

Public Hearing Agenda

Monday, April 25, 2022 – 5:45 pm
Shiloh Municipal Building, 1 Park Drive

Zoom Info: Meeting ID: 276 145 0177. Password: 986271

Call to Order

CHAIRPERSON WILL ADMINISTER OATH FOR THOSE WISHING TO ADDRESS THE BOARD (DO YOU SWEAR THAT THE TESTIMONY YOU ARE ABOUT TO GIVE IS THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD.)

Public Comments

1. **MUNICIPAL CODE AMENDMENTS:**

APPEAL PROCESS – THROUGHOUT THE MUNICIPAL CODE

Adjournment

Planning Commission Meeting Agenda

April 25, 2022 – 6:00 pm
Shiloh Municipal Building, 1 Park Drive

Zoom Info: Meeting ID: 276 145 0177. Password: 986271

Call to Order

Pledge of Allegiance

Announcements \ Public Comments

Minutes – November 8, 2021

Business

PLANNING COMMISSION RECOMMENDATION TO THE VILLAGE BOARD ON THE FOLLOWING ITEMS:

1. **MUNICIPAL CODE AMENDMENTS:**

APPEAL PROCESS – THROUGHOUT THE MUNICIPAL CODE

Adjournment



AGENDA

Village Board of Trustees

Committee at Large Meeting

Monday, April 25, 2022 – 7:00 pm

Location: 1 Park Drive, Shiloh, IL 62269

Remote: Zoom Meeting: Meeting ID: 276 145 0177. Password: 986271

CALL TO ORDER

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS \ ANNOUNCEMENTS

MINUTES – MARCH 28, 2022

TREASURER'S REPORT – MARCH 2022

MAYOR'S REPORT

COMMITTEE REPORTS:

ADMINISTRATION & PERSONNEL (BURRELSMAN)

FINANCE & BUDGET (WILKE)

PLANNING & DEVELOPMENT (HOLZUM)

1. MUNICIPAL CODE AMENDMENTS: APPEAL PROCESS – THROUGHOUT THE MUNICIPAL CODE
2. AUTHORIZE STAFF TO ISSUE A PERMIT FOR CELL TOWER MODIFICATION AT 107 OAK STREET (HAS 5G ANTENNA UPGRADES)
3. AUTHORIZE STAFF TO ISSUE A PERMIT FOR CELL TOWER MODIFICATION AT 2402 COUNTRY ROAD (HAS 4G & 5G ANTENNAS)

PUBLIC PARKS & FACILITIES (WARCHOL)

1. AUTHORIZE EXPENSE OF \$20,000.00 TO PROGRAMS AND SERVICES FOR OLDER PERSONS (PSOP) TO DIRECT THE VILLAGE'S ACTