall also satisfy the requirement of reasonable notice if sent to the local general manager or system engineer of the grantee.

(C) Nothing herein shall be construed to prevent the grantee from serving areas not covered under this section upon agreement with developers, property owners, residents, or businesses.

(D) A grantee, in its application, may propose a line extension policy that will result in serving more residents of the village than as required above, in which case the grantee's policy will be incorporated into the franchise agreement and will be binding on the grantee.

(E) The violation of this section shall be considered a breach of the terms of this chapter, for which the provisions of either §§ 113.39 or 113.47 shall apply, as determined by the village. (Ord. 1678, passed 7-21-97) Penalty, see § 113.99

§ 113.22 CONSTRUCTION AND TECHNICAL STANDARDS.

(A) *Compliance with construction and technical standards.* The grantee shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements, and FCC technical standards. In addition, the grantee shall provide the village, upon request, a written report of the results of the grantee's annual proof of performance tests conducted pursuant to Federal Communications Commission standards and requirements.

(B) *Additional specifications.*

(1) Construction, installation and maintenance of the cable television system shall be performed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel

with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

(2) The grantee shall at all times comply with:

- (a) National Electrical Safety Code (National Bureau of Standards);
- (b) National Electrical Code (National Bureau of Fire Underwriters);
- (c) Bell System Code of Pole Line Construction; and
- (d) Applicable FCC or other federal, state and local regulations.

(3) In any event, the system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the grantee may have equipment located.

(4) Any antenna structure used in the system shall comply with construction, marking, and lighting of antenna structure, required by the United States Department of Transportation.

(5) All working facilities and conditions used during construction, installation and maintenance of the cable television system shall comply with the standards of the Occupational Safety and Health Administration.

(6) Radio frequency (RF) leakage shall be checked at reception locations for emergency radio services to prove no interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no interference to airborne navigational reception in the normal flight patterns. FCC rules and regulations shall govern.

(7) The grantee shall maintain equipment capable of providing standby power for headend, transportation and trunk amplifiers for a minimum of two hours.

(8) In all areas of the village where the cables, wires and other like facilities of public utilities are placed underground, the grantee shall place its cables, wires and other like facilities underground. When public utilities relocate their facilities from pole to underground, the cable operator must concurrently do so.

(Ord. 1678, passed 7-21-97) Penalty, see § 113.99

§ 113.23 USE OF STREETS.

(A) *Interference with persons and improvements.* The grantee's system, poles, wires and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with the rights or reasonable convenience of property

owners who adjoin any of the streets and public ways, or interfere with any improvements the village may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.

(B) *Restoration to prior condition.* In case of any disturbance of pavement, sidewalk, landscaping, driveway or other surfacing, the grantee shall, at its own cost and expense and in a manner approved by the village, replace and restore all paving, sidewalk, driveway, landscaping or surface of any street or alley disturbed, in as good condition as before the work was needed and in accordance with standards for such work set by the village.

(C) *Erection, removal and common uses of poles.*

(1) No poles or other wire-holding structures shall be erected by the grantee without prior approval of the village with regard to location, height, types, and any other pertinent aspect. However, no location of any pole or wire-holding structure of the grantee shall be a vested interest and such poles or structures shall be removed or modified by the grantee at its own expense whenever the village determines that the public convenience would be enhanced thereby.

(2) Where poles or other wire-holding structures already existing for use in serving the village are available for use by the grantee, but it does not make arrangements for such use, the village may require the grantee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the grantee are just and reasonable.

(D) *Relocation of facilities.* If at any time during the period of the franchise the village shall elect to alter, or change the grade of any street, alley or other public ways, the grantee, upon reasonable notice by the village, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(E) *Cooperation with building movers.* The grantee shall, on the request of any person holding a building moving permit issued by the village, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than 48 hours advance notice to arrange for such temporary wire changes.

(F) *Tree trimming.* The grantee shall not remove any tree or trim any portion, either above, at or below ground level, of any tree within any public place without the prior consent of the village. The grantee shall provide notice to any affected residents at the same time that the grantee applies to the village for consent to perform tree trimming. The village shall have the right to do the trimming requested by the grantee at the cost of the grantee. Regardless of who performs the work requested by

the grantee, the grantee shall be responsible, shall defend and hold village harmless from any and all damages to any tree as a result of trimming, or to the property surrounding any tree, whether such tree is trimmed or removed.

(Ord. 1678, passed 7-21-97) Penalty, see § 113.99

§ 113.24 OPERATIONAL STANDARDS.

(A) The grantee shall maintain all parts of the system in good condition throughout the entire franchise period.

(B) Upon the reasonable request for service by any person located within the franchise territory, the grantee shall, within 30 days, furnish the requested service to such person within terms of the line extension policy.

(C) The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(D) The grantee shall not allow its cable or other operations to interfere with television reception of subscribers or persons not served by the grantee, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents within the confines of the village nor shall other utilities interfere with the grantee's system.

(Ord. 1678, passed 7-21-97) Penalty, see § 113.99

§ 113.25 CUSTOMER SERVICE STANDARDS.

(A) Nothing in this chapter shall be construed to prohibit the enforcement of any federal, state or local law or regulation concerning customer service or consumer protection that imposes customer service standards or consumer protection requirements that exceed the customer service standards set out in this chapter or that address matters not addressed in this chapter.

(B) The grantee shall maintain a local or toll-free telephone access line which is available to its subscribers and shall have knowledgeable, qualified representatives available to respond to customer telephone inquiries 24 hours per day, seven days per week.

(C) Under normal operating conditions, telephone answer time, including wait time and the time required to transfer the call, shall not exceed 30 seconds. This standard shall be met no less than 90% of the time as measured on a quarterly basis.

(D) Under normal operating conditions, the customer will receive a busy signal less than 3% of the total time that the office is open for business.

(E) Customer service centers and bill payment locations will be open for walk-in customer transactions a minimum of eight hours per day Monday through Friday, unless there is a need to modify those hours because of the location or customers served. The grantee and village by mutual consent shall establish supplemental hours on weekdays and weekends as fits the needs of the community.

(F) Under normal operating conditions, each of the following standards will be met no less than 95% of the time, as measured on an annual basis.

(1) Standard installations will be performed within seven business days after an order has been placed. A standard installation is one that is within 125 feet of the existing system.

(2) Excluding those situations that are beyond its control, the grantee will respond to any service interruption promptly and in no event later than 24 hours from the time of initial notification. All other regular service requests will be responded to within 36 hours during the normal work week for that system. The appointment window alternatives for installations, service calls and other installation activities will be: "morning" or "afternoon"; not to exceed a four-hour "window" during normal business hours for the system, or at a time that is mutually acceptable. The grantee shall schedule supplemental hours during which appointments can be scheduled based on the needs of the community. If at any time an installer or technician is running late, an attempt to contact the customer will be made and the appointment rescheduled as necessary at a time that is convenient to the customer.

(G) Upon service interruption of a subscriber's cable service, the following shall apply:

(1) For service interruptions of more than four hours and up to four days, the grantee shall provide, at the subscriber's request, a credit of one-thirtieth of one month's fees for affected services for each 24-hour period service is interrupted for an accumulated four or more hours for any subscriber, with the exception of subscribers disconnected because of non-payment or excessive signal leakage.

(2) For interruptions of four days or more in one month, the grantee shall provide, at the subscriber's request, a pro-rata credit for affected services for all affected subscribers.

(H) The grantee shall provide written information for each of the following areas at the time of installation and at any future time upon the request of the customer:

- (1) Product and services offered;
- (2) Prices and service options;
- (3) Installation and service policies;
- (4) How to use the cable television services.

(I) Bills will be clear, concise and understandable, with all charges for cable services itemized.

(J) A grantee may not impose a late, administrative or other fee on a customer for non-payment of a bill until 30 days have elapsed after the end of the billing cycle which is the subject of the unpaid bill.

(K) A grantee may not disconnect a customer for non-payment of disputed bills until such a time as the dispute has been resolved, in accordance with the grantee's customer service policies.

(L) Credits will be issued promptly, but no later than the customer's next billing cycle following the resolution of the request and the return of the equipment by the grantee if service has been terminated.

(M) The grantee shall notify customers a minimum of 30 days in advance of any rate or channel change.

(N) The grantee shall maintain and operate its network in accordance with the rules and regulations incorporated herein or as may be promulgated by the Federal Communications Commission, the United States Congress, or applicable laws of the State of Illinois.

(O) The grantee shall continue, through the term of the franchise, to maintain the technical standards and quality of service set forth in this chapter. Should the village find, by resolution, that the grantee has failed to maintain these technical standards and quality of service, and should it, by resolution, specifically enumerate improvements to be made, the grantee shall make such improvements. Failure to make such improvements within three months of such resolution will constitute a breach of a condition for which penalties contained in § 113.47 are applicable.

(P) The grantee shall keep a monthly service log which indicates the nature of each service complaint (excluding programming complaints) received in the last 24 months, the date and time each complaint was received, the disposition of each complaint, and the time and date thereof. This log shall be made available for periodic inspection by the village.

(Q) The grantee shall provide a copy of the customer service standards included in this section to every subscriber via a bill insert at least once every calendar year. The grantee shall also provide a copy of these customer service standards to every new customer within 30 days of connection. (Ord. 1678, passed 7-21-97) Penalty, see § 113.99

§ 113.26 CONTINUITY OF SERVICE MANDATORY.

(A) It shall be the right of all subscribers to continue receiving service as long as their financial and other obligations to the grantee are honored. If the grantee elects to over build, rebuild, modify or sell the system, the grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances for a period not to exceed six months. If the village gives notice

of intent to terminate or fails to renew the franchise, the grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances, for a period not to exceed three months after the franchise agreement has terminated.

(B) If there is a change of franchise, or if a new operator acquires the system, the grantee shall cooperate with the village, new franchisee or operator in maintaining continuity of service to all subscribers. During such period, the grantee shall be entitled to the revenues for any period during which it operates the system, and shall be entitled to reasonable costs for its services until it no longer operates the system.

(C) If the grantee fails to operate the system for seven consecutive days without prior approval of the village or without just cause, the village may, at its option, operate the system or designate an operator until such time as the grantee restores service under conditions acceptable to the village or a permanent operator is selected. If the village is required to fulfill this obligation for the grantee, the village shall be entitled to all revenues for any period during which it operates the system and the grantee shall reimburse the village for all reasonable costs or damages in excess of revenues from the system received by the village that are the result of the grantee's failure to perform.
(Ord. 1678, passed 7-21-97)

§ 113.27 COMPLAINT PROCEDURE.

(A) The Mayor or chief elected official is designated as having primary responsibility for the continuing administration of the franchise and for the implementation of complaint procedures.

(B) During the terms of the franchise and any renewal thereof, the grantee shall maintain a central office for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. The office must be reachable by a local and/or toll-free telephone call to receive complaints regarding quality of service, equipment functions and similar matters. The grantee will make good faith efforts to arrange for one or more payment locations in a central location where customers can pay bills or conduct other business activities.

(C) As subscribers are connected or reconnected to the system, the grantee shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed.

(D) When there have been similar complaints made, or where there exists other evidence, which, in the judgment of the village, in consultation with the grantee, casts doubt on the reliability or quality of cable service, the village shall have the right and authority to require the grantee to test, analyze and report on the performance of the system. The grantee shall fully cooperate with the village in performing such testing and shall prepare results and a report, if requested, within 30 days after notice. Such report shall include the following information:

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- (1) The nature of the complaint or problem that precipitated the special tests;
- (2) The system component(s) tested;
- (3) The equipment used and procedures employed in testing;
- (4) The method, if any, in which such complaint or problem was resolved;
- (5) Any other information pertinent to the tests and analysis which may be required.

(E) The village may request that tests be supervised, at the village's expense, by an independent professional engineer or equivalent of the village's choice. The engineer shall sign all records of special tests and forward to the village such records with a report interpreting the results of the tests and commending actions to be taken.

(F) The village's rights under this section shall be limited to requiring tests, analysis and reports covering specific subjects and characteristics based on complaints or other evidence when and under such circumstances as the village has reasonable grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard cable service. (Ord. 1678, passed 7-21-97)

§ 113.28 GRANTEE RULES AND REGULATIONS.

The grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the grantee to exercise its rights and perform its obligations under the franchise, and to assure uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations. (Ord. 1678, passed 7-21-97)

§ 113.29 FRANCHISE FEE.

(A) A grantee shall pay to the village a franchise fee in the amount designated in the franchise agreement. Unless otherwise specified in the franchise agreement, such franchise fee shall be the maximum amount as allowed by law or such lesser amount as may be designated by the village.

(B) The franchise fee payment shall be in addition to any other tax or payment owed to the village by the grantee and shall not be construed as payment in lieu of municipal property taxes or other state, county or local taxes.

(C) The franchise fee and any other costs or penalties assessed shall be payable quarterly on a calendar year basis to the village within 30 days of the end of each quarter. The grantee shall also file a complete and accurate verified statement of all gross receipts as previously defined within 30 days after the end of the quarter.

(D) The village shall have the right to inspect the grantee's income records and the right to audit and to recompute any amounts determined to be payable under this chapter; provided, however, that such audit shall take place within 60 months following the close of each of the grantee's fiscal years. Any additional amount due the village as a result of an audit shall be paid within 30 days following written notice to the grantee by the village, which notice shall include a copy of the audit report.

(E) If any franchise payment or recomputed amount, cost or penalty, is not made on or before the applicable dates heretofore specified, interest shall be charged daily from such date at an annual rate of 12%. The grantee shall reimburse the village for any additional expenses and costs incurred by the village by reason of the delinquent payment(s).

(Ord. 1678, passed 7-21-97)

§ 113.30 TRANSFER OF OWNERSHIP OR CONTROL.

(A) A franchise shall not be assigned or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any person without the prior written consent of the village, except that any financing arrangement, including but not limited to a mortgage or pledge, shall not be deemed a "transfer" controlled by this section. The grantee may, however, transfer or assign the franchise to a wholly owned subsidiary of the grantee and such subsidiary may transfer or assign the franchise back to the grantee without such consent, providing that such assignment is without any release of liability of the grantee. Any proposed assignee must show legal, technical and financial responsibility as determined by the village and must agree to comply with all provisions of the franchise. The village shall have 120 days to act upon any request for approval of a sale or transfer submitted in writing that contains or is accompanied by such information as is required in accordance with FCC regulations and by the village. The village shall be deemed to have consented to a proposed transfer or assignment if its refusal to consent is not communicated in writing to the Grantee within 120 days following receipt of written notice and receipt of all necessary information as to the effect of the proposed transfer or assignment upon the public, unless the requesting party and the village agree to an extension of time. The village shall not unreasonably withhold consent to a proposed transfer.

(B) The grantee shall promptly notify the village of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of the grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of 5% of the voting shares of the grantee. Every

change, transfer or acquisition of control of the grantee that is not conducted pursuant to the terms and conditions of this chapter shall make the franchise subject to cancellation unless and until the village shall have consented thereto, which consent shall not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the village may inquire into the qualifications of the prospective controlling party, and the grantee shall assist the village in such inquiry.

(C) The consent or approval of the village to any transfer of the grantee shall not constitute a waiver or release of the rights of the village in and to the streets, and any transfer shall by its terms, be expressly subordinate to the terms and conditions of the franchise.

(D) In the absence of extraordinary circumstances, the village shall not be required to approve any transfer or assignment of a new franchise prior to substantial completion of construction of the proposed system.

(E) In no event shall a transfer of ownership or control be approved without the successor(s) in interest becoming a signatory to the franchise agreement.
(Ord. 1678, passed 7-21-97)

§ 113.31 AVAILABILITY OF BOOKS AND RECORDS.

(A) The grantee shall fully cooperate in making available at reasonable times, and the village shall have the right to inspect, where reasonably necessary for the enforcement of the franchise, books, records, maps, plans and other like materials of the grantee applicable to the cable television system, at any time during normal business hours; provided where volume and convenience necessitate, the grantee may require inspection to take place on the grantee premises.

(B) The following records and/or reports shall be sent to the village, but no more frequently than on an annual basis if so mutually agreed upon by the grantee and the village:

(1) A quarterly review and resolution or progress report submitted by the grantee to the village;

(2) Periodic preventive maintenance reports;

(3) Any copies of FCC Form 395-A (or successor form) or any supplemental forms related to equal opportunity or fair contracting policies;

(4) Subscriber inquiry/complaint resolution data and the right to review documentation concerning these inquiries and/or complaints periodically;

(5) Periodic construction update reports including, where appropriate, the submission of as-built maps.

(Ord. 1678, passed 7-21-97)

§ 113.32 OTHER PETITIONS AND APPLICATIONS.

Copies of all petitions, applications, communications and reports submitted by the grantee to the Federal Communications Commission, to the Securities and Exchange Commission, or to any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to the franchise or received from such agencies shall be provided upon request to the village.

(Ord. 1678, passed 7-21-97)

§ 113.33 FISCAL REPORTS.

The grantee shall file annually with the village no later than 120 days after the end of the grantee's fiscal year, a copy of a gross revenues statement certified by an officer of the grantee.

(Ord. 1678, passed 7-21-97)

§ 113.34 REMOVAL OF CABLE TELEVISION SYSTEM.

At the expiration of the term for which the franchise is granted or when any renewal is denied, or upon its termination as provided herein, the grantee shall forthwith, upon notice by the village, remove at its own expense all designated portions of the cable television system from all streets and public property within the village. If the grantee fails to do so, the village may perform the work at the grantee's expense. Upon such notice of removal, a bond shall be furnished by the grantee in an amount sufficient to cover this expense.

(Ord. 1678, passed 7-21-97)

§ 113.35 REQUIRED SERVICES AND FACILITIES.

(A) The grantee shall make available to subscribers the option to receive a minimum of 85 channels.

(B) The grantee shall maintain the following:

(1) At least one specially-designated, noncommercial public access channel available on a first-come, nondiscriminatory basis;

(2) At least one specially-designated channel per school district for use by local educational authorities;

(3) At least one specially-designated channel for local governmental uses;

(4) At least one specially-designated channel for leased access uses; and

(5) An institutional network (I-Net) of cable, optical, electrical or electronic equipment, including cable television systems, used for the purpose of transmitting two-way telecommunications signals interconnecting designated entities to be determined by the village. Such network may be provided as needed by utilizing capacity on the system.

(6) Provided, however, that the public access, education and local government channels shall be combined on one channel until such time as additional channels become necessary as mutually agreed to by the village and the grantee. The grantee shall make a channel available for leased access uses in accordance with the requirements of federal law. Studios and associated production equipment will be located in a mutually agreed upon site to meet the public's need for public access, education and local government channels as noted in subdivisions (1), (2) and (3). Financial and technical support and replacement and maintenance of equipment of this facility shall be separately incorporated into the franchise by agreement.

(C) The grantee shall provide emergency broadcast capacity pursuant to FCC rules. The grantee shall cooperate with the village in the use and operation of the emergency alert override system.

(D) Interconnection.

(1) The grantee may be requested to interconnect its system with other communication facilities. Such interconnection shall be made within the time limit established by the village.

(2) Upon receiving a request from the village to interconnect, the franchisee shall immediately initiate negotiations with the other affected system or systems in order that all costs may be shared equally among cable companies for both construction and operation of the interconnection link.

(3) The franchisee may be granted reasonable extensions of time to interconnect or the village may rescind its request to interconnect upon petition by the franchisee to the village if it finds that the franchisee has negotiated in good faith and has arrived at impasse with the operator or franchising authority of the system to be interconnected, or if the franchisee determines that the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates or that interconnection is technically unfeasible.

(4) The grantee shall cooperate with any interconnection corporation, regional interconnection authority or village, county, state and federal regulatory agency which may be hereafter established for

the purpose of regulating, financing, or otherwise providing for the interconnection of cable systems beyond the boundaries of the village.

(E) The grantee shall provide such additional services and facilities as are contained in its application, which is incorporated by reference herein.
(Ord. 1678, passed 7-21-97)

§ 113.36 RULES AND REGULATIONS.

(A) In addition to the inherent powers of the village to regulate and control any cable television franchise, and those powers expressly reserved by the village, or agreed to and provided for herein, the right and power is hereby reserved by the village to promulgate such additional regulations as it shall find necessary in the exercise of its lawful powers and furtherance of the terms and conditions of the franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations.

(B) The village may also adopt such regulations at the request of grantee upon application.
(Ord. 1678, passed 7-21-97)

§ 113.37 PERFORMANCE EVALUATION SESSIONS.

(A) The village and the grantee may hold scheduled yearly performance evaluation sessions within 30 days of the third, sixth and ninth anniversary dates of the grantee's award or renewal of the franchise and as may be required by federal and state law.

(B) Special evaluation sessions may be held at any time during the term of the franchise at the request of the village or the grantee.

(C) All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with legal notice. The grantee shall notify its subscribers of all evaluation sessions by announcements on at least one channel of its system between the hours of 7:00 p.m. and 9:00 p.m., for five consecutive days preceding each session.

(D) Topics which may be discussed at any scheduled or special evaluation session may include, but are not limited to: service rate structures; franchise fee, penalties, free or discounted services; application of new technologies; system performance; services provided; programming offered; customer complaints; privacy; amendments to this ordinance; judicial and FCC rulings; line extension policies; and grantee or village rules.

(E) Members of the general public may add topics either by working through the negotiating parties or by presenting a petition. If such a petition bears the valid signatures of 50 or more residents of the village, the proposed topic or topics shall be added to the list of topics to be discussed at the evaluation session.

(Ord. 1678, passed 7-21-97)

§ 113.38 RATE CHANGE PROCEDURES.

Pursuant to the Cable Television Consumer Protection and Competition Act of 1992, being 47 USC 325 *et seq.* and 47 USC 521 *et seq.*, the village is currently certified to regulate the basic service rates charged by grantee. Under these rules, grantee is required to obtain approval from the village for a rate increase for any change to the rates for basic service. Should federal or state law permit further rate regulation beyond basic service, the village may assume such rate regulation and adopt appropriate procedures for such regulation.

(Ord. 1678, passed 7-21-97)

§ 113.39 FORFEITURE AND TERMINATION.

(A) In addition to all other rights and powers retained by the village under this chapter or otherwise, the village reserves the right to terminate the franchise and all rights and privileges of the grantee hereunder in the event of a substantial breach of its terms and conditions. A substantial breach by the grantee shall include, but shall not be limited to the following:

(1) Violation of any material provision of the franchise or any material rule, order, regulation or determination of the village made pursuant to the franchise;

(2) Attempt to evade any material provision of the franchise or to practice any fraud or deceit upon the village or its subscribers or customers;

(3) Failure to begin or complete system construction or system extension as provided under § 113.21;

(4) Failure to provide the services promised in the grantee's initial application as incorporated herein by § 113.04;

(5) Failure to restore service after 96 consecutive hours of interrupted service, except when approval of such interruption is obtained from the village; or

(6) Material misrepresentation of fact in the application for or negotiation of the franchise.

(B) The foregoing shall not constitute a major breach if the violation occurs but is without fault of the grantee or occurs as a result of circumstances beyond its control. The grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

(C) The village may make a written demand that the grantee comply with any such provision, rule, order or determination under or pursuant to the franchise. If the violation by the grantee continues for a period of 30 days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the village may place the issue of termination of the franchise before the Village Board. The village shall cause to be served upon the grantee, at least 20 days prior to the date of such meeting, a written notice of intent to request such termination and the time and place of the meeting. Public notice shall be given of the meeting and the issue(s) which the Board is to consider.

(D) The Village Board shall hear and consider the issue(s) and shall hear any person interested therein and any relevant evidence, and shall determine whether or not any violation by a grantee has occurred, after affording grantee rights of due process to be heard and an opportunity to present all relevant evidence and witnesses. The grantee may, at its own expense, make a transcript of any such hearing.

(E) If the Village Board determines that the violation by the grantee was the fault of the grantee and within its control, the Board may, by resolution declare that the franchise of the grantee shall be forfeited and terminated unless there is compliance within such period as the Board may fix, such period to not be less than 30 days; provided, however, that no opportunity for compliance need be granted for fraud or misrepresentation. Any such resolution shall state with particularity the reasons for forfeiture and termination.

(F) The issue of forfeiture and termination shall automatically be placed upon the Board agenda at the expiration of the time set by it for compliance. The Board may then terminate the franchise forthwith upon finding that the grantee has failed to achieve compliance or it may further extend the period, at its discretion.

(Ord. 1678, passed 7-21-97)

§ 113.40 FORECLOSURE.

Upon the foreclosure or other judicial sale of all or a substantial part of the system, or upon the termination of any lease covering all or a substantial part of the system, the grantee shall notify the village of such fact, and such notification shall be treated as a notification that a change in control of the grantee has taken place, and the provisions of the franchise governing the consent of the village to such change in control of the grantee shall apply.

(Ord. 1678, passed 7-21-97)

§ 113.41 RECEIVERSHIP.

The village shall have the right to cancel a franchise 120 days after the appointment of a receiver, or trustee, to take over and conduct the business of the grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of 120 days, or unless:

(A) Within 120 days after his/her election or appointment, such receiver or trustee shall have fully complied with all the provisions of this chapter and remedied all defaults thereunder; and

(B) Such receiver or trustee, within the 120 days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this chapter and the franchise granted to the grantee.

(Ord. 1678, passed 7-21-97)

§ 113.42 COMPLIANCE WITH STATE AND FEDERAL LAWS.

(A) Notwithstanding any other provisions of the franchise to the contrary, the grantee shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies thereof; provided, however, if any such state or federal law or regulation shall require the grantee to perform any service, or shall permit the grantee to perform any service, or shall prohibit the grantee from performing any service, in conflict with the terms of the franchise or of any law or regulation of the village, then as soon as possible following knowledge thereof, the grantee shall notify the village of the point of conflict believed to exist between such regulation or law and the laws or regulations of the village or the franchise.

(B) If the village determines that a material provision of this chapter is affected by any subsequent action of the state or federal government, the village and the grantee shall negotiate to modify any of the provisions herein to such reasonable extent as may be necessary to carry out the full intent and purpose of this agreement.

(Ord. 1678, passed 7-21-97) Penalty, see § 113.99

§ 113.43 LANDLORD/TENANT.

(A) *Interference with cable service prohibited.* Neither the owner of any multiple-unit residential dwelling nor his/her agent or representative shall interfere with the right of any tenant or lawful resident thereof to receive cable television service, cable installation or maintenance from a cable television grantee regulated by and lawfully operating under a valid and existing franchise issued by the village.

(B) *Penalties and charges to tenants for service prohibited.* Neither the owner of any multiple-unit residential dwelling nor his/her agent or representative shall penalize, charge or surcharge a tenant or

resident or forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable television service from a grantee operating under a valid and existing cable television franchise issued by the village.

(C) *Reselling service prohibited.* No person shall resell, without the expressed, written consent of both the grantee and the village, any cable service, program or signal transmitted by a cable television grantee under a franchise issued by the village.

(D) *Protection of property permitted.* Nothing in this chapter shall prohibit a person from requiring that cable television system facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning, appearance and value of premises or the convenience and safety of persons or property.

(E) *Risks assumed by grantee.* Nothing in this chapter shall prohibit a person from requiring a grantee to agree to indemnify the owner, or his/her agents or representatives for damages or from liability for damages caused by the installation, operation, maintenance or removal of cable television facilities.

(Ord. 1678, passed 7-21-97)

§ 113.44 APPLICANTS' BIDS FOR INITIAL FRANCHISE.

(A) All bids received by the village from the applicants for an initial franchise will become the sole property of the village.

(B) The village reserves the right to reject any and all bids and waive informalities and/or technicalities where the best interest of the village may be served.

(C) All questions regarding the meaning or intent of this chapter or application documents shall be submitted to the village in writing. Replies will be issued by addenda, mailed, or delivered to all parties recorded by the village as having received the application documents. The village reserves the right to make extensions of time for receiving bids as it deems necessary. Questions received less than 14 days prior to the date for the opening of bids will not be answered. Only replies to questions by written addenda will be binding. All bids must contain an acknowledgment of receipt of all addenda.

(D) Bids must be sealed, and submitted at the time and place indicated in the application documents for the public opening. Bids may be modified at any time prior to the opening of the bids, provided that any modifications must be duly executed in the manner that the applicant's bid must be executed. No bid shall be opened or inspected before the public opening.

(E) Before submitting a bid, each applicant is encouraged to:

- (1) Examine this chapter and the application documents thoroughly;

(2) Familiarize himself/herself with local conditions that may in any manner affect performance under the franchise;

(3) Familiarize himself/herself with federal, state and local laws, ordinances, rules and regulations affecting performance under the franchise; and

(4) Carefully correlate the bid with the requirements of this chapter and the application documents.

(F) The village may make such investigations as it deems necessary to determine the ability of an applicant to perform under the franchise, and the applicant shall furnish to the village all such information and data for this purpose as the village may request. The village reserves the right to reject any bid if the evidence submitted by, or investigation of, such applicant fails to satisfy the village that such applicant is properly qualified to carry out the obligations of the franchise and to complete the work contemplated therein. Conditional bids will not be accepted.

(G) All bids received shall be placed in a secure depository approved by the village and shall not be opened nor inspected prior to the public opening.
(Ord. 1678, passed 7-21-97)

§ 113.45 FINANCIAL, CONTRACTUAL, SHAREHOLDER AND SYSTEM DISCLOSURE FOR FRANCHISES.

(A) No franchise will be granted to any applicant unless all requirements and demands of the village regarding financial, contractual, shareholder and system disclosure have been met.

(B) Applicants, including all shareholders and parties with any interest in the applicant, shall fully disclose all agreements and undertakings, whether written or oral, or implied with any person, firm, group, association or corporation with respect to the franchise and the proposed cable television system. The grantee of a franchise shall disclose all other contracts to the village as the contracts are made. This section shall include, but not be limited to, any agreements between local applicants and national companies.

(C) Applicants, including all shareholders and parties with any interest in the applicant, shall submit all requested information as provided by the terms of this chapter or the application documents, which are incorporated herein by reference. The requested information must be complete and verified as true by the applicant.

(D) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose the numbers of shares of stock, and the holders thereof, and shall include the amount of consideration for each share of stock and the nature of the consideration.

(E) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding other cable systems in which they hold an interest of any nature, including, but not limited to, the following:

- (1) Locations of all other franchises and the dates of award for each location;
- (2) Estimated construction costs and estimated completion dates for each system;
- (3) Estimated number of miles of construction and number of miles completed in each system as of the date of this application; and
- (4) Date for completion of construction as promised in the application for each system.

(F) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding pending applications for other cable systems, including, but not limited to, the following:

- (1) Location of other franchise applications and date of application for each system;
- (2) Estimated dates of franchise awards;
- (3) Estimated number of miles of construction; and
- (4) Estimated construction costs.

(Ord. 1678, passed 7-21-97)

§ 113.46 THEFT OF SERVICES AND TAMPERING.

(A) No person may intentionally do any of the following:

(1) Obtain or attempt to obtain cable television service from a company by trick, artifice, deception, use of an illegal device or illegal decoder or other fraudulent means with the intent to deprive that company of any or all lawful compensation for rendering each type of service obtained. The intent required for a violation of this paragraph may be inferred from the presence on the property and in the actual possession of the defendant of a device not authorized by the cable television company, the major purpose of which is to permit reception of cable television services without payment. This inference is rebutted if the defendant demonstrates that he/she or she purchased that device for a legitimate use.

(2) Give technical assistance or instruction to any person in obtaining or attempting to obtain any cable television service without payment of all lawful compensation to the company providing that service. This division does not apply if the defendant demonstrates that the technical assistance or instruction was given or the installation of the connection, descrambler or receiving device was for a legitimate use.

(3) Make or maintain a connection, whether physical, electrical, mechanical, acoustical or by other means, with any cables, wires, components or other devices used for the distribution of cable television services for the purpose of distributing cable television service to any other dwelling unit without authority from a cable television company.

(4) Make or maintain a connection, whether physical, electrical, mechanical, acoustical or by other means, with any cables, wires, components or other devices used for the distribution of cable television services for the purpose of obtaining cable television service without payment of all lawful compensation to the company providing the service. The intent required for a violation of this division may be inferred from proof that the cable service to the defendant's residence or business was connected under a service agreement with the defendant and has been disconnected by the cable television company and that thereafter there exists in fact a connection to the cable system at the defendant's residence or business.

(5) Make or maintain any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by that company which that person is not authorized by that company to receive. The intent required for a violation of this division may be inferred from proof that, as a matter of standard procedure, the cable television company places written warning labels on its converters or decoders explaining that the tampering with the device is a violation of law and that the converter or decoder is found to have been tampered with, altered or modified so as to allow the reception or interception of programming carried by the cable television company without authority to do so. The trier of fact may also infer that a converter or decoder has been altered or modified from proof that the cable television company, as a matter of standard procedure, seals the converters or decoders with a label or mechanical device, that the seal was shown to the customer upon delivery of the decoder and that the seal has been removed or broken. The inferences under this division are rebutted if the cable television company cannot demonstrate that the intact seal was shown to the customer.

(6) Possess without authority any device or printed circuit board designed to receive from a cable television system any cable television programming or services offered for sale over that cable television system, whether or not the programming or services are encoded, filtered, scrambled or otherwise made unintelligible, or perform or facilitate the performance of any of the acts under subdivisions (1) through (5) of this section with the intent that that device or printed circuit be used to receive that cable television company's services without payment. Intent to violate this division for direct or indirect commercial advantage or private financial gain may be inferred from proof of the existence on the property and in the actual possession of the defendant of a device if the totality of circumstances, including quantities or volumes, indicates possession for resale.

(7) Manufacture, import into this state, distribute, publish, advertise, sell, lease or offer for sale or lease any device, printed circuit board or any plan or kit for a device or for a printed circuit designed to receive the cable television programming or services offered for sale over a cable television system from a cable television system, whether or not the programming or services are encoded,

filtered, scrambled or otherwise made unintelligible, with the intent that the device, printed circuit, plan or kit be used for the reception of that company's services without payment. The intent required for a violation of this paragraph may be inferred from proof that the defendant has sold, leased or offered for sale or lease any device, printed circuit board, plan or kit for a device or for a printed circuit board in violation of this paragraph and during the course of the transaction for sale or lease the defendant expressly states or implies to the buyer that the product will enable the buyer to obtain cable television service without charge.

(B) Civil liability for theft of cable television service.

(1) Any person who incurs injury as a result of a violation of § 113.99 may bring a civil action against the person who committed the violation.

(2) If the person who incurs the loss prevails against a person who committed the violation wilfully and for the purpose of commercial advantage or prevails against a person who has committed more than one violation of § 113.99, the court may grant the prevailing party any or all the following:

(a) Except as provided in subdivision (e), not more than \$10,000 per violation.

(b) Actual damages.

(c) Any profits of the violators that are attributable to the violation and that are not taken into account in determining the amount of actual damages under subdivision (b).

(d) Notwithstanding the limitations under Illinois State Statutes, §§ 799.25 or 814.04, costs, disbursement and reasonable attorney fees.

(e) If the court finds that the violation was committed wilfully and for the purpose of commercial advantage, the court may increase the amount granted under subdivision (a) not to exceed \$50,000 per violation.

(3) If damages under subdivision (2)(c) are requested, the party who committed the violation shall be required to provide information on the violator's gross revenues, the violator's deductible expenses and the elements of profit attributable to factors other than the violation.

(4) In addition to other remedies available under this section, the courts may grant the injured party a temporary or permanent injunction.
(Ord. 1678, passed 7-21-97) Penalty, see § 114.99

§ 113.47 PROCEDURES.

(A) Whenever the village believes that the grantee has violated one or more terms, conditions or provisions of the franchise, and wishes to impose monetary penalties, a written notice shall be given to

the grantee informing it of such alleged violation or liability. The written notice shall describe in reasonable detail the specific violation so as to afford the grantee an opportunity to remedy the violation. The grantee shall have 30 days subsequent to receipt of the notice in which to correct the violation before the village may impose penalties unless the violation is of such a nature so as to require more than 30 days and the grantee proceeds diligently within the 30 days to correct the violation. In any case where the violation is not cured within 60 days of notice from the village, or such other time as the grantee and the village may mutually agree to, the village may proceed to impose liquidated damages.

(B) The grantee may, within ten days of receipt of notice, notify the village that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by the grantee to the village shall specify with particularity the matters disputed by the grantee and shall stay the running of the 30 day cure period pending Board decision as required below. The Board shall hear the grantee's dispute, grantee must be given at least five days notice of the hearing. At the hearing, the grantee shall be entitled to the right to present evidence and the right to be represented by counsel. After the hearing, the village shall provide grantee a copy of its action, along with supporting documents. In the event the village upholds the finding of a violation, the grantee shall have 30 days subsequent, or such other time period as the grantee and the village mutually agree, to correct the violation.

(C) The rights reserved to the village under this section are in addition to all other rights of the village whether reserved by this ordinance or authorized by law or equity, and no action, proceeding or exercise of a right with respect to penalties shall affect any other right the village may have. (Ord. 1678, passed 7-21-97)

MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

§ 113.55 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GROSS CHARGES. The amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the village, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or services costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. ***GROSS CHARGES*** for private line service shall include charges imposed at each channel termination point within the village, charges for the channel mileage between each channel termination point within the village and charged for that portion of the interstate inter-office channel provided within the village. However, ***GROSS CHARGES*** shall not include:

(1) Any amounts added to a purchaser's bill because of a charge made under the fee imposed by this subchapter, additional charges added to a purchaser's bill under Section 9-221 or 9-222 of the Public Utilities Act, ILCS Ch. 220, Act 5, §§ 9-221, 9-222, and 9-222.1, amounts collected under the Illinois Municipal Code, being ILCS Ch. 65, Act 5, § 8-11-17, the tax imposed by the Telecommunications Excise Tax Act, ILCS Ch. 35, Act 630, §§ 1 *et seq.*, 911 surcharges, or the tax imposed by Section 4251 of the Internal Revenue Code;

(2) Charges for a sent collect telecommunication received outside the village;

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

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

(5) Charges to business enterprises certified under the Public Utilities Act, being ILCS Ch. 220, Act 5, §§ 9-221, 9-222 and 9-222.1, to the extent of such exemption and during the period of time specified by the village;

(6) Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;

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

(8) Charges paid by inserting coins in coin-operated telecommunications devices; or

(9) Charges for telecommunications and all services and equipment provided to the village.

PUBLIC RIGHT-OF-WAY. Any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the village has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications

facilities. **PUBLIC RIGHT-OF-WAY** shall not include any real or personal village property that is not specifically described in the previous sentence and shall not include village buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

RETAILER MAINTAINING A PLACE OF BUSINESS IN THE STATE. Any retailer having or maintaining within the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this state.

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

SERVICE ADDRESS. The location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, **SERVICE ADDRESS** means the customer's place of primary use as defined in ILCS Ch. 35, Act 638, §§ 1 et seq. (the Mobile Telecommunications Sourcing Conformity Act). For air-to-ground systems, and the like, **SERVICE ADDRESS** shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

TELECOMMUNICATIONS. Messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable fiber optics, laser, microwave, radio satellite, or similar facilities. Unless the context clearly requires otherwise, **TELECOMMUNICATIONS** shall also include wireless telecommunications as hereinafter defined. **TELECOMMUNICATIONS** shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. **TELECOMMUNICATIONS** shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him/her or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of inter company facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. **TELECOMMUNICATIONS** shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 USC §§ 521 et seq.) 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 system as defined in the Rules of the Federal Communications Commission (47

CFR 76.1550 and following) as now or hereafter amended. Beginning January 1, 2001, prepaid telephone calling arrangements shall not be considered **TELECOMMUNICATIONS** subject to the tax imposed under this Act. For purpose of this section, “prepaid telephone calling arrangements” means that term as defined ILCS Ch. 35, Act 120, § 2-27 (the Retailers’ Occupation Tax Act).

TELECOMMUNICATIONS PROVIDER.

(1) Any telecommunications retailer; and

(2) Any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

TELECOMMUNICATIONS RETAILER or RETAILER or CARRIER. Every person engaged in the business of making sales of telecommunications at retail as defined in this subchapter. The village may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business of business within the village.

WIRELESS TELECOMMUNICATIONS. Cellular mobile telephones services, personal wireless services as defined in Section (C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 USC 332(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

(ILCS Ch. 35, Act 635, § 10) (Ord. 1692, passed 11-17-97)

Statutory reference:

Telecommunications Municipal Infrastructure Maintenance Fee Act, see ILCS Ch. 35, Act 635, §§ 1 et seq.

§ 113.56 REGISTRATION OF TELECOMMUNICATIONS PROVIDERS.

(A) Every telecommunications provider as defined by this subchapter shall register with the village within 30 days after the effective date of this subchapter or becoming a telecommunications provider, however, that any telecommunications retailer that has filed a return pursuant to § 113.58(C) of this subchapter shall be deemed to have registered in accordance with this section.

(B) Every telecommunications provider who has registered with the village pursuant to division (A) of this section has an affirmative duty to submit an amended registration form or current return as required by § 113.58(C), as the case the information provided by the telecommunications provider in the registration form or most recent return on file with the village.

(Ord. 1692, passed 11-17-97)

§ 113.57 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE.

(A) A village telecommunication infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of 1.0% of all gross charges charged by the telecommunications retailer to service addresses within the village for telecommunications originating or received in the village.

(B) Upon the effective date of the infrastructure maintenance fee authorized in this subchapter, the village infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the village by telecommunications retailer. Imposition of the infrastructure maintenance fee provided under this subchapter does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

(C) The village telecommunications infrastructure maintenance fee authorized by this subchapter shall be collected, enforced, and administered as set forth in § 113.58 of this subchapter.

(Ord. 1692, passed 11-17-97)

Statutory reference:

Limitation on municipal fee, see ILCS Ch. 35, Act 635, § 20

§ 113.58 COLLECTION, ENFORCEMENT, AND ADMINISTRATION OF VILLAGE FEES.

(A) A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the village infrastructure maintenance fee attributable to that customer's service address.

(B) Unless otherwise approved by the Village Administrator the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the village not later than the last day of the month subsequent to the month in which a bill is issued to the customer, provided, however, that the telecommunications retailer may retain an amount not to exceed 2% of the village infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.

(C) Remittance of the municipal infrastructure maintenance fee to the village shall be accompanied by a return, in a form to be prescribed by the Village Administrator, which shall contain such information as the Village Administrator may reasonably require.

(D) Any infrastructure maintenance fee required to be collected pursuant to this subchapter and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the village. The charge imposed under division (A) of this section by the telecommunications retailer pursuant to this subchapter shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.

(E) If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this subchapter, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this subchapter, from telecommunications retailer who made the erroneous payment; provided, however, the Village Administrator may request, and telecommunications retailer shall provide, written substantiation for such credit.

(F) Amounts paid under this subchapter by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:

(1) "Gross charges" for purposes of the Telecommunications Excise Tax Act, being ILCS Ch. 35, Act 630, §§ 1 *et seq.*;

(2) "Gross receipts" for purposes of the municipal utility tax as prescribed in the Illinois Municipal Code, being ILCS Ch. 65, Act 5, § 8-11-17;

(3) "Gross charges" for purposes of the municipal telecommunications tax as prescribed in the Illinois Municipal Code, being ILCS Ch. 65, Act 5, § 8-11-17;

(4) "Gross revenue" for purposes of the tax on annual gross revenue of public utilities prescribed the Public Utilities Act, being ILCS Ch. 220, Act 5, §§ 9-221, 9-222 and 9-222.1.

(G) The village shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this subchapter to determine whether the telecommunications retailer has properly accounted to the village for the village infrastructure maintenance fee. Any underpayment of the amount of the village infrastructure maintenance fee due to the village by the telecommunications retailer shall be paid to the village plus 5% of the total amount of the underpayment determined in an audit. If the audit indicates that the underpayment was more than 3% of the amount remitted to the village in a timely manner as provided in this subchapter, then the telecommunication retailer shall reimburse the village for any costs incurred by the village in conducting the audit. Any amount payable to the village pursuant to this division (G) of this section shall be paid to the village within 21 days after the date of issuance of an invoice for same.

(H) The Village Administrator, or his/her or her designee, may promulgate such further or additional regulations concerning the administration and enforcement of this subchapter, consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to § 126.02 of this subchapter of such regulations.
(Ord. 1692, passed 11-17-97)

§ 113.59 COMPLIANCE WITH OTHER LAWS.

Nothing in this subchapter shall excuse any person or entity from obligations imposed under any law, including but not limited to:

(A) Generally applicable taxes; and

(B) Standards for construction on, over, under or within, use of or repair of the public rights-of-way, including standard relating to free standing towers and other structures upon the public right-of-way, as provided; and

(C) Any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and

(D) Compliance with any ordinance or provision of this code concerning uses or structures not located on, over, or within the right-of-way.

(Ord. 1692, passed 11-17-97)

§ 113.60 EXISTING FRANCHISE AND LICENSES.

Any franchises, license, or similar agreements between telecommunications retailers and the village entered into before the effective date of this subchapter regarding the use of public rights-of-way shall remain valid according to and for their stated terms, except for any fees, charges or other compensation to the extent waived.

(Ord. 1692, passed 11-17-97)

§ 113.61 ENFORCEMENT.

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

(Ord. 1692, passed 11-17-97)

§ 113.62 VIOLATIONS.

Any telecommunication provider who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this subchapter shall be subject to fine in accordance with the general penalty provisions of this code.

(Ord. 1692, passed 11-17-97) Penalty, see § 10.99

CABLE/VIDEO SERVICE PROVIDER FEE AND PEG ACCESS SUPPORT FEE

§ 113.70 DEFINITIONS.

As used in this chapter, the following terms shall have the following meanings:

CABLE SERVICE. That term as defined in 47 U.S.C. § 522(6).

COMMISSION. The Illinois Commerce Commission.

GROSS REVENUES. All consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the village.

(1) **GROSS REVENUES** shall include the following:

(a) Recurring charges for cable or video service.

(b) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

(c) Rental of set top boxes and other cable service or video service equipment.

(d) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.

(e) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

(f) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.

(g) A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the village. The allocation shall be based on the number of subscribers in the village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

(h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to division (1)(i) of this definition.

(i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.

(j) The service provider fee permitted by ILCS Ch. 220, Act 5, § 21-801(b).

(2) **GROSS REVENUES** do not include any of the following:

(a) Revenues not actually received, even if billed, such as bad debt, subject to ILCS Ch. 220, Act 5, § 21-801(c)(1)(vi).

(b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the state-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.

(c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to non-cable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.

(d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the village and pay the fee permitted by ILCS Ch. 220, Act 5, § 21-801(b) with respect to the service.

(e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the state-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.

(f) Security deposits collected from subscribers.

(g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

(3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by ILCS Ch. 220, Act 5, § 21-801(b) which would otherwise be paid by the cable service or video service.

HOLDER. A person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to ILCS Ch. 220, Act 5, § 21-401.

PEG. Public, education and governmental.

PEG ACCESS SUPPORT FEE. The amount paid under this subchapter and ILCS Ch. 220, Act 5, § 21-801(d) by the holder to the village for the service areas within its territorial jurisdiction.

SERVICE. The provision of cable service or video service to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to ILCS Ch. 220, Act 5, § 21-401.

SERVICE PROVIDER FEE. The amount paid under this subchapter and ILCS Ch. 220, Act 5, § 21-801 by the holder to a village for the service areas within its territorial jurisdiction.

VIDEO SERVICE. Video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.
(Ord. 3041, passed 2-19-2008)

§ 113.71 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.

(A) *Fee imposed.* A fee is hereby imposed on any holder providing cable service or video service in the village.

(B) *Amount of fee.* The amount of the fee imposed hereby shall be 5% of the holder's gross revenues. However, the fee paid to the village by an incumbent cable operator providing cable service, on the effective date of this subchapter, shall not be greater than that fee presently being paid to the village by the incumbent cable operator.

(C) *Notice to the village.* The holder shall notify the village at least ten days prior to the date on which the holder begins to offer cable service or video service in the village.

(D) *Holder's liability.* The holder shall be liable for and pay the service provider fee to the village. The holder's liability for the fee shall commence on the first day of the calendar month following 30 days after receipt of the ordinance adopting this subchapter by the holder. The ordinance adopting this subchapter shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to ILCS Ch. 220, Act 5, § 21-401(b)(6) to the village.

(E) *Payment date.* The payment of the service provider fee shall be due on a quarterly basis, 45 days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F) *Exemption.* The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the village in which a fee is paid.

(G) *Credit for other payments.* An incumbent cable operator that elects to terminate an existing agreement pursuant to ILCS Ch. 220, Act 5, § 21-301(c) with credit for prepaid franchise fees under that

agreement may deduct the amount of such credit from the fees that operator owes under division (B) of this section.

(Ord. 3041, passed 2-19-2008)

§ 113.72 PEG ACCESS SUPPORT FEE IMPOSED.

(A) *PEG fee imposed.* A PEG access support fee is hereby imposed on any holder providing cable service or video service in the village in addition to the fee imposed pursuant to § 113.71.

(B) *Amount of fee.* The amount of the PEG access support fee imposed hereby shall be 1% of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the village or its designee for PEG access support in the village.

(C) *Payment.* The holder shall pay the PEG access support fee to the village or to the entity designated by the village to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in § 113.72(D).

(D) *Payment due.* The payment of the PEG access support fee shall be due on a quarterly basis, 45 days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(E) *Credit for other payments.* An incumbent cable operator that elects to terminate an existing agreement pursuant to ILCS Ch. 220, Act 5, § 21-301(c) shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that that operator owes under division (B) of this section.

(Ord. 3041, passed 2-19-2008)

§ 113.73 APPLICABLE PRINCIPLES.

All determinations and calculations under this subchapter shall be made pursuant to generally accepted accounting principles.

(Ord. 3041, passed 2-19-2008)

§ 113.74 NO IMPACT ON OTHER TAXES DUE FROM HOLDER.

Nothing contained in this chapter shall be construed to exempt a holder from any tax that is or may later be imposed by the village, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A state-issued authorization shall not affect any requirement of the holder with respect to payment of the village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder.

A state-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

(Ord. 3041, passed 2-19-2008)

§ 113.75 AUDITS OF CABLE/VIDEO SERVICE PROVIDER.

(A) *Audit requirement.* The village will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the village imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the village. If all local franchises between the village and cable operator terminate, the audit requirements shall be those adopted by the village pursuant to the Local Government Taxpayers' Bill of Rights Act, ILCS Ch. 50, Act 45, §§ 1 *et seq.* No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

(B) *Additional payments.* Any additional amount due after an audit shall be paid within 30 days after the village's submission of an invoice for the sum.

(Ord. 3041, passed 2-19-2008)

§ 113.76 LATE FEES/PAYMENTS.

All fees due and payments which are past due shall be governed by ordinances adopted by this village pursuant to the Local Government Taxpayers' Bill of Rights Act, ILCS Ch. 50, Act 45, §§ 1 *et seq.*

(Ord. 3041, passed 2-19-2008)

CABLE AND VIDEO CUSTOMER PROTECTION LAW

§ 113.85 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.

(A) *Adoption.* The regulations of ILCS Ch. 220, Act 5, § 70-501 are hereby adopted by reference and made applicable to the cable or video providers offering services within the village's boundaries.

(B) *Amendments.* Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this subchapter shall be incorporated into this subchapter by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this subchapter by reference without formal action by the corporate authorities of the village.

(Ord. 3040, passed 2-19-2008)

§ 113.86 ENFORCEMENT.

The village does hereby, pursuant to law, declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the village.
(Ord. 3040, passed 2-19-2008)

§ 113.87 PENALTIES.

The village, pursuant to ILCS Ch. 220, Act 5, § 70-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed \$750 for each day of the material breach, and shall not exceed \$25,000 for each occurrence of a material breach per customer.

(A) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(B) The village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least 30 days from the receipt of the notice to remedy the specified material breach.

(C) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in division (B) of this section.
(Ord. 3040, passed 2-19-2008)

§ 113.88 CUSTOMER CREDITS.

The village hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of ILCS Ch. 220, Act 5, § 70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.
(Ord. 3040, passed 2-19-2008)

§ 113.99 PENALTY.

For the violation of any of the following provisions of this chapter, penalties shall be chargeable to the letter of credit as follows and the village may determine the amount of the forfeiture for other violations which are not specified in a sum not to exceed \$750 for each violation, with each day constituting a separate violation:

(A) Failure to furnish, maintain, or offer all cable services to any potential subscriber within the village upon order of the village: \$100 per day, per violation, for each day that such failure occurs or continues;

(B) Failure to obtain or file evidence of required insurance, construction bond, performance bond, or other required financial security: \$200 per day, per violation, for each day such failure occurs or continues;

(C) Failure to provide access to data, documents, records, or reports to the village as required by §§ 113.20, 113.30, 113.31, 113.32, and 113.38: \$100 per day, per violation, for each day such failure occurs or continues;

(D) Failure to comply with applicable construction, operation, or maintenance standards: \$200 per day, per violation;

(E) Failure to comply with a rate decision or refund order: \$500 per day, per violation, for each day such a violation occurs or continues.

(F) For any violations for non-compliance with the customer service standards of §§ 113.24 and 113.26 the grantee shall pay \$500 per day for each day, or part thereof, that such noncompliance continues;

(G) For any other violations of a franchise agreement to be determined by the grantor in a public hearing but not specifically noted in this section shall not exceed \$750 per day, per violation.
(Ord. 1678, passed 7-21-97)

CHAPTER 114: SERVICES

Section

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- 114.21 License fee
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Motor Vehicle Repair Shops

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Public Garages

- 114.60 Definition
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*FILLING STATIONS***§ 114.20 LICENSE REQUIRED.**

It shall be unlawful to establish, maintain, or operate gasoline filling stations in the village without obtaining a license.

('79 Code, § 118.090) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 114.21 LICENSE FEE.

(A) The annual license fee for a gasoline filling station shall be \$150.

(B) Provided, however, filling stations operating in conjunction with licensed garages and auto repair shops shall not be required to pay a license fee pursuant to this section.

('79 Code, § 118.091) (Ord. 381, passed 8-1-49; Am. Ord. 1348, passed 4-18-88; Am. Ord. 1659, passed 2-18-97; Am. Ord. 1905, passed 4-21-2003)

§ 114.22 REGULATIONS.

All gasoline filling stations shall be maintained and operated in accordance with the statutes of the State of Illinois and the regulations of the State Fire Marshal and Fire Inspector of the village.

('79 Code, § 118.092) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

*MOTELS AND HOTELS***§ 114.30 SCOPE.**

This chapter shall be known as the "Motel and Hotel Operating Chapter." Its purpose is to establish minimum standards for the operation of motels and hotels in order to minimize contagion, provide safe and sanitary facilities, and otherwise promote and protect the public health, safety, comfort, and general welfare.

('79 Code, § 117.01) (Ord. 401, passed 10-1-51; Am. Ord. 1905, passed 4-21-2003)

§ 114.31 OPERATING PERMIT REQUIRED.

Within the village, no land or premises shall be occupied or shall continue to be occupied by two or more connected cabins, cottages, or multiple dwelling units which are used by tourists and transients for sleeping or dwelling purposes, herein termed a motel or hotel, unless the motel or hotel complies with all the requirements of this chapter, and unless an operating permit has been issued therefor and has not been revoked.

('79 Code, § 117.02) (Ord. 401, passed 10-1-51; Am. Ord. 1905, passed 4-21-2003) Penalty, see § 10.99

§ 114.32 APPLICATION FOR OPERATING PERMIT.

Each application for an operating permit shall be made on forms provided by the Village Clerk, and shall be properly filled in and accompanied by such descriptive material in drawn or written form as the form specifies. The application shall describe the site, buildings, and facilities of the motel and hotel in sufficient detail and accuracy so that, on investigation, their compliance with the provisions hereof may be judged.

('79 Code, § 117.03) (Ord. 401, passed 10-1-51; Am. Ord. 1905, passed 4-21-2003)

§ 114.33 INVESTIGATION OF APPLICATIONS.

The Village Clerk shall refer such application to the Village Building Commissioner or his/her designee for an investigation and inspection to determine whether the application and the premises conform to the requirements of this chapter. The Village Building Commissioner or his/her designee shall report the results of his/her investigation to the Clerk, and if such report is favorable, the Clerk shall issue a license.

('79 Code, § 117.04) (Ord. 401, passed 10-1-51; Am. Ord. 1024, passed 10-1-79; Am. Ord. 1680, passed 8-18-97)

§ 114.34 DEVELOPMENT AND OPERATING REQUIREMENTS.

To qualify and maintain in good standing an operating permit, a motel or hotel shall be developed, equipped, managed, and operated as follows:

(A) The cause of the building shall conform to all the requirements of the municipal building code respecting multiple-use buildings.

(B) The motel or hotel shall be in the charge of a resident manager who shall be of good moral character, and available and responsible at all times for maintaining the grounds, building, and facilities in a sanitary, safe, orderly, and usable condition.

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(C) There shall be an office or room for the manager where incoming guests will be registered and furnished copies of the motel or hotel rules, and where the registration records of the motel or hotel shall be maintained in approved form and kept available at all times for inspection by the Village Building Commissioner or his/her designee.

(D) No person known to be suffering from a reportable disease, as defined by the State Department of Public Health, shall be given accommodation at any motel or hotel. The manager shall immediately report to the Health Officer any illness in the motel or hotel which is believed to be reportable.

(E) The living quarters of the motel or hotel shall not contain any facilities for cooking or preparing food, and cooking and preparing food shall be prohibited therein.

(F) Each living quarter shall contain hot and cold running water, bathtub or shower facilities, lavatory, and flush toilet.

(G) Plumbing fixtures and floors shall be thoroughly cleaned at least once daily.

(H) Rooms shall be furnished with beds and bedding which shall be in good condition, clean, and adequate to body comfort. Beds shall be made up with clean, freshly laundered sheets and pillow cases as often as they are assigned to different persons, and at least weekly when they are used by the same person.

(I) Each occupant of a room shall be furnished with soap and at least one clean, freshly laundered bath towel and hand towel daily.

(J) A comfortable temperature shall be maintained in all living quarters when heated from a central plant. Where central heating is not provided, safe, convenient, and adequate heating facilities shall be furnished.

(K) The manager shall comply with such other health and sanitation rules and regulations as may be adopted by the municipality.

(L) Occupation of house trailers or tents shall not be permitted on the premises licensed as a motel or hotel.

('79 Code, § 117.05) (Ord. 401, passed 10-1-51; Am. Ord. 1024, passed 10-1-79; Am. Ord. 1680, passed 8-18-97; Am. Ord. 1905, passed 4-21-2003; Am. Ord. 3053, passed 4-7-2008) Penalty, see § 10.99

§ 114.35 FEES FOR OPERATING PERMITS.

The annual fee for each operating fee for a motel or hotel shall be \$150. ('79 Code, § 117.06) (Ord. 401, passed 10-1-51; Am. Ord. 1348, passed 4-18-88; Am. Ord. 1905, passed 4-21-2003) Penalty, see § 10.99

§ 114.36 PERMIT TO BE DISPLAYED.

The permit shall be conspicuously displayed in the office of the manager. ('79 Code, § 117.07) (Ord. 401, passed 10-1-51) Penalty, see § 10.99

§ 114.37 REVOCATION OF PERMIT.

A permit may be revoked or suspended for a violation of any provision of this chapter, but only if notice has been given the manager and owner or lessee setting forth in writing the violation and the time allowed for abatement thereof.

('79 Code, § 117.08) (Ord. 401, passed 10-1-51)

§ 114.38 ENFORCEMENT BY VILLAGE BUILDING COMMISSIONER OR HIS/HER DESIGNEE.

This chapter shall be administered and enforced by the Village Building Commissioner or his/her designee who is authorized to make all inspections and orders deemed necessary to assure compliance with the provisions hereof.

('79 Code, § 117.09) (Ord. 401, passed 10-1-51; Am. Ord. 1024, passed 10-1-79; Am. Ord. 1680, passed 8-18-97)

MOTOR VEHICLE REPAIR SHOPS**§ 114.45 DEFINITION.**

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MOTOR VEHICLE REPAIR SHOP. Any building, premises, or enclosure where the business of doing repair work on or for motor vehicles or any of the component parts thereof, the replacing of or the addition of parts thereto, is carried on.

('79 Code, § 118.075) (Ord. 381, passed 8-1-49)

§ 114.46 MOTOR VEHICLE REPAIR SHOP.

The business of conducting a motor vehicle repair shop may also be conducted in connection with and as a part of a public garage.

('79 Code, § 118.076) (Ord. 381, passed 8-1-49)

§ 114.47 LICENSE REQUIRED.

No person shall engage in the business of a motor vehicle repair shop without having obtained a license.

('79 Code, § 118.077) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 114.48 LICENSE FEE.

The annual fee for a motor vehicle repair shop shall be \$150.

('79 Code, § 118.078) (Ord. 381, passed 8-1-49; Am. Ord. 1348, passed 4-18-88; Am. Ord. 1659, passed 2-18-97; Am. Ord. 1905, passed 4-21-2003)

§ 114.49 PLACE OF BUSINESS, LOCATION.

No motor vehicle repair shop shall be conducted or operated within 200 feet of any building used as a hospital, church, or public or parochial school, or the grounds thereof.

('79 Code, § 118.079) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 114.50 FRONTAGE CONSENTS.

No person shall conduct or operate a motor vehicle repair shop on any lot in any block in which two-thirds of the buildings on both sides of the street are used exclusively for residential purposes without the written consent of a majority of the property owners according to frontage on both sides of the street. Such frontage consent shall be obtained and filed with the Village Clerk before a license is issued.

('79 Code, § 118.080) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

PUBLIC GARAGES**§ 114.60 DEFINITION.**

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC GARAGE. Any building, structure, or premises for hire where two or more motor vehicles are stored or parked in a condition ready for use, or where rent is paid to the owner for the using, storing, or keeping of such motor vehicles.
(‘79 Code, § 118.070) (Ord. 381, passed 8-1-49)

§ 114.61 LICENSE REQUIRED.

No person shall engage in the business of public garage without having obtained a license.
(‘79 Code, § 118.071) (Ord. 381, passed 8-1-49) Penalty, see § 10.99

§ 114.62 LICENSE FEE.

The annual fee for a public garage shall be \$150.
(‘79 Code, § 118.072) (Ord. 381, passed 8-1-49; Am. Ord. 1348, passed 4-18-88; Am. Ord. 1659, passed 2-18-97; Am. Ord. 1905, passed 4-21-2003)

CHAPTER 115: RETAIL

Section

Secondhand and Precious Metal Dealers

- 115.10 Definitions
- 115.11 Applicability of requirements
- 115.12 Denial of license and appeal of such denial
- 115.13 License denial; grounds
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- 115.15 Coin dealers, coin collection swap meets and conventions
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Solicitors

- 115.25 Definitions
- 115.26 Certificate of registration
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- 115.28 Issuance and revocation of certificate
- 115.29 Village policy on soliciting
- 115.30 Notice regulating soliciting
- 115.31 Duty of solicitors
- 115.32 Uninvited soliciting prohibited
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Scavengers

- 115.45 License required
- 115.46 License fee
- 115.47 Application for license
- 115.48 Limit on number
- 115.49 Vehicle requirements
- 115.50 Storage and disposal of refuse
- 115.51 Hours of operation

SECONDHAND AND PRECIOUS METAL DEALERS**§ 115.10 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

[§ 115.10 continues on page 85]

ENGAGED IN OR CONDUCTING BUSINESS. The purchase, sale, barter, or exchange of any item aforesaid, including advertising therefor and including such business conducted by an established dealer in a permanent location.

EXCLUSIONS. The provisions of this chapter do not apply to the following businesses or dealers:

(1) Junk, as that term is defined in this chapter;

(2) Used motor vehicles;

(3) Antique dealers which for purpose of this exclusion shall be read to be defined as any dealer who engages exclusively in the business or occupation of selling, bartering, or exchanging any painting, furniture, china, or other object painted or made more than 50 years prior to the date of sale, which is valuable primarily by reasons of age, scarcity or the skill and craftsmanship of the article and artisan. Antiques will not include family heirlooms made of gold and silver or other precious metals;

(4) Coin collectors or coin shops which engage exclusively in the coin business or occupation. Further, that this exclusion does not exempt such dealers or businesses from compliance with the regulations as hereinafter provided in relation to any gold, silver, platinum or other precious metal or jewelry which they may purchase, trade, barter, or exchange in addition to their coin and bullion operations;

(5) Flea market;

(6) Neighborhood garage sales;

(7) Nonprofit or charitable secondhand goods or thrift type shops.

GEMS. Any item containing or having any precious or semi-precious stones customarily used in jewelry or ornamentation.

PRECIOUS METALS. Any item containing as part of its composition in any degree, gold, silver, platinum or pewter.

SECONDHAND DEALER. An individual, partnership, corporation, joint venture, trust association, or any other legal entity however organized, engaged in, or conducting business in the village for purchasing, trading, bartering, or exchanging secondhand personal property, gold, silver and other precious metals.

SECONDHAND GOODS or USED PERSONAL GOODS. Shall consist of any item of personal property or object of value such as gold, silver, jewelry, or other precious metals, which is not purchased or sold as new. **SECONDHAND** or **USED PERSONAL GOODS** do not include property

purchased by one licensed, established merchant in the normal course of business from another licensed established merchant. *SECONDHAND* or *USED PERSONAL GOODS* shall include, but are not limited to the following items:

- (1) Jewelry of any kind or any metal, precious or semiprecious in nature;
- (2) Gold, silver, and other precious metals in whatever identifiable form except for numismatic coins or bullions;
- (3) Any type of gem or precious stone, including diamonds;
- (4) Office supplies;
- (5) Furniture fixtures;
- (6) Electronic equipment such as televisions, radios, and stereos;
- (7) Appliances.

('79 Code, § 120.01) (Ord. 1341, passed 12-7-87)

§ 115.11 APPLICABILITY OF REQUIREMENTS.

(A) *License requirement.* It shall be unlawful for an individual, partnership, corporation, joint venture, trust, association, or other legal entity to engage in the business of secondhand goods or used personal property, gold, silver or other precious metals dealer as defined in this chapter, without first obtaining a license therefor, as hereinafter provided. A separate license shall be required for each location, place or premises used for the conduct of the business of the secondhand dealer.

(B) *License not transferable.* The privilege extended to the above described license is a personal privilege and shall not be transferable to another individual or entity, nor shall there be any abatement of the fee for such license by reason of the fact that the license holder shall have exercised the privilege for any period less than it was granted.

(C) *License fee.* The fee for such license shall be in the sum of \$80 for the period from May 1, 1997, to December 31, 1997, being the date of termination. Commencing on January 1, 1998, and on January 1 of each year following issuance, the annual fee shall be \$125. (Am. Ord. 1659, passed 2-18-97)

(D) *Place of business; license restrictions.* Any license issued under the provisions of this chapter shall designate the place in which the secondhand dealer shall carry on such business; and such business shall not be carried on or conducted in any other place than that designated in or by such license.

(E) *Exhibition of license.* The license issued under this chapter shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the village, separate licenses shall be issued for each place of business, and shall be conspicuously in each place of business. A separate \$100 fee will be charged for each additional license issued. A separate license application will be needed for each additional place of business.

(F) *Location change during unexpired term of license.* In the event that a secondhand dealer should move either his/her main or satellite licensed dealership from the existing location to a new location before the expiration of his/her current license, he/she shall be permitted to secure a transfer license at a fee of \$50 per unexpired license to be valid until his/her existing license should expire.

(G) *Application for license.* Applicants for a license under this chapter, whether a person, firm, corporation or other legal entity, shall file a written sworn application signed by the applicant, if an individual, by all partners, if a partnership, by all members of the joint venture or association, and by the president of a corporation with the Village Clerk, showing:

- (1) The name or names of the person or persons having the management or supervision of the applicant's business;
- (2) The local address or addresses of such person or persons while engaged in the business;
- (3) The permanent address or addresses of such persons;
- (4) The capacity in which such person or persons will act, that is, whether as proprietor, agent or otherwise;
- (5) If a corporation, other than an Illinois corporation, the laws of the state that the same is incorporated under;
- (6) The place or places in the village where it is proposed that applicant's business will be conducted;
- (7) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers;
- (8) Credentials from the person, firm or corporation, for which the applicant proposed to do business, authorizing the applicant to act as such representative;
- (9) Whether or not the person or persons having management or supervision of the applicant's business have been convicted of a felony, misdemeanor or violation of any municipal ordinance, the nature of such offense and the punishments assessed therefor;

(10) The place or places, other than the permanent place of business of the applicant, where applicant, within the six months prior to this current application, conducted a previous business in secondhand or used personal goods, stating the nature thereof and giving the street address of any building or office in which such business was conducted.

(H) Records of transactions required.

(1) Every secondhand dealer shall keep a record, which record system guidelines shall be established in conjunction with the Chief of Police for the purpose of promoting uniformity and accessibility to the Police Department with minimum inconvenience to both the dealer and the department. However, under no circumstances will a looseleaf system be considered to be a proper medium of recordkeeping.

(2) The record of all transactions shall be written in the English language and in a clear, legible manner.

(3) The record maintained by the secondhand dealer shall be made at the time of the transaction and shall set forth the following information:

(a) Name, age, sex, general description of the individual with whom the transaction is had, as well as the individual's residence and his/her signature on the receipt and permanent record kept by the dealer;

(b) Confirmation of identification, by also securing a driver's license number along with the state of issuance of such license, military identification card number and the account number of a major credit card account, if used for purchase. This number shall be recorded along with the information designated.

(c) The price or consideration paid or received at the time of the transaction.

(d) A description of every article (except as to the sale of goods by him/her of newspapers, magazines, or other wastepaper, rags, and clothing) received, purchased, sold or exchanged by the dealer giving the manufacturer's name and other marks of identification appearing on the article including, but not limited to, the serial number, if any, on the article.

(e) If the property is delivered by motor vehicle, the license number of the delivering vehicle and the issuing state of said license shall be recorded along with all other identification requirements enumerated;

(f) All entries in the record shall be signed by the person making the entry;

(g) Such records shall be retained for a period of one year from the date of the transaction.

(I) *Report to the Chief of Police or his/her designated agent.* It shall be the duty of every secondhand dealer to make out and make available for the inspection of the Chief of Police or his/her designated agent before the hour of 12:00 noon, each and every business day, a copy of the records required to be kept under the terms of this chapter, reflecting the completed transactions of the previous day.

(J) *Record inspection.* The record book, the goods, articles or things purchased, received or kept for sale or exchange, by every secondhand dealer, shall be open to inspection of any member of the Police Department at all reasonable business times, or any person duly authorized in writing for such purpose by the Chief of Police.

(K) *Goods to be kept without concealment for seven business/working days.* Every dealer in secondhand goods must keep without concealment for a period of seven working/ business days, subject to the inspection by any police officer, all goods, wares and merchandise, purchased or received from any person, before selling, shipping or otherwise disposing of the same. Proviso: Any goods, wares, or merchandise purchased or received from any person may be sold, shipped, or otherwise disposed of prior to the expiration of the seven working/business day holding period if the goods, wares, or merchandise have been sooner inspected by the Chief of Police or his/her designated agent and received written clearance for such further disposition.

(L) *Melting, wrecking and remodeling.* No secondhand dealer shall melt any watch, watchcase, jewelry or other identifiable article composed or manufactured in whole or in part of gold, silver, platinum, or other precious metals until such dealer shall have made a record of his/her intention to do so along with all other data required to be recorded by the specific recordation provisions of this section and shall have reported the same to the Chief of Police or his/her designated agents within the Burglary and Theft Division and unless and until he/she shall have kept such article intact in his/her licensed place of business, for inspection for seven working/business days after the report provided for in division (I) of this section has been made available to the Chief of Police or his/her designated agent: unless the identifiable article proposed to be melted down, wrecked or remodeled has been sooner inspected by the Chief of Police or his/her designated agent and received written clearance for such melting, wrecking or remodeling from same.

(M) *Purchasing from minors.* No secondhand dealer shall deal in secondhand articles with a minor (an individual under the age of 18 years of age; or receive any goods or articles from any minors, 17 years old or younger).

(N) *Suspension and revocation of license.* Upon conviction for a violation of any of the provisions of this chapter, the license granted under the provisions of this chapter, shall be suspended for a period not less than 30 days in duration at the end of which the individual must secure a clearance from the Village Clerk, verifying the expiration of the suspension period. Upon a second conviction for a violation of any provisions of this chapter within the license period under which the previous suspension

occurred, the license granted under the provisions of this chapter shall be revoked for a period of one year in duration at the end of which the individual may submit a re-application for another license. ('79 Code, § 120.02) (Ord. 1341, passed 12-7-87)

§ 115.12 DENIAL OF LICENSE AND APPEAL OF SUCH DENIAL.

Upon receipt of an application for a license, the village in conjunction with the Police Department shall cause such investigation of the applicant's business responsibility or moral character to be made as deemed necessary to protect the public good. ('79 Code, § 120.03) (Ord. 1341, passed 12-7-87)

§ 115.13 LICENSE DENIAL; GROUNDS.

(A) The village may deny a license if the investigation reveals one or more of the following:

- (1) Conviction of a felony within five years immediately preceding the date of the filing of the application;
- (2) Conviction of any crime of moral turpitude within five years immediately preceding the date of the filing of the application.
- (3) Fraud, misrepresentation, or false statement of facts of material consequence in the application;
- (4) Proof of a complaint with appropriate officials in the area where last business was pursued within the last 12 months preceding the current application or on file with local officials indicating that applicant has engaged in a fraudulent transaction or enterprise.

(B) The Village Clerk or President shall issue a letter of rejection of license application to the applicant's listed address by certified mail with a statement indicating the reasons for rejection. ('79 Code, § 120.04) (Ord. 1341, passed 12-7-87)

§ 115.14 APPEAL.

An appeal from the Village Clerk or President's decision to deny application for a license shall be made to the President or the Village Clerk in writing, within seven days of the receipt of the decision. The appeal shall state the specific grounds for the appeal. The applicant will be granted the opportunity to present his/her evidence at the Village Board of Trustees hearing to show why the President or the Village Clerk's decision should not be sustained. ('79 Code, § 120.05) (Ord. 1341, passed 12-7-87)

§ 115.15 COIN DEALERS, COIN COLLECTION SWAP MEETS AND CONVENTIONS.

(A) Coin collectors and coin dealers shall not be subject to the extensive record keeping and goods retention requirements for secondhand goods or used personal property dealers to the extent of their actual dealings in coins. However, if any such coin establishment also purchases, trades, barter or exchanges any other type of secondhand personal property including gold, silver or other precious metals or jewelry in conjunction with its coin dealership, such establishment shall be subjected to the extensive record keeping, licensing and goods retention requirements as established in this chapter as far as whose other items of gold, silver or precious metals or jewelry are concerned.

(B) Coin collectors and coin dealers although not subject to the record keeping, licensing requirements, and goods retention provisions of this chapter as relates to their coin dealings, nonetheless will be required to meet the following conditions as they relate to their coin business:

(1) All coin dealers and collectors who conduct a coin business and conduct no other precious metal business shall be required to register with the Village Clerk.

(2) All coin swap meets and conventions shall be required to register with the Village Clerk no later than three days before the scheduled date of the swap meet. The sponsor or sponsors of such a swap meet shall be required to submit the following information at the time of registration:

(a) The type of swap meet to be conducted;

(b) The location of the swap meet or convention;

(c) The time and date of the swap meet or convention and its expected duration;

(d) The approximate number of participants.

('79 Code, § 120.06) (Ord. 1341, passed 12-7-87)

§ 115.16 PENALTY.

Any person violating any of the provisions of this subchapter shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this chapter is committed, continued, or permitted shall constitute a separate offense. Upon conviction of any such violation, such person, partnership or corporation shall be punished by a fine of not more than \$750 for each offense.

('79 Code, § 120.07) (Ord. 1341, passed 12-7-87)

SOLICITORS**§ 115.25 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

REGISTERED SOLICITOR. Any person who has obtained a valid certificate of registration as hereinafter provided, and which certificate is in the possession of the solicitor on his/her person while engaged in soliciting.

RESIDENCE. Every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

SOLICITING. Any one or more of the following activities:

- (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, or services of any kind, character, or description whatever, for any kind of consideration whatever;
 - (2) Seeking to obtain prospective customers for application or purpose of insurance of any type, kind, or character;
 - (3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers, and every other type or kind of publication; or
 - (4) Seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation, or project.
- ('79 Code, § 113.01) (Ord. 794, passed 4-17-72)

§ 115.26 CERTIFICATE OF REGISTRATION.

Every person desiring to engage in soliciting from persons in residences within this village is required to make written application for a certificate of registration as hereinafter provided.

('79 Code, § 113.02) (Ord. 794, passed 4-17-72)

§ 115.27 APPLICATION FOR CERTIFICATE OF REGISTRATION.

(A) Application for a certificate of registration shall be made on a form provided by the Village Clerk of this village and filed with him/her. The applicant shall truthfully state in full the following information requested on the application:

(1) Name, age, and address of present place of residence and length of residence at such address; business address if other than residence address; and Social Security number;

(2) Physical description of the applicant;

(3) Name and address of the person, firm, corporation, or association with whom the applicant is employed or represents; and the length of time of such employment or representation;

(4) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage in;

(5) Period of time for which the certificate is applied;

(6) The date, or approximate date, of the latest previous application for certificate under this chapter, if any;

(7) Whether a certificate of registration issued to the applicant under this chapter has ever been revoked;

(8) Whether the applicant has ever been convicted of a violation of any of the provisions of this chapter, or the ordinance of any other Illinois municipality regulating soliciting;

(9) Whether the applicant has ever been convicted of the commission of a felony under the laws of the State of Illinois or any other state, or under the federal law of the United States;

(B) All statements made by the applicant on the application or in connection therewith shall be under oath.

(C) The Village Clerk shall cause to be kept in that office an accurate record of every application received and acted on, together with all other information and data pertaining thereto, of all certificates of registration issued under the provisions of this chapter, and of the denial of applications. Applications for certificates shall be numbered in consecutive order as filed, and every certificate issued, and any renewal thereof, shall be identified with the duplicate number of the application on which it was issued.

(D) No certificate of registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other state or under the federal law of the United States within five years of the date of the application.

('79 Code, § 113.03) (Ord. 794, passed 4-17-72; Am. Ord. 1134, passed 3-15-82)

§ 115.28 ISSUANCE AND REVOCATION OF CERTIFICATE.

(A) The Village Clerk, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such certificate

as herein required, or the issuance of a certificate of registration to the applicant would not be in accord with the intent and purpose of this chapter. When the applicant is found to be fully qualified, the certificate of registration shall be issued forthwith. All applications not expressly approved or rejected within five days of application shall be deemed approved, and the certificate of registration shall be issued forthwith.

(B) Any certificate of registration issued hereunder shall be revoked by the Village Clerk if the holder of the certificate, prior to the expiration of the certificate, is convicted of a violation of any kind of the provisions of this chapter; has made a false material statement in the application; or otherwise becomes disqualified for the issuance of a certificate of registration under the terms of this chapter. Immediately on such revocation, written notice thereof shall be given by the Village Clerk to the holder of the certificate in person or by certified U.S. mail addressed to his/her other residence address set forth in the application.

(C) Immediately on giving notice, the certificate of registration shall become null and void.

(D) The certificate of registration shall state the expiration date thereof.
('79 Code, § 113.04) (Am. Ord. 1134, passed 3-15-82)

§ 115.29 VILLAGE POLICY ON SOLICITING.

It is declared to be the policy of the governing body of this village that the occupant or occupants of residences in this village shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residence. It shall be the duty of every holder of a certificate of registration, and a condition of holding the certificate, to acknowledge and abide by any notice regulating soliciting as provided in § 115.30.

('79 Code, § 113.05) (Ord. 794, passed 4-17-72; Am. Ord. 1134, passed 3-15-82) Penalty, see § 10.99

§ 115.30 NOTICE REGULATING SOLICITING.

Every village resident who wishes to restrict solicitation shall do so in the following manner:

(A) Notice of the determination by the occupant of giving invitation to solicitors, or the refusal of invitation or any condition on solicitation shall be contained in a weatherproof card, posted in a conspicuous manner on or near the main entrance door to the residence containing a message qualifying the solicitation in words consisting of letters not less than $\frac{1}{2}$ -inch in height.

(B) Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

('79 Code, § 113.06) (Ord. 794, passed 4-17-72; Am. Ord. 1134, passed 3-15-82)

§ 115.31 DUTY OF SOLICITORS.

Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant. ('79 Code, § 113.07) (Ord. 794, passed 4-17-72; Am. Ord. 1134, passed 3-15-82) Penalty, see § 10.99

§ 115.32 UNINVITED SOLICITING PROHIBITED.

It is declared to be unlawful and shall constitute a nuisance for any person to go on any premises and ring the door bell on or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of § 115.30. ('79 Code, § 113.08) (Ord. 794, passed 4-17-72; Am. Ord. 1134, passed 3-15-82) Penalty, see § 10.99

§ 115.33 TIME LIMIT ON SOLICITING.

It is declared to be unlawful and shall constitute a nuisance for any person, whether registered under this subchapter or not, to go on any premises and ring the door bell on or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to 9:00 a.m. or after 9:00 p.m. of any weekday, or prior to 9:00 a.m. or after 6:00 p.m. of any Saturday, or at any time on a Sunday. ('79 Code, § 113.09) (Ord. 794, passed 4-17-72; Am. Ord. 1134, passed 3-15-82) Penalty, see § 10.99

§ 115.34 FEE FOR CERTIFICATE OF REGISTRATION.

Before a certificate of registration shall be issued to any applicant, he/she shall pay to the Village Clerk a fee of \$10 for each certificate of registration issued to him/her, and each such certificate of registration shall expire on April 30 after its issuance. ('79 Code, § 113.10) (Ord. 794, passed 4-17-72)

§ 115.35 SOLICITING CONTRIBUTIONS ON HIGHWAYS.

Soliciting contributions from the occupants of any vehicle as described in ILCS Ch. 625, Act 5, § 11-1006(c) is hereby allowed and permitted within the village limits of the village, subject to the following conditions:

(A) Solicitation on highways within the village shall be allowed only at intersections where all traffic is required to come to a full stop.

(B) The soliciting agent shall be:

(1) Registered with the Attorney General as a charitable organization as provided by “An Act to regulate solicitation and collection of funds for charitable purposes, providing for violations thereof, and making an appropriation therefor,” as provided in ILCS Ch. 225, Act 460, §§ 1 *et seq.*;

(2) Engaged in a statewide fund raising activity; and

(3) Liable for any injuries to any person or property during the solicitation which is casually related to an act of ordinary negligence of the soliciting agent.

(C) Any person engaged in the act of solicitation shall be 16 years of age or more and shall be wearing a high visibility vest.

(D) A minimum on one solicitor shall be required at each entrance to the highway intersection at which solicitations are being sought.

('79 Code, § 113.11) (Ord. 1411, passed 10-16-89) Penalty, see § 10.99

SCAVENGERS

§ 115.45 LICENSE REQUIRED.

It shall be unlawful for any person to engage in the business of scavenger, for the collection or disposal of animal, human, or vegetable refuse or offal, without having first obtained a license.

('79 Code, § 118.045) (Ord. 381, passed 8-1-49; Am. Ord. 1298, passed 6-16-86) Penalty, see § 10.99

§ 115.46 LICENSE FEE.

The fee for a license to operate as a scavenger shall be \$80 for the period from May 1, 1997, to December 31, 1997, being the date of termination. Commencing on January 1, 1998, on January 1 of each year following issuance, the annual fee shall be \$125.

('79 Code, § 118.046) (Ord. 381, passed 8-1-49; Am. Ord. 1298, passed 6-16-86) Penalty, see § 10.99

§ 115.47 APPLICATION FOR LICENSE.

The application for a license required by this subchapter shall be made to the Village Clerk. ('79 Code, § 118.047) (Ord. 381, passed 8-1-49; Am. Ord. 1298, passed 6-16-86)

§ 115.48 LIMIT ON NUMBER.

There shall not be more than seven licenses for scavengers issued or in effect at any one time. ('79 Code, § 118.048) (Ord. 381, passed 8-1-49; Am. Ord. 1298, passed 6-16-86; Am. Ord. 1356, passed 7-5-88)

§ 115.49 VEHICLE REQUIREMENTS.

(A) All public or private vehicles used for the collection or disposal of refuse shall have enclosed bodies, or suitable provisions for covering the body.

(B) Vehicles used for the collection and disposal of garbage or of refuse containing garbage, shall have watertight, enclosed metal bodies of easily cleanable construction, shall be cleaned at sufficient frequency to prevent nuisance or insect breeding, and shall be maintained in good repair. The vehicles shall not at any time be overloaded so as to cause spillage. ('79 Code, § 118.049) (Ord. 381, passed 8-1-49; Am. Ord. 1298, passed 6-16-86) Penalty, see § 10.99

§ 115.50 STORAGE AND DISPOSAL OF REFUSE.

It shall be unlawful for any scavenger to dispose of or store any refuse in any place within the village limits or within one mile therefrom, except with the express permission of the Village Board of Trustees. ('79 Code, § 118.050) (Ord. 381, passed 8-1-49; Am. Ord. 1298, passed 6-16-86) Penalty, see § 10.99

§ 115.51 HOURS OF OPERATION.

It shall be unlawful for any person to engage in the business of scavenger, within the village, between the hours of 7:00 p.m. and 7:00 a.m. of the day following. ('79 Code, § 118.051) (Ord. 381, passed 8-1-49; Am. Ord. 1298, passed 6-16-86) Penalty, see § 10.99

CHAPTER 116: FOOD DEALERS AND ESTABLISHMENTS

Section

- 116.01 Purpose
- 116.02 Permits, licenses, inspections
- 116.03 Compliance procedures; general
- 116.04 Issuance of permit, license or certificate
- 116.05 Suspension of permit, license or certificate
- 116.06 Revocation of permit, license, or certificate
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- 116.08 Means of appeal
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- 116.10 Inspection frequency
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- 116.20 Procedure when infection is suspected
- 116.21 Reinspection costs
- 116.22 Conditional permit, license, or certificate
- 116.23 Injunctions

- 116.99 Penalty

§ 116.01 PURPOSE.

A chapter defining food, potentially hazardous food, retail food establishment (the term **RETAIL FOOD ESTABLISHMENT** as used in this chapter shall mean either a food service establishment or a retail food store); also defining mobile food unit, temporary food service establishment, regulatory authority, utensils, equipment, and the like; providing for the sale of only sound, properly labeled food; regulating the source of food; establishing sanitation standards for food, food protection, food personnel,

food operations, food equipment and utensils, sanitary facilities and controls, and other facilities; requiring permits, licenses, or certificates for the operation of the food service establishments and retail food stores; regulating the inspection of such establishments; providing for compliance procedures; providing for the incorporation by reference (ILCS Ch. 65, Act 5, §§ 1-3-1 *et seq.*) of the 1996 and all subsequent editions of; or amendments to, the Illinois Department of Public Health's publication currently titled, "Food Service Sanitation Code," that are on file with the Secretary of State; providing for the incorporation by reference of the 1992 and all subsequent editions of; or amendments to, the Illinois Department of Public Health's publication currently titled, "Retail Food Store Sanitation Code," that are on file with the Secretary of State; and providing for the enforcement of this chapter including the filing of action for injunctive relief; and the fixing of penalties for violation.

(Ord. 1680, passed 8-18-97)

§ 116.02 PERMITS, LICENSES, INSPECTIONS.

The issuance, suspension, and revocation of permits, licenses, or certificates to operate retail food establishments; the prohibiting of the sale of unsound or mislabeled food or drink; and the enforcement of this chapter shall be regulated in accordance with § 116.04 of this chapter concerning the compliance procedures. The inspection of food service establishments shall be regulated in accordance with the 1996 and all subsequent editions of, or amendments to, the Illinois Department of Public Health's publication currently titled, *Food Service Sanitation Code*, that are on file with the Secretary of State. The inspection of retail food stores shall be regulated in accordance with the 1992 and all subsequent editions of, or amendments to, the Illinois Department of Public Health's publication currently titled, *Retail Food Store Sanitation Code*, that are on file with the Secretary of State. The village or its duly authorized agent shall be the authority having jurisdiction for the enforcement of this chapter.

(Ord. 1680, passed 8-18-97; Am. Ord. 1903, passed 4-21-2003)

§ 116.03 COMPLIANCE PROCEDURES; GENERAL.

No person shall operate a food establishment who does not have a valid permit, license or certificate issued to them by the village. Only a person who complies with the requirements of this chapter shall be entitled to receive or retain such a permit, license, or certificate. Permits, licenses, or certificates are not transferable. A valid permit, license or certificate shall be posted in every food establishment.

(Ord. 1680, passed 8-18-97) Penalty, see § 116.99

§ 116.04 ISSUANCE OF PERMIT, LICENSE OR CERTIFICATE.

(A) Any person desiring to operate a food establishment shall make written application for a permit, license, or certificate on forms provided by the village.

(B) Such application shall include the name and address of each applicant, the location and type of the proposed food establishment, and the signature of each applicant.

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(1) Prior to approval of an application for a permit, license, or certificate, the village shall inspect the proposed food establishment to determine compliance with the requirements of this chapter.

(2) The village shall issue a permit, license, or certificate to the applicant if its inspection reveals that the proposed food establishment complies with the requirements of this chapter. (Ord. 1680, passed 8-18-97; Am. Ord. 1903, passed 4-21-2003)

§ 116.05 SUSPENSION OF PERMIT, LICENSE OR CERTIFICATE.

(A) The village may, without warning, notice, or hearing, suspend any permit, license, or certificate to operate a food establishment if the holder of the permit, license, or certificate does not comply with the requirements of this chapter, or if the operation of the establishment does not comply with the requirements of this chapter, or if the operation of the food establishment otherwise constitutes a substantial hazard to public health including failure to reimburse the village for inspection or reinspection fees within 45 days of the date of the original invoice. Suspension is effective upon service of the notice required by § 116.06 of this chapter. When a permit, license, or certificate is suspended, food operations shall immediately cease.

(B) Whenever a permit, license, or certificate is suspended, the holder of the permit, license, or certificate, or the person in charge shall be notified in writing that the permit, license, or certificate is, upon service of the notice, immediately suspended. The village may end the suspension at any time if reasons for the suspension no longer exist. (Ord. 1680, passed 8-18-97; Am. Ord. 1759, passed 4-17-2000)

§ 116.06 REVOCATION OF PERMIT, LICENSE, OR CERTIFICATE.

(A) The village may revoke the permit, license, or certificate for serious or repeated violations of any of the requirements of this chapter or for the interference with the village in the performance of duty.

(B) Prior to revocation, the village shall notify, in writing, the holder of the permit, license, or certificate, or the person in charge, of the specific reason(s) for which the permit, license, or certificate is to be revoked. (Ord. 1680, passed 8-18-97; Am. Ord. 1903, passed 4-21-2003)

§ 116.07 SERVICE OF NOTICES.

A notice provided for in this chapter is properly served when it is delivered to the holder of the permit, license, or certificate, or the person in charge, or when it is sent by registered or certified mail,

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return receipt requested, to the last known address of the holder of the permit, license, or certificate. A copy of the notice shall be filed in the records of the village.
(Ord. 1680, passed 8-18-97)

§ 116.08 MEANS OF APPEAL.

Any person shall have the right to appeal a decision of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted or the provisions of this code do not fully apply. The appeal process shall be governed by the provisions described in the BOCA National Building Code, 1996 Edition, as amended by Ordinance No. 1573.
(Ord. 1680, passed 8-18-97)

§ 116.09 APPLICATION AFTER REVOCATION.

Whenever a permit, license, or certificate has been revoked, the holder of the revoked permit, license, or certificate may make written application for a new permit, license, or certificate.
(Ord. 1680, passed 8-18-97)

§ 116.10 INSPECTION FREQUENCY.

(A) Inspections of food establishments shall be performed at a frequency necessary to protect the public health and at a minimum shall be performed in accordance with the following schedule:

<i>Category</i>	<i>Fee</i>
Retail Food Store	Semiannually
Food Service Establishment	Quarterly

(B) The category of a food establishment shall be determined in accordance with the definitions of **RETAIL FOOD STORE** and **FOOD SERVICE ESTABLISHMENT** as contained in the Illinois Department of Public Health's publications titled "*Retail Food Store Sanitation Code*" and "*Food Service Sanitation Code*", respectively.
(Ord. 1680, passed 8-18-97; Am. Ord. 1903, passed 4-21-2003)

§ 116.11 ACCESS.

The village upon proof of identity shall be permitted to enter any food establishment at any reasonable time to perform inspections.
(Ord. 1680, passed 8-18-97; Am. Ord. 1903, passed 4-21-2003)

§ 116.12 REPORT OF INSPECTIONS.

Whenever an inspection of a food establishment is made, the findings shall be recorded on the inspection report form set out in § 116.15 of this chapter. The inspection report form shall summarize the requirements of this chapter and shall set forth a weighted point value for each requirement. Inspectional remarks should be written to reference, by item number, the item violated and should state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the completed inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.
(Ord. 1680, passed 8-18-97)

§ 116.13 CORRECTION OF VIOLATIONS.

The completed inspection report form shall specify a reasonable period of time for the correction of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(A) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food operations. Operations shall not be resumed until authorized by the village.

(B) All violations of four or five point weighted items shall be corrected as soon as possible, but in any event, within ten days following inspection. A follow-up inspection to confirm correction may be conducted at the discretion of the village.

(C) All one or two point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(D) When the rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections may be conducted at reasonable time intervals to assure correction.

(E) In the case of temporary food establishments, all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food operations until authorized to resume by the village.

(Ord. 1680, passed 8-18-97; Am. Ord. 1903, passed 4-21-2003)

§ 116.14 CESSATION OF FOOD OPERATIONS.

The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food operations.

(Ord. 1680, passed 8-18-97)

§ 116.15 RESUMPTION OF OPERATIONS.

Whenever a food establishment is required under the provisions of § 116.13 of this chapter to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

(Ord. 1680, passed 8-18-97)

§ 116.16 INSPECTION REPORT FORM.

The inspection report form approved and used by the Cook County Department of Public Health shall be used for all inspections as initiated under this chapter.

(Ord. 1680, passed 8-18-97)

§ 116.17 EXAMINATION AND CONDEMNATION OF FOOD.

Food may be examined or sampled by the village as often as necessary for enforcement of this chapter. Upon written notice to the owner or person in charge, the village may place a hold order on any food which it believes is in violation of this chapter. The notice shall specify the reasons for the hold order. The village shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, destroyed or moved from the establishment until such time that the hold order is lifted by the village. Food found to be in violation of this chapter or a risk to public health shall be immediately destroyed upon notice from the village.

(Ord. 1680, passed 8-18-97; Am. Ord. 1903, passed 4-21-2003)

§ 116.18 RESERVED.**§ 116.19 PRE-OPERATIONAL INSPECTION.**

Prior to the start of operations of a new or remodeled food establishment, the village shall perform an inspection to determine compliance with this chapter.

(Ord. 1680, passed 8-18-97; Am. Ord. 1903, passed 4-21-2003)

§ 116.20 PROCEDURE WHEN INFECTION IS SUSPECTED.

(A) When the village has reasonable cause to suspect possible disease transmission by an employee of a food establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated.

(B) The village may require any or all of the following measures:

(1) The immediate exclusion of this employee from employment in food establishments;

(2) The immediate closing of the food establishment concerned until no further danger of disease outbreak exists;

(3) Restriction of the employee's services to some area of the food establishment where there would be no danger of transmitting disease;

(4) Adequate medical and laboratory examination of the employee and other employees and of his/her and their body discharges.

(Ord. 1680, passed 8-18-97; Am. Ord. 1903, passed 4-21-2003)

§ 116.21 REINSPECTION COSTS.

In the event a reinspection is deemed necessary by the inspector, the cost of any and all subsequent reinspections shall be borne by the holder of the permit, license, or certificate. The cost for any reinspection shall be \$40.

(Ord. 1680, passed 8-18-97; Am. Ord. 1759, passed 4-17-2000; Am. Ord. 1903, passed 4-21-2003)

§ 116.22 CONDITIONAL PERMIT, LICENSE, OR CERTIFICATE.

When structural, plumbing, electrical, ventilation, or similar such defects exist in an established food facility that may require significant expenditures to correct, but are not considered to be imminent health hazards, a conditional permit, license, or certificate may be granted at the discretion of the village. Under no circumstances will a conditional permit, license, or certificate be issued for more than two consecutive 12-month periods. The purpose of the conditional license or permit is to allow a reasonable period of time for correction of existing defects.

(Ord. 1680, passed 8-18-97)

§ 116.23 INJUNCTIONS.

The village shall have the right to apply to a court of law to enjoin any person or establishment in the event violations occur on a continuing basis.

(Ord. 1680, passed 8-18-97)

§ 116.99 PENALTY.

Any person violating the provisions of this chapter shall be fined not more than \$750 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation continues.

(Ord. 1680, passed 8-18-97)

CHAPTER 117: SOUND AMPLIFYING DEVICES

Section

- 117.01 Certain activities exempted
- 117.02 License required
- 117.03 Application for license; contents
- 117.04 License fee; exemption from fee
- 117.05 Issuance and contents of license
- 117.06 Restrictions on place of use
- 117.07 Hours of use
- 117.08 Indecent language; false advertising
- 117.09 Disturbing peace and quiet of neighborhood

§ 117.01 CERTAIN ACTIVITIES EXEMPTED.

This chapter shall not be deemed to apply to radios in private vehicles when operated in such a manner as not to be audible at a distance of 50 feet or more from the vehicle, or to noise devices, bands, or other musical devices used in any public parade or procession which is operated under a permit issued by the village.

('79 Code, § 118.110) (Ord. 985, passed 10-2-78)

§ 117.02 LICENSE REQUIRED.

It shall be unlawful to maintain or operate any loudspeaker, amplifier, or any other similar device connected with any radio, phonograph, microphone, or other device by which sounds are amplified and enabled to be heard over any public street or public place without having first obtained a license therefor.

('79 Code, § 118.111) (Ord. 985, passed 10-2-78) Penalty, see § 10.99

§ 117.03 APPLICATION FOR LICENSE; CONTENTS.

Application for a license required hereunder shall be made to the Village Clerk, on a form provided by him/her, and shall set forth the name and address of the applicant, the name of the owner of the

sound amplifying device, the date on which it is intended to be used, and such other information as may be required.

('79 Code, § 118.112) (Ord. 985, passed 10-2-78)

§ 117.04 LICENSE FEE; EXEMPTION FROM FEE.

(A) The fee for a license required hereunder shall be \$10 per day.

(B) The daily license fee required by division (A) of this section shall not apply to any business whose principal operation is licensed by the village to allow the use of amplifiers and loudspeakers in the normal conduct of the business.

('79 Code, § 118.113) (Ord. 985, passed 10-2-78)

§ 117.05 ISSUANCE AND CONTENTS OF LICENSE.

A license shall be issued on payment of the required license fee, and shall permit the use of any such device, subject to the terms and conditions of this subchapter, only on the date specified in the license.

('79 Code, § 118.114) (Ord. 985, passed 10-2-78)

§ 117.06 RESTRICTIONS ON PLACE OF USE.

No person shall use, operate, or employ any device regulated by this subchapter within a radius of two blocks from any hospital, or within a radius of two blocks from any place of worship while services are being held in the place of worship.

('79 Code, § 118.115) (Ord. 985, passed 10-2-78) Penalty, see § 10.99

§ 117.07 HOURS OF USE.

No person shall use, operate, or employ any device regulated by this chapter on Sundays or between the hours of 8:00 p.m. and 8:00 a.m. of any other day.

('79 Code, § 118.116) (Ord. 985, passed 10-2-78) Penalty, see § 10.99

§ 117.08 INDECENT LANGUAGE; FALSE ADVERTISING.

No licensee shall cause or permit to be emitted from any sound amplifying device any lewd, obscene, profane, or indecent language or sounds, or any false representation of any matter, product,

or project advertised thereby, nor shall he/she advertise any matter the sale of which is prohibited by this code or other ordinance of the village.

('79 Code, § 118.117) (Ord. 985, passed 10-2-78) Penalty, see § 10.99

§ 117.09 DISTURBING PEACE AND QUIET OF NEIGHBORHOOD.

It shall be unlawful for any person to operate sound amplification equipment in a manner which disturbs the peace and quiet of any neighborhood.

('79 Code, § 118.118) (Ord. 985, passed 10-2-78) Penalty, see § 10.99

CHAPTER 118: TAXICABS

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*GENERAL PROVISIONS***§ 118.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DRIVER. Any person actually driving a taxicab.

IDENTIFICATION DATA.

- (1) When applied to a taxicab, the following items of information:
 - (a) Make, model, and year of manufacture;
 - (b) Engine number;
 - (c) Serial number;
 - (d) Illinois state certificate of title number and license number;
 - (e) Number of passengers capable of being accommodated therein at one time.
- (2) When applied to driver, the following items of information:
 - (a) Full name of driver;

- (b) Present residence address;
- (c) Residence for three years past;
- (d) Age, color, height, and color of eyes and hair;
- (e) Citizenship and marital status;
- (f) Date and place of any convictions of felonies or misdemeanors, if any, and a statement of the nature of the offense for which convicted;
- (g) Whether he/she has ever been previously licensed as a driver, and if so, when and by what authority; whether he/she has ever been revoked or suspended, and if so, for what cause;
- (h) State motor vehicle operator's license number.

LICENSED DRIVER. Any person who shall have been properly identified by a licensee and authorized to drive licensee's taxicabs under a certificate of public conveyance and necessity in accordance with the terms of this chapter.

LICENSEE. Any owner, operator, firm, association, or corporation in whose name a certificate of public conveyance and necessity shall have been issued by the Village Clerk for the operation of taxicabs.

STANDARD NUMBER OF TAXICABS. The next whole number larger than the quotient obtained on dividing by 100 the number of occupied family dwelling units within the municipality, as determined from time to time by the Village Clerk.

TAXICAB. All vehicles transporting passengers for remuneration for which patronage is solicited publicly, but shall not include vehicles operating on established routes which are regulated by the Illinois Commerce Commission; nor vehicles rented to be driven by the renter or his/her agent commonly known as rent-a-cars; nor vehicles operated solely as funeral cars or ambulances; nor vehicles owned or operated by any unit or agency of federal, state, or local government. ('79 Code, § 114.01) (Ord. 503, passed 3-21-60; Am. Ord. 508, passed 7-5-60)

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

§ 118.15 CERTIFICATE REQUIRED.

No person shall operate a taxicab within the municipality unless the taxicab shall have been licensed under a certificate of public convenience and necessity as provided in this chapter, except that a taxicab

may enter the municipality for the purpose of discharging a passenger or passengers therein on the immediate request of such passenger or passengers.

('79 Code, § 114.02) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.16 APPLICATION FOR A CERTIFICATE.

Any application for a certificate of public convenience and necessity to operate taxicabs in the municipality shall be made in writing, signed by the applicant or applicants, sworn to before the Village Clerk or other officer authorized to administer oaths, and shall set forth the following information pertaining to the prospective licensee:

(A) Name and address of applicant; and, if a corporation, name and address of the chief executive official of the corporation; and, if a firm or association, names and addresses of all shareholders or partners;

(B) Identification data of all vehicles which applicant proposes to operate as taxicabs;

(C) Whether there are any liens, mortgages, or encumbrances on such taxicabs, and if so, the amount and character thereof;

(D) Applicant's statement as to where and for what period of time he/she has previously engaged in the taxicab business;

(E) Schedule of all rates of fare which applicant proposes to charge for hire of taxicabs. ('79 Code, § 114.03)

§ 118.17 PRESENTATION OF APPLICATION.

The Village Clerk shall present each application to the Board of Trustees at its next regular meeting. The Board shall approve such application by resolution authorizing the issuance of a certificate of public convenience and necessity, unless after a public hearing it finds that the public convenience and necessity would not be served by the proposed operation of taxicabs. The resolution shall state the name of the licensee, and the number of vehicles authorized to be licensed under the certificate; and said number of vehicles authorized in the resolution shall not be different from the number set forth in the application.

('79 Code, § 114.04) (Ord. 503, passed 3-21-60; Am. Ord. 508, passed 7-5-60)

§ 118.18 INSURANCE REQUIRED; CANCELLATION OF INSURANCE.

(A) No certificate of public convenience and necessity shall be issued until the applicant deposits with the Village Clerk a policy or policies of liability insurance covering all vehicles to be licensed under

the certificate, or evidence satisfactory to the Village Attorney that such a policy or policies are in full force and effect. Such policy or policies shall be issued by a company licensed to do business in the State of Illinois, and shall insure the licensee against loss from liability to the amount of \$50,000 for the injury or death of one person in any one accident; and to the amount of \$100,000 for the injury or death of more than one person in any one accident; and to the amount of \$10,000 for damage to the property of such vehicle. The policy or policies of insurance shall be approved by the Village Attorney as to conformity with the terms of this chapter, and shall contain a provision that the same may not be canceled before the expiration of its term except on ten days written notice to the municipality.

(B) The cancellation or other termination of any insurance policy or policies issued in compliance with division (A) of this section shall automatically revoke and terminate the validity of the certificate of public convenience and necessity under which the vehicles covered by such insurance policy were licensed, unless another policy or policies shall have been filed and approved pursuant to this section and shall be in effect at the time of such cancellation or termination. ('79 Code, § 114.05) (Ord. 503, passed 3-21-60; Am. Ord. 508, passed 7-5-60)

§ 118.19 CERTIFICATE HOLDER TO PAY LICENSING FEE.

Every individual, partnership, or corporation, in whose name a certificate of public convenience shall have been issued, shall pay a licensing fee of \$80 for the period from May 1, 1997, to December 31, 1997, being the date of termination as a prerequisite for the operation of any taxicab or taxicabs within the corporate limits of the village. Commencing on January 1, 1998, and on January 1 of each year following issuance, the annual license fee shall be \$125. ('79 Code, § 114.06) (Ord. 503, passed 3-21-60; Am. Ord. 628, passed 11-1-65; Am. Ord. 629, passed 12-20-65; Am. Ord. 1348, passed 4-18-88; Am. Ord. passed - -97)

§ 118.20 EXPIRATION AND RENEWAL OF CERTIFICATE.

The Village Clerk shall issue a certificate of public convenience and necessity for the operation of taxicabs only on payment of fees, after proper authorization by the Board of Trustees, and when the required insurance policies or evidence thereof have been deposited. Such certificates shall set forth all of the information on the application therefor. Certificates of public convenience and necessity shall expire one year from the date of issuance, except that any such certificate shall be automatically renewed on payment of the annual fee herein provided. However, the Clerk shall determine that the certificate is valid and in force in accordance with all provisions of this chapter before such renewal fees may be accepted by the Collector. ('79 Code, § 114.07) (Ord. 503, passed 3-21-60)

§ 118.21 AUTHORIZATION TO ALTER CERTIFICATE; ADDITIONAL ALTERATION AND FEE.

(A) The Village Clerk is authorized to alter, by endorsement on a certificate of public convenience and necessity, the identification data of licensed vehicles at any time on written request of licensee, provided that the number of vehicles licensed under one certificate is thereby neither increased nor decreased, or delete the name of any of the licensed drivers, provided that, in the case of new names being added, each such name shall be followed in the endorsement by the identification data for the new licensed driver. Identification cards for new licensed drivers shall be provided as hereinabove provided; and identification cards for drivers deleted shall be returned to the Clerk by the licensee.

(B) Any other amendments of a certificate of public convenience and necessity may be only by written application for an amended certificate, made by the licensee to the Clerk for presentation to the Board of Trustees. The additional fee of \$2 shall be payable by licensee to the Collector, after approval of such amendment by the Board, before endorsement thereof on the certificate shall be made.

('79 Code, § 114.08) (Ord. 503, passed 3-21-60)

§ 118.22 REVOCATION OF CERTIFICATE.

The Board of Trustees may at any time by resolution revoke and terminate the validity of any certificate of public convenience and necessity for any conduct by the licensee or by any licensed driver which is prejudicial to the public safety, welfare, morals, or good order of the community; or for repeated violation of any provision of this chapter.

('79 Code, § 114.09) (Ord. 503, passed 3-21-60)

LICENSES**§ 118.35 LICENSES FOR TAXICAB DRIVERS; LICENSE FEE.**

(A) Licenses for taxicab drivers shall be issued by the Village Clerk, and shall be renewable annually on May 1 of each year.

(B) The Clerk shall collect a fee of \$2 for issuing a license and \$1 for renewing a license.

('79 Code, § 114.10) (Ord. 503, passed 3-21-60)

§ 118.36 APPLICATION FOR LICENSE.

No license shall be issued to any person unless such person presents an application signed by a taxicab operator, licensed under a certificate of public convenience and necessity, duly issued pursuant to this chapter. Said application shall set forth the identification data for the applicant, and shall be sworn to by the applicant. Applicant's fingerprints shall be recorded by the Police Department, and application shall be accompanied by three copies of a photograph of applicant, suitable for mounting on identification cards. If a license is granted by the Village Clerk, the driver shall be furnished with a serially numbered identification card bearing his/her name, photograph, and the words "Cab Driver, Municipality of Matteson." The Clerk shall also furnish the Police Department with a copy of all such cards issued, together with identification data for the licensed drivers.

('79 Code, § 114.11) (Ord. 503, passed 3-21-60)

§ 118.37 CLERK TO GRANT, DENY, SUSPEND, OR REVOKE DRIVER'S LICENSE.

The Village Clerk shall have the power to grant, deny, suspend, or revoke taxicab driver's licenses whenever, in his/her opinion, the circumstance warrants such action. In case of denial or revocation, appeal may be made by the driver to the Board of Trustees for hearing thereon. The Board may affirm or reverse the action of the Clerk. If no appeal has been taken within 20 days after notice given to the driver and licensee of action to deny or revoke a taxicab driver's license, the action of the Clerk shall be final.

('79 Code, § 114.12) (Ord. 503, passed 3-21-60)

§ 118.38 UNLAWFUL FOR OWNER TO ALLOW UNLICENSED DRIVER TO OPERATE TAXICAB.

No owner or operator of any taxicab, whether or not licensed under this chapter, shall permit such taxicab to be operated for hire within the municipality unless the driver of said taxicab has been licensed according to the foregoing procedure.

('79 Code, § 114.13) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.39 PERSON PROHIBITED FROM OBTAINING LICENSE.

No vehicle license shall be issued to any person under 18 years of age.

('79 Code, § 114.14) (Ord. 380, passed 8-1-49)

§ 118.40 LICENSED DRIVER TO WEAR IDENTIFICATION CARD.

Every licensed driver, while actually engaged in driving a taxicab, shall at all times wear conspicuously on his/her person his/her identification card as hereinabove provided for. ('79 Code, § 114.15) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

RATES OF FARE**§ 118.50 MAXIMUM RATES.**

The prices or rates of fare to be asked or charged by the operator or owner of any such vehicle shall not exceed the following: For the first one-half mile or fraction thereof, \$0.25. For each additional one-quarter mile or fraction thereof, \$0.10. For each two minutes of waiting, \$0.10. For each additional person for the entire journey, \$0.10. ('79 Code, § 114.16) (Ord. 380, passed 8-1-49)

§ 118.51 SIGN TO BE POSTED SETTING FORTH RATES.

Licensees shall cause to be conspicuously posted and displayed at all times in every taxicab licensed under his/her name a card or sign setting forth the rates of fare for the use of such cab. The posted rates of fare shall be identical with those shown on the certificate of public convenience and necessity. No passenger shall be charged a fare other than is shown on said card or sign. ('79 Code, § 114.17) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.52 OVERCHARGING.

The owner or driver of any such vehicle, licensed under this chapter, who may have demanded and received any fare in excess of what is provided for in this chapter, shall return the excess received, and in addition, be liable to a penalty of \$5 and revocation of his/her license. ('79 Code, § 114.18) (Ord. 380, passed 8-1-49) Penalty, see § 10.99

§ 118.53 TAXICAB METERS.

(A) The distance to which the rates in § 118.50 shall be determined is by the nearest traveled route from the point where the passenger enters the vehicle to the point where the passenger shall alight therefrom.

(B) When operating on a mileage basis, each taxicab shall be provided with a taximeter or instrument so devised as to register, in plain view of the passenger, the fares as accumulated while the cab is in operation.

(C) The meter shall provide but one uniform tariff rate, and shall be equipped with a "vacant" flag which, when adjusted by the operator to a perpendicular position, will stop the running of said meter. Said flag shall be placed in a horizontal position immediately on entry by the passenger into the cab, and shall be turned to a perpendicular position immediately on arrival at the passenger's destination.

('79 Code, § 114.19) (Ord. 380, passed 8-1-49) Penalty, see § 10.99

§ 118.54 RECEIPT SHALL BE GIVEN WHEN REQUESTED.

Every licensed driver, when requested by a passenger, shall issue a signed receipt for the fare showing the date, name of licensee, and the amount of fare paid.

('79 Code, § 114.20) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.55 DRIVER MAY ASK FOR ADVANCE PAYMENT.

Every such owner or driver shall have the right to demand in advance his/her fare of the person or persons so employing him/her or entering his/her vehicle, and may refuse to convey any person who shall not comply with said demand.

('79 Code, § 114.21) (Ord. 380, passed 8-1-49)

RULES AND REGULATIONS

§ 118.65 DRIVER MUST CARRY ANY ORDERLY PERSON.

No licensed taxicab driver shall refuse to carry any orderly person to or from any part of the village with reasonable promptness at any time, whenever requested by such passenger to do so.

('79 Code, § 114.22) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.66 BAGGAGE TO BE CONVEYED WITHOUT CHARGE.

Any passenger shall be allowed to have conveyed on any of the vehicles aforesaid, without charge, his/her ordinary traveling baggage, provided that ordinary hand baggage shall not be construed to mean trunks or sample cases.

('79 Code, § 114.23) (Ord. 380, passed 8-1-49) Penalty, see § 10.99

§ 118.67 SOLICITING PATRONAGE.

No taxicab driver shall at any time solicit the patronage of any person by word of mouth or by gesture within the village limits.

('79 Code, § 114.24) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.68 PARKING OR STANDING LIMITATIONS FOR TAXICABS.

No taxicab other than one licensed as provided by this chapter shall stop or stand on any street, road, boulevard, driveway, or within any parking area in the village for more than five minutes during any one period of time that such taxicab shall have prominently displayed a sign reading "Not for Hire."

('79 Code, § 114.25) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.69 DRIVER STANDING ON RAILROAD PLATFORM.

It shall be unlawful for the driver of any such vehicle to stand or be on the platform of any railway until the expiration of three minutes after departure of such train, except to assist persons who have indicated a desire of patronizing the vehicle in his/her charge.

('79 Code, § 114.26) (Ord. 380, passed 8-1-49) Penalty, see § 10.99

§ 118.70 MECHANICAL EQUIPMENT TO BE KEPT IN GOOD CONDITION; INSPECTION.

(A) The licensee shall maintain or cause to be maintained all brakes, horns, lights, tires, steering gear, speedometers, and windshield wipers in all taxicabs licensed under his/her name in satisfactory condition to insure safe operation.

(B) All mechanical equipment, including any taximeter, installed in or as part of any such taxicab may be inspected by the Chief of Police or his/her authorized representative at any time. Whenever the Chief of Police finds any such equipment to be in unsatisfactory condition, he/she may, by written notice to the licensee, require specific adjustment or repairs to be made at the licensee's expense.

('79 Code, § 114.27) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.71 TAXICAB TO HAVE NAME PRINTED ON AND TO BE KEPT CLEAN.

Every licensed taxicab shall be distinctly marked on two sides with the licensee's name; and it shall be the duty of the licensee to keep each taxicab in a well painted, clean, and sanitary condition.

('79 Code, § 114.28) (Ord. 503, passed 3-21-60; Am. Ord. 508, passed 7-5-60) Penalty, see § 10.99

§ 118.72 DRIVER TO MAINTAIN DAILY MANIFEST.

The licensee shall require each driver to maintain a daily manifest on which are recorded the serial number of the taxicab, the speedometer total mileage reading at beginning and end of the driver's tour of duty, and, for each revenue trip made, the date, time, and place of origin, place of destination, speedometer total mileage reading at both origin and destination, number of passengers, and amount of fare collected. Manifest forms shall be furnished to the driver by the licensee and shall, on completion of the driver's tour of duty, be returned to the licensee, who shall retain every manifest as part of his/her records, available for inspection by municipal officers on request, for at least six months.

('79 Code, § 114.29) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.73 UNLAWFUL TO DRIVE MORE THAN 12 HOURS A DAY.

It shall be unlawful for any licensed driver to engage in driving a taxicab more than 12 hours out of every 24. A driver shall be deemed to be driving a taxicab within the terms of this section whenever he/she is in charge of a taxicab and holding himself or herself in readiness to convey passengers.

('79 Code, § 114.30) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

§ 118.74 REPORT OF AN ACCIDENT.

It shall be the duty of every licensed taxicab to report to the Police Department within 12 hours after its occurrence any accident resulting in any injury to persons or damage to property wherein a taxicab driven by him/her was involved.

('79 Code, § 114.31) (Ord. 503, passed 3-21-60) Penalty, see § 10.99

CHAPTER 119: VENDING MACHINES

Section

119.01 Licenses required for vending machines

§ 119.01 LICENSES REQUIRED FOR VENDING MACHINES.

(A) No person, firm, or corporation shall operate or have on any premises, any coin-operated product vending machine, without having first obtained a license.

(B) The annual license fee for vending machines shall be as follows:

- (1) 1 or 2 machines at the same location: \$25;
- (2) 3 to 5 machines at the same location: \$50;
- (3) 6 to 10 machines at the same location: \$75;
- (4) 11 to 15 machines at the same location: \$100;
- (5) 16 to 20 machines at the same location: \$125;
- (6) 21 to 25 machines at the same location: \$150;

(7) More than 25 machines at the same location: \$175.

('79 Code, § 118.140) (Ord. 1139, passed 4-5-82; Am. Ord. 1172, passed 4-4-83; Am. Ord. 1265, passed 8-5-85) Penalty, see § 10.99

CHAPTER 120: TOBACCO

Section

- 120.01 Definitions
- 120.02 Jurisdiction
- 120.03 Prohibitions on sale or distribution of tobacco products
- 120.04 Licensing of tobacco products retailers

- 120.99 Penalty

§ 120.01 DEFINITIONS.

As used in this chapter:

DISTRIBUTE. To give, sell, deliver, dispense or issue or offer to give, sell, deliver, dispense or issue, or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense or issue.

LICENSEE. Any person obtaining a tobacco product retailer's license under this chapter.

PERSON. An individual, firm, partnership, joint venture, association, corporation, estate, trust, trustee, or any other group or combination acting as a unit, excepting the United States of America, the State of Illinois, and any political subdivision thereof.

PHOTOGRAPHIC IDENTIFICATION. Any officially issued card containing the bearer's date of birth that includes a photograph of the person seeking to purchase tobacco products and that is accepted as proof of age under Illinois law.

POINT OF SALE. A store, stand, building, boat, vending machine or any other separate place of business maintained by a seller from which tobacco products are made available for sale or distribution to consumers. Point of sale does not include separate cash registers or service counters within a store or other place of business.

PUBLIC PLACE. Any areas to which the public is invited or permitted.

RETAILER. Any person who sells tobacco products to individuals for personal consumption, or who operates a facility containing vending machines that dispense tobacco products or self-service displays of tobacco products in the village.

TAVERN. An enclosed place of business kept, used, maintained, advertised and held out to the public as a place that primarily serves alcoholic liquor for consumption on the premises and in which providing entertainment or the serving of food is only incidental or secondary to the sale of alcoholic beverages for immediate consumption. Examples of places of business not deemed to be taverns within the definitions of this paragraph include, but are not limited to, restaurants, catering halls, bowling alleys, billiard parlors, discotheques, theaters and arenas.

TOBACCO PRODUCT SAMPLE. A tobacco product distributed to members of the general public at no cost or at nominal cost for purposes of promoting the product.

TOBACCO PRODUCTS. Any substance containing tobacco leaf, including but not limited to cigarettes, cigars, snuff, smoking tobacco, and/or smokeless tobacco.

VENDING MACHINE. Any mechanical, electronic, or self-service device which upon insertion of money, tokens or other form of payment, automatically dispenses tobacco products. (Ord. 1721, passed 12-7-98)

§ 120.02 JURISDICTION.

This chapter applies to retailers of tobacco products in the village, including any person who sells tobacco products to individuals for personal consumption or who operates a facility containing vending machines which dispense tobacco products or self-service displays of tobacco products. (Ord. 1721, passed 12-7-98)

§ 120.03 PROHIBITIONS ON SALE OR DISTRIBUTION OF TOBACCO PRODUCTS.

(A) *Underage tobacco sales.*

(1) No retailer may sell or distribute tobacco products to any person under 18 years of age.

(2) Each retailer shall request and examine the photographic identification of any person purchasing tobacco products so as to verify that the purchaser is over 18 years of age. No such verification is required for any person who appears without reasonable doubt to be over 27 years of age.

(B) *Sale of tobacco products other than in sealed packages.* No retailer may break or otherwise open any cigarette or smokeless tobacco package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum cigarette package size of 20 cigarettes or any

quantity of cigarette tobacco or smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use.

(C) *Distribution of tobacco product samples prohibited.* No person shall give away, barter, exchange, distribute or in any way dispense free of charge or at nominal cost any tobacco product samples, and/or any coupon redeemable for any tobacco products, on any public street, alley, sidewalk, or in any public park, ground or playground, or in areas open to the public in any publicly owned or operated building or at any place located within 500 feet of any building or other location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age.

(D) *Prohibited locations.* No retailer shall sell or distribute tobacco products at any place located within 500 feet of any building or other location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age. This prohibition shall not apply to those businesses engaged in the retail sale of tobacco products at a location that would otherwise be prohibited by this chapter that were in existence prior to passage of this chapter. This exemption shall apply to any new owner at the same location providing the same service.

(E) *Restrictions on tobacco product vending machines.*

(1) No retailer shall sell or distribute tobacco products through a vending machine unless the vending machine is located:

(a) In an area of factories, businesses, offices, private clubs and other places not open to the public; or

(b) In taverns.

(2) Tobacco products may be sold or distributed by a tobacco product vending machine in a tavern only in the following ways:

(a) The tobacco product vending machine must be placed at a distance of a minimum of 25 feet from any entrance to the premises; and

(b) The tobacco product vending machine must be directly visible by the owner or the lessee of the premises, or his or her employee or agent during the operation of such vending machine.

(F) *Posting of warning to minors.* Every retailer of tobacco products shall place and maintain, in legible condition, at each point of sale of tobacco products to consumers, including the front of each vending machine, a sign stating:

"Warning

It is a Violation of the Law for Cigarettes Or Other Tobacco Products To Be Sold To Any Person Under 18 Years of Age."

The sign shall be not less than 8 inches by 11 inches in size, except for a sign placed on the front of a vending machine. The sign for a vending machine shall not be less than 4 inches by 4 inches in size. The text of such printed card shall be in red letters on a white background, said letters to be at least one inch high.

(Ord. 1721, passed 12-7-98) Penalty, see § 120.99

§ 120.04 LICENSING OF TOBACCO PRODUCT RETAILERS.

(A) *License requirement.* No person shall engage in the retail sale of tobacco products or operate a facility containing vending machines that dispense tobacco products unless the person is authorized to do so by a license issued pursuant to this chapter, or is an employee or agent of a person who has been issued a license pursuant to this chapter. A separate license must be obtained for each point of sale maintained by the retailer. The license to sell tobacco products shall be displayed prominently at the point of sale for which it is issued.

(B) *License administration.* The Village President, or his or her designee, shall administer the licensing of retailers of tobacco products and shall approve or deny all applications for licenses and revoke existing licenses pursuant to this chapter.

(C) *License - application.* An application for a tobacco retailer's license shall be filed in writing with the Village Clerk, or his or her designee, on a form provided by the village. Each application for a license shall contain the following:

(1) The applicant's full name, the address and telephone number where the applicant is engaged in the business of the retail sale of tobacco products and the name, address and telephone number of the person authorized to receive notices issued pursuant to this chapter.

(2) If the applicant is a corporation, the corporate name, the address and telephone number of the principal place of business; the date and state of incorporation; the names of the corporate officers and the name, address and telephone number of the person authorized to receive notices issued pursuant to this chapter.

(3) If the applicant is a partnership, the name, address and telephone number of the principal place of business; the names of all partners; the name, address and telephone number of a person authorized to receive notices issued pursuant to the chapter.

Any retailer whose license is revoked for violating this chapter shall be prohibited from obtaining a tobacco retailer's license for one year.

(D) Reserved.

(E) *License - term.* Every retailer's license shall be issued for an annual period beginning January 1 and ending December 31. Each license shall expire on the last day of the license year for which the license was issued.

(F) *License - fee.* The annual license fee for a retailer shall be \$125 per license. If a licensee operates more than one vending machine at the same premises, the licensee shall pay the annual license fee of \$125 for the first vending machine license and \$25 for each additional vending machine license.

(G) *License - transfer prohibited.* The transfer of any license issue hereunder is prohibited. Any such purported transfer is void.

(Ord. 1721, passed 12-7-98; Am. Ord. 1826, passed 10-15-2001) Penalty, see § 120.99

Cross-reference:

License required for vending machines, see § 119.01

§ 120.99 PENALTY.

(A) Any person, corporation or business who violates any provision of this chapter shall, upon conviction, be fined as follows:

(1) For a first violation, an administrative penalty of \$250;

(2) For a second violation, occurring after a final determination of liability for a first violation, and within a 12-month period, an administrative penalty of \$500, and a suspension of the license of the retail tobacco dealer for 30 days;

(3) For a third violation, occurring after a final determination of liability for a second violation and within a 12-month period, an administrative penalty of \$1,000, and a revocation of the license of the retail tobacco dealer for one year.

(B) In addition to imposing the fines and other penalties provided by this chapter, the village may request the Cook County State's Attorney to make application on behalf of the village to the Circuit

Court of Cook County for an injunction requiring compliance with the provisions of this chapter or for such order as the Court may deem necessary and appropriate to secure such compliance.

(C) In addition to imposing the fines and other penalties provided by this chapter, the Building Department may request the State's Attorney to make application on behalf of the village to the Circuit Court of Cook County for an injunction requiring compliance with the provisions of this chapter or for such order as the Court may deem necessary or appropriate to secure such compliance. (Ord. 1721, passed 12-7-98)

CHAPTER 121: MASSAGE ESTABLISHMENTS

Section

- 121.01 Definitions
- 121.02 Massage business license required
- 121.03 Massage therapist required
- 121.04 Exemptions
- 121.05 Application for massage business license
- 121.06 Terms of license; license fees; license renewal
- 121.07 Sanitation and safety requirements
- 121.08 Issuance and denial of licenses
- 121.09 Display of licenses
- 121.10 Register and regulation of employees
- 121.11 Conditions and restrictions of licenses
- 121.12 Sale, transfer, or change of location
- 121.13 Prohibited acts and conditions
- 121.14 Enforcement
- 121.15 Complaint of violation
- 121.16 Notice
- 121.17 Revocation or suspension of licenses

§ 121.01 DEFINITIONS.

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

EMPLOYEE. Any person over 18 years of age, other than a massage therapist, who renders any service in connection with operation of a massage establishment and receives compensation from the owner or operation of the establishment or from its patrons.

LICENSEE. The owner and/or operator of a massage establishment.

MASSAGE or PRACTICE OF MASSAGE. Any method of applying pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, touching or stimulating, the external parts of the body, by another individual, with the hands, any body part, or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or similar preparations.

MASSAGE ESTABLISHMENT. Any establishment having a fixed place of business where any person, firm, association, or corporation engages in, or carries on, or permits to be engaged in or carried on, any of the acts of massage as defined herein.

MASSAGE THERAPIST.

(1) Any person who, for any consideration, engages in the practice of massage as defined herein and provides proof of one of the following:

(a) Active member status in a professional massage therapy organization whose minimum standards require graduation from a recognized school, as defined herein, or the passing of a competency test for active membership.

(b) Graduation and completion of a professional level entry program which consists of 500 hours or more of in-classroom study and 100 hours or more of clinical experience in a recognized school; or

(c) Passage of the National Certification Examination in Therapeutic Massage and Bodywork (NCETMB) administered by the national Certification Board for Therapeutic Massage and Bodywork, which is approved by the National Commission for Certifying Agencies (NCCA), the accrediting arm of the National Organization for Competency Assurance (NOCA) or any other examination exhibiting proficiency in massage therapy/bodywork approved by the state or a federal certifying agency.

(d) Evidence of a professional license issued by the State of Illinois authorizing the practice of massage therapy.

(2) The following persons shall not be considered to be massage therapists for purposes of this chapter, when practicing massage within the scope of their vocation, employment, course of study or volunteer services:

(a) Physicians, physicians' assistants, surgeons, podiatrists, chiroprodists, osteopaths, chiropractors, registered nurses, practical nurses, certified nurses' assistants, physical therapists, barbers and cosmetologists licensed, registered or certified to practice in the state.

(b) Athletic trainers for any athletic program of a private or public school, college or university or for any athletic team regularly organized and engaging in competition.

(c) Any person enrolled in a school or program licensed by the state or accredited by a national accrediting association in medicine, osteopathy, chiropractic, podiatry, nursing, physical therapy, barbering or cosmetology, or massage therapy.

(d) Any person employed or working under the direction and supervision of a massage therapist as defined herein.

MASSEUR. Any person who, for any consideration whatsoever, engages in the practice of massage as defined herein.

OUTCALL MASSAGE SERVICE. Any business, the function of which is to engage in or carry on massages for compensation at a location designation by the customer or client rather than at a massage establishment.

PATRON. Any person who receives a massage under such circumstances that is reasonably expected that he or she would pay money or give any other form of consideration therefore.

PERSON. Any individual, partnership, firm, association, limited liability company, joint stock company, corporation or combination of individuals of whatever form or character.

RECOGNIZED SCHOOL. A state-approved school operating according to state regulations which has a current license, approval, accreditation and/or certification from the state in which it is located and provides an entry level massage training program requiring a minimum of 500 hours of in-class work in clinical training, which program shall include anatomy and physiology, kinesthetics, ethics, pathology, contraindication and clinical experience, or a massage school program accredited/approved by the Commission of Massage Training/Approval and Accreditation (COMTAA) or by the International Massage and Somatic Therapies Accreditation Council (IMSTAC) or by a similar nationally-recognized professional accrediting entity.

SEXUAL OR GENITAL AREA. The genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.
(Ord. 1827, passed 11-19-2001; Am. Ord. 2012, passed 12-20-2004)

§ 121.02 MASSAGE BUSINESS LICENSE REQUIRED.

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, the business of massage, or otherwise provide a massage in return for compensation, in the village, without first having obtained a massage business license issued by the village pursuant to the provisions of this chapter for each and every premises used for the business of conducting a massage business or otherwise providing massages for compensation by such person. The applicant for such business license must be at least 18 years of age.
(Ord. 1827, passed 11-19-2001)

§ 121.03 MASSAGE THERAPIST REQUIRED.

No person shall provide a massage to another person as a masseur, employee or otherwise, on the premises for which a business license has been issued or is required under § 121.02 of this chapter unless he or she is a massage therapist.
(Ord. 1827, passed 11-19-2001)

§ 121.04 EXEMPTIONS.

(A) The provisions of this chapter shall not apply to the following individuals while engaged in the performance of the duties of their respective professions, and to the following businesses and entities:

- (1) Physicians, surgeons, chiropractors, osteopaths, podiatrists, or physical therapists who are duly licensed to practice their respective professions in the state.
- (2) State-licensed practical nurses and registered nurses while administering massages in the normal course of their medical duties.
- (3) Barbers and cosmetologists who are duly licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, back, face, scalp, hair and hands of the customer or client for cosmetic or beautifying purposes.
- (4) Hospitals, sanitariums, nursing homes, home health agencies, hospice programs and other such programs as defined and licensed by the state under ILCS Ch. 210.
- (5) Masseurs who administer massages only to the back and/or shoulder region of fully-clothed patrons when such patrons sit in upright massage chairs.
- (6) Massages provided in the course of not-for-profit special events, such as corporate health and wellness days, fundraisers, and athletic events.
- (7) Massages provided by massage therapy students enrolled in a recognized school during the course of clinical externships, practicums or community services, provided that such massage services are part of the curricular requirements of the recognized school and are conducted under the supervision of the school's faculty and/or a massage therapist who is licensed under this chapter.

(B) No provision contained in this chapter shall be construed to apply to any person, business, or conduct regulated by the provisions of the State Physical Therapy Registration Act, ILCS Ch. 225, Act 90, §§ 1 et seq.
(Ord. 1827, passed 11-19-2001)

§ 121.05 APPLICATION FOR MASSAGE BUSINESS LICENSE.

(A) An application for a massage business license shall be filed with the village. The application shall be made upon a form provided by the Village Clerk and shall be completed in full and signed by the applicant, if an individual, or by a duly authorized agent thereof, if not an individual, verified by oath or affidavit, and shall set forth:

(1) The type of ownership of the business, i.e. individual, partnership, corporation, or otherwise.

(2) The name under which the business is to be conducted.

(3) A description of the services to be provided on the premises.

(4) The location and description of the premises or place of business which is to be operated under such license.

(a) If a leased premises, a copy of the lease shall be provided. The term of such lease must not end until after the expiration date of the license for which application is being made.

(b) The name and address of the owner of the premises, and, if the premises are held in trust, the names and addresses of all the owners of the beneficial interest of the trust.

(5) All telephone numbers and Internet addresses of the business.

(6) In case of an individual, the full name, home address with zip code, Social Security number, driver's license number, date of birth, sex and a physical description of the applicant (including his or her height and weight and the color of his or her hair and eyes).

(7) In case of a partnership, the full name, home address with zip code, Social Security number, driver's license number, date of birth, sex and a physical description (including the height and weight and the color of hair and eyes) of all partners and any other persons entitled to share in the profits thereof.

(8) In case of a corporation, the object for which the corporation as organized, the names, home addresses with zip codes, driver's license numbers, dates of birth, Social Security numbers, sex and physical descriptions (including height and weight and the color of hair and eyes) of all officers, directors, and all persons owning directly or beneficially more than 10% of the stock of such corporation and the persons acting as managers or assistant managers or other persons principally in charge of the operation of the business.

(9) The date of formation of the partnership, if a partnership, the date of incorporation, if a state corporation, or the date of becoming qualified under the State Business Corporation Act, ILCS Ch. 805, Act 5, §§ 1.01 *et seq.*, to transact business in the state, if a foreign corporation.

(10) A complete list of the names (and any aliases) and residence addresses of all massage therapists and employees employed by the business and the names (and any aliases) and residence addresses of all managers, assistant managers or other persons principally in charge of the operation of the business.

(11) The business, occupation, and employment history of the applicant for the three years preceding the date of application.

(12) Whether the applicant ever made an application for license under this chapter, or a massage business license or similar license to a state, county, city, village or other unit of local government, and if so, where and when, and if such application was granted or denied, and if such application was denied, the reasons for the denial.

(13) Whether a license was ever issued to the applicant under this chapter or a massage business license or similar license was ever issued by any state, county, city or village or other unit of local government, and if so, where and when, and if such license has ever been suspended or revoked and the reasons for the suspension or revocation.

(14) Whether the applicant has ever been convicted of a violation of any of the provisions of this chapter or any ordinance of any other state municipality which regulates massage parlors or the provisions of massages, or any state statute regulating massage establishments.

(15) Proof that the applicant is at least 18 years of age.

(16) Proof that the applicant currently carries professional liability insurance in an amount not less than \$1,000,000 per occurrence.

(B) The applicant shall submit a written authorization for the village, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for a license.

(C) The applicant shall submit such other information, documentation and identification of the applicant as the Village President and/or the Chief of Police shall deem necessary to determination the identity of the applicant or to process the application.

(D) The applicant shall notify the Village President of each change in any data required to be furnished by this section within ten days after such change occurs.

(Ord. 1827, passed 11-19-2001)

§ 121.06 TERMS OF LICENSE; LICENSE FEES; LICENSE RENEWAL.

(A) The term of licenses issued under this chapter is for one year beginning January 1, as provided by § 110.08(A).

(B) All license fees shall be paid as provided in § 110.07. The license application fee and the annual license renewal fee for a massage business license shall be \$200. In addition to that annual fee, the applicant shall provide evidence to the village that a qualified massage therapist, as defined in § 121.01, will be present on the premises to comply with the requirements of § 121.03. All applicable license fees

and any other required fees, including costs of fingerprinting, shall be paid prior to the issuance of any license.

(C) A license may be revoked for failure to pay the license fee and for those grounds stated in § 110.13.

(Ord. 1827, passed 11-19-2001; Am. Ord. 2012, passed 12-20-2004)

§ 121.07 SANITATION AND SAFETY REQUIREMENTS.

All licensed premises shall be periodically inspected by the Building Commissioner or his or her duly authorized representative for safety of the structure and adequacy of plumbing ventilation, heating, illumination and fire protection. In addition, the premises shall comply with the following regulations.

(A) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given.

(B) Floors shall be free from any accumulation of dust, dirt or refuse.

(C) All equipment used in the massage establishment shall be maintained in a clean and sanitary condition.

(D) Soaps, towels, linens and laundered sheets must be provided. All such towels, linens and items for the personal use of operators and patrons shall be clean and freshly laundered after each use thereof and stored in a sanitary manner.

(E) Towels, linens and sheets shall not be used for more than one patron. However, heavy white paper may be substituted for sheets, provided that such paper is changed for every patron.

(F) All massage services or practices are prohibited in any cubicle, room, booth or other area within a massage establishment which is fitted with a door capable of being locked.

(G) Toilets, dressing room facilities, lockers, steam baths, tubs or showers, if provided shall be provided separately for each sex.

(Ord. 1827, passed 11-19-2001)

§ 121.08 ISSUANCE AND DENIAL OF LICENSES.

(A) The Village President shall act to approve or deny an application for a license under this chapter within a reasonable period of time, and in no event shall the Village President act to approve or deny the fully completed license later than 90 days from the date that the application was accepted by the village.

(B) In the case of an application for a massage business license, the Building Commissioner shall cause the premises to be licensed to be inspected to assure that the proposed operation complies with all applicable laws, including the building, electrical, plumbing, health, housing, zoning, and fire codes of the village, and any other regulations of the village relating to the public health, safety and welfare. The Building Commissioner shall make written verification to the Village President concerning compliance with the codes and ordinances of the village.

(C) Upon receipt of a properly completed application for a massage business license, the Village President shall submit the completed application to the Chief of Police for an investigation into the applicant's personal and criminal history.

(D) The Village President shall either issue a license, or notify the applicant in writing that the application has been denied. The license shall be denied if the applicant fails to comply with the requirements of this chapter or with the requirements of any other provision of this code which is applicable to the business and/or activities of the applicant. In addition, no license shall be issued to any applicant if:

(1) The proposed operation does not comply with all applicable laws, including, but not limited to, the building, electrical, plumbing, health, housing, zoning and fire codes of the village; or

(2) The applicant, if an individual; or any of the officers, directors or any other person owning directly or beneficially more than 10% of the stock of the corporation, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager, assistant manager or any other person principally in charge of the operation of the business; has been:

(a) Convicted of a felony under the laws of the state or any other state, or under the federal laws of the United States, within five years of the date of the application;

(b) Convicted of a sex offense as defined in ILCS Ch. 720, Act 5, §§ 11-5 to 11-22, or any equivalent law of any state, within five years of the date of the application; or

(c) Convicted of a violation of any provision of this chapter.

(3) The applicant has had a massage business, masseur or similar license denied, suspended or revoked by the village, by a state or by a unit of local government within five years of the date of the application; or

(4) The applicant has knowingly made false, misleading or fraudulent statements of fact in the license application or in any document required by the village in conjunction with the license application.

(E) In the event that the license is denied for failure to comply with the requirements of this chapter, the Village President shall immediately notify the applicant in writing or by telephone of the reasons for the proposed denial. If the failure is not cured within ten days after the date on which the Village President denies the issuance of the license, the denial shall become final.

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(F) The Village President is authorized to make any rules and regulations necessary to implement this chapter which are not inconsistent with or prohibited by this chapter.
(Ord. 1827, passed 11-19-2001)

§ 121.09 DISPLAY OF LICENSES.

Every person licensed as a massage business under this chapter shall display such license in a prominent place in the public reception area of the massage establishment.
(Ord. 1827, passed 11-19-2001)

§ 121.10 REGISTER AND REGULATION OF EMPLOYEES.

(A) The licensee or a person designated by the licensee of a licensed massage establishment shall maintain a register of the names and addresses of all persons employed at any time as massage therapists or other employees. Such registers shall be available at the massage establishment for inspection by representatives of the village during regular business hours.

(B) It shall be unlawful for such a business to allow a massage therapist to practice other than as permitted by this chapter.
(Ord. 1827, passed 11-19-2001)

§ 121.11 CONDITIONS AND RESTRICTIONS OF LICENSES.

(A) *Supervision.* A licensee of a licensed massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have at least one person who is a valid massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the massage business license and shall not violate, or permit other to violate, any applicable provisions of this chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.

(B) *Sanitary conditions.* Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition as required by § 121.07.

(C) *Price rates.* Price rates for all services shall be prominently posted on a framed placard no smaller than 8" x 10" in the reception area in a location visible and available to all prospective customers. This placard must also state the following: "No services other than those listed shall be provided for any compensation whatsoever. There shall be no bargaining or solicitation for services between patrons, massage therapists, or employees."

(D) *Employee dress code.* All employees, including massage therapists, shall be clean and wear clean, nontransparent outer garments, covering at least the entire torso and the sexual and genital areas as defined herein.

(E) *Separate license for each premises.* Licenses shall apply only to the premises described in the application, and in the license issued thereon, and only one location shall be so described in each license.

(F) *Transfer of license.* A license shall be a purely personal privilege, effective for a period not to exceed one year after issuance unless sooner revoked as provided in this chapter, and shall not constitute property. No massage business license is transferrable, separate or divisible, and such authority as a license confers shall be conferred only on the licensee named therein.

(G) *Minors prohibited.* No person licensed under the provisions of this chapter shall permit any person under the age of 18 to come or remain on the premises of any massage establishment as a masseur or employee.

(H) *Alcoholic beverages prohibited.* No person shall sell, give, dispense, provide, keep or consume, or cause to be sold, given dispensed, provided, kept or consumed, any alcoholic beverage on the premises of any massage establishment.

(I) *Solicitations prohibited.* No massage establishment shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture, or statement which is known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage services.

(J) *Hours of operation.* No portion of any business premises used in any way for or by a massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

(K) *Inspections.* The Village President or his or her authorized representative shall from time to time make inspection of each massage establishment for the purposes of determining that the provisions of this chapter are fully complied with. It shall be unlawful for any licensee to fail to allow any such inspection officer access to the premises or hinder such officer in any manner. (Ord. 1827, passed 11-19-2001)

§ 121.12 SALE, TRANSFER, OR CHANGE OF LOCATION.

Upon the sale, transfer, or relocation of a massage establishment, the license therefore shall be null and void and a new license shall be required. Upon the death or incapacity of the licensee or any co-licensee of the massage establishment, any heir or beneficiary of a deceased licensee, or any guardian of an heir or beneficiary of a deceased licensee, may continue the business of the massage establishment for a reasonable period of time not to exceed 60 days to allow for an orderly transfer of the license.

(Ord. 1827, passed 11-19-2001)

§ 121.13 PROHIBITED ACTS AND CONDITIONS.

(A) No person shall conduct or operate a massage business without first obtaining and maintaining a massage business license as required by this chapter.

(B) No person shall operate or conduct any massage establishment which does not conform to the sanitary provisions required by this chapter.

(C) No person having a license under this chapter shall operate under any name or conduct business under any designation not specified in that license or permit.

(D) No person shall advertise, promote, or refer to himself or herself as a massage therapist as herein defined without being a massage therapist as provided in this chapter.

(E) A patron's sexual and genital areas, as defined herein, must be covered by towels, cloths or similar nontransparent garments, including undergarments, when in the presence of a massage therapist or employee.

(F) No person, knowingly, in a massage establishment, shall expose or fail to conceal his or her sexual and genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, knowingly, in a massage establishment, to expose the sexual or genital parts, or any portion thereof, of any other person.

(G) No person, knowingly, in a massage establishment, shall place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of another person.

(H) No massage therapist or employee shall perform or offer or agree to perform any act, whether or not for compensation of any form, which would require the touching of the patron's sexual or genital area.

(I) No massage therapist shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption, unless a physician duly licensed by the state certifies in writing that such person may be safely massaged and prescribes the conditions thereof.

(J) No person, owning, operating or managing a massage establishment, shall knowingly cause, allow or permit in or about such massage establishment, any agent, employee, or any other person under his or her control or supervision to perform any acts prohibited by this chapter.

(K) No person shall operate or conduct an outcall massage service as defined in this chapter. (Ord. 1827, passed 11-19-2001)

§ 121.14 ENFORCEMENT.

The Village President shall have the duty to enforce the provisions of this chapter.
(Ord. 1827, passed 11-19-2001)

§ 121.15 COMPLAINT OF VIOLATION.

Any complaint that any person, corporate or private, or any licensee, has been or is violating the provisions of this chapter shall be made to the Village President or the Village Clerk. Complaints may be made by any person, including employees and representatives of the village.
(Ord. 1827, passed 11-19-2001)

§ 121.16 NOTICE.

Whenever the village is required to give notice under this chapter of denial, suspension, revocation or cancellation of a license, such notice shall be given as required by § 202.12 of the Administration Code.
(Ord. 1827, passed 11-19-2001)

§ 121.17 REVOCATION OR SUSPENSION OF LICENSES.

(A) The village may suspend or revoke a massage business license after notice and public hearing, as provided in § 202.11 of the Administration Code, and upon the additional basis set forth below.

(B) A massage business license may be revoked or suspended after a public hearing if it is found that:

(1) The licensee has violated any provisions of this chapter;

(2) Any employee of the licensee, including a massage therapist, has engaged in any conduct at the licensee's premises which violates any provision of this chapter and the licensee knew or by due diligence should have known of such conduct;

(3) Any applicant for a massage business license has made a false statement on the application;

(4) A licensee has refused to allow any duly authorized police officer or county enforcement officer or health inspector to inspect the massage establishment premises;

(5) The premises of the massage establishment are at any time not in compliance with the village building, health or fire codes; or

(6) The premises of the massage establishment are not in compliance with any of the conditions and restrictions set forth in § 121.13.

(C) If a massage business license is revoked for any cause, no such license shall be granted to such person for a period of one year after the date of the revocation that will allow a massage establishment to be operated on the premises described in the revoked license unless the revocation order has been vacated by court order.

(Ord. 1827, passed 11-19-2001)

CHAPTER 122: ADULT USE LICENSING AND REGULATION

Section

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§ 122.01 PURPOSE.

The purpose of this chapter is to regulate adult uses, to protect the community from the many types of criminal activity frequently associated with such uses. The village recognizes that such regulations cannot in effect prohibit such uses. This chapter has balanced the competing interest of the community in reducing criminal activity and protecting property values versus the protected rights of the owners, operators, employees and patrons of adult uses.

(Ord. 1877, passed 10-21-2002)

§ 122.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT BOOKSTORE. An establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their

emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas; or an establishment with a segment or section devoted to the sale or display of such materials; or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

ADULT ENTERTAINMENT CABARET. A public or private establishment which (i) features topless dancers, strippers, go-go dancers, male or female impersonators, lingerie or bathing suit fashion shows; (ii) not infrequently features entertainers who display specified anatomical areas; or (iii) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in explicit simulation of, specified sexual activities.

ADULT MOTION PICTURE THEATER. A building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT NOVELTY STORE. An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing novelties, lotions and other items distinguished or characterized by their emphasis on or use for specialized sexual activities or specified anatomical areas or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising displays, actual sales, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

ADULT USE. Adult bookstores, adult motion picture theaters, adult entertainment cabarets, and other similar uses.

EMPLOYEE. Employees, independent contractors or any other person who is retained by the licensee are subject to dismissal from working at the licensed premises.

SPECIFIED ANATOMICAL AREAS. For the purpose of this chapter, specified anatomical areas means:

- (1) Less than completely and opaquely covered:
 - (a) Human genitals;
 - (b) Pubic region;
 - (c) Buttock;
 - (d) Female breasts below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED CRIMINAL ACTIVITY. Any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a minor; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaged in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

(2) For which (i) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction which is the later date, if the conviction is of a misdemeanor offense; (ii) less than five years have elapsed since the date of conviction or the date of release from confinement for conviction whichever is the later date, if the conviction is a felony offense; or (iii) less than five years has elapsed since the date of the last conviction or the date of release from confinement from the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offense or combination of misdemeanor offense occurred within any 24-month period;

(3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

SPECIFIED SEXUAL ACTIVITIES. For the purpose of this chapter specified sexual activities means (i) human genitals in the state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse or sodomy; and (iii) fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
(Ord. 1877, passed 10-21-2002)

§ 122.03 LICENSE REQUIRED.

(A) It shall be unlawful for any person to operate an adult use without a valid adult use business license issued by the village pursuant to this chapter.

(B) An application for a license shall be made on a form provided by the village.

(C) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as are needed to enable the village to determine whether the applicant meets the qualifications established in this chapter.

(D) If a person who wishes to operate an adult use is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate an adult use is other than an individual, each individual who has a 20% or greater interest in the business must sign the application

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for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if the license is granted.

(E) The completed application for an adult use business license shall contain the following information:

(1) If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit proof that he or she is 18 years of age;

(2) If a partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(3) If a corporation, the corporation shall state its complete name, the date of incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal shareholders, and the name and address of the registered corporate agent.

(F) If the applicant intends to operate the adult use business under a name other than that of the applicant, he/she must state (i) the business' fictitious name and (ii) submit any required registration documents.

(G) Whether the applicant has been convicted of any specified criminal activity as defined in this chapter, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(H) Whether the applicant has had a previous license under this chapter or similar ordinances from another city or county denied, suspended or revoked, including the name and location of the business which the permit was denied, suspended or revoked as well as the date of the denial, suspension or revocation. If the applicant has been a partner in a partnership or similar ordinance in another jurisdiction or an officer, director or principal stockholder of a corporation that is or was licensed under this chapter and a license has previously been denied, suspended or revoked, include the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(I) Whether the applicant holds any other licenses under this chapter or other similar ordinance from another city or county and if so the names and locations of such other licensed businesses.

(J) A sketch or diagram showing the configuration of the premises including a statement of total floor area occupied by the business. This sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

(Ord. 1877, passed 10-21-2002)

§ 122.04 ISSUANCE OF LICENSE.

(A) Within 90 days after receipt of a completed adult use business license application, the village shall approve or deny the issuance of a license to an applicant. The village shall approve the issuance of a license unless it determines by a preponderance of the evidence any one or more of the following:

- (1) The applicant is under 18 years of age;
- (2) The applicant is overdue in payment to the village of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business;
- (3) The applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application form.
- (4) The applicant has been denied a license by the village to operate an adult use business within the preceding 12 months or whose license to operate an adult use business has been revoked within the preceding 12 months.
- (5) The applicant has been convicted of a specified criminal activity defined in this chapter.
- (6) The premises to be used for the adult use business has not been approved by the Fire and Building Departments as being in compliance with applicable laws and chapters.
- (7) The license fee required by this chapter has not been paid.
- (8) The applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult use business. All licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(C) No adult use business license shall be issued unless the premises at which the adult use will operate is in conformance with the restrictions set forth in the village zoning chapter.
(Ord. 1877, passed 10-21-2002)

§ 122.05 FEES.

Every application for an adult use business license (whether a new license or for renewal of an existing license) shall be accompanied by a \$250 non-refundable application and investigation fee.
(Ord. 1877, passed 10-21-2002)

§ 122.06 INSPECTION.

(A) An applicant or licensee shall permit representatives of the Police Department, Fire and Building Departments or other village or village designated departments or agencies to inspect the premises of the adult use for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(B) A person who operates an adult use or his or her agent or employee violates this chapter if he or she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 1877, passed 10-21-2002)

§ 122.07 EXPIRATION OF LICENSE.

(A) Each license shall expire on the January 1 after it was issued and may be renewed only by making application as provided in § 122.04. Application for renewal shall be made at least 30 days before the expiration date and when made less than 30 days from the expiration date, the expiration of the license will not be affected.

(B) If the village denies renewal of a license, the application shall not be issued a license for one year from the date of denial. If, subsequent to denial, the village finds that the basis for denial of the license has been corrected or abated, the applicant may be granted a license.

(Ord. 1877, passed 10-21-2002)

§ 122.08 SUSPENSION.

(A) The village may suspend a license for a period not to exceed 30 days if, after a hearing, it determines that a licensee or an employee of a licensee (i) violated or is not in compliance with any section of this chapter; (ii) refused to allow an inspection of the adult use business premises as authorized by this chapter; or (iii) knowingly permitted gambling by any person on the adult use business premises.

(B) If the licensee or an employee of the licensee has been found guilty in a court of law of a violation of this chapter, no hearing is necessary prior to suspension of the license.

(Ord. 1877, passed 10-21-2002)

§ 122.09 REVOCATION.

(A) The village shall revoke a license if a cause of suspension in § 122.08 above occurs and the license has been suspended within the preceding 12 months or if the licensee is convicted of any specified criminal activity.

(B) The village shall revoke a license if it determines, after a hearing that:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) A licensee has knowingly allowed possession, use or sale of alcohol or controlled substances on the premises;

(3) A licensee has knowingly allowed prostitution on the premises;

(4) A licensee knowingly operated the adult use business during a period of time when the licensee's license was suspended;

(5) A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the premises;

(6) A licensee is delinquent in payment to the village, county, or state for any taxes or fees past due; or

(7) A licensee has knowingly or intentionally facilitated another commission of the offense of public indecency.

(C) If the village revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult use business license for one year from the date the revocation becomes effective. If subsequent to revocation, the village finds that the factual basis for the revocation did not occur, the applicant may be granted a license.

(D) After denial of an application, or denial of a renewal of an application, or suspension or a revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

(Ord. 1877, passed 10-21-2002)

§ 122.10 TRANSFER OF LICENSE.

A licensee shall not transfer his/her license to another nor shall a licensee operate an adult use business under the authority of a license at any place other than the address on the license.

(Ord. 1877, passed 10-21-2002)

§ 122.11 BUSINESS RECORDS.

All adult uses shall file a verified report with the village showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult uses shall maintain

and retain for a period of two years the names, addresses and ages of all persons employed, including independent contractors, by the licensee.

(Ord. 1877, passed 10-21-2002)

§ 122.12 ADULT ENTERTAINMENT CABARETS - RESTRICTIONS.

All dancing and other performances shall occur on a stage intended for that purpose which is raised at least two feet from the level of the floor. No dancing or other performances shall occur closer than ten feet to any patron. In addition, no performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any performer. No patron shall directly pay or give any gratuity to any performer and no performer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to performers by placing the gratuity on the stage.

(Ord. 1877, passed 10-21-2002)

§ 122.13 VIDEO VIEWING BOOTHS - RESTRICTIONS.

No booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment shall have doors, curtains or portal partitions, but all such booths, stalls or partitioned portions of a room or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the person in the areas used for

viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

(Ord. 1877, passed 10-21-2002)

§ 122.14 HOURS OF OPERATION.

No adult use shall be open prior to 10:00 a.m. or after 12:00 a.m.

(Ord. 1877, passed 10-21-2002)

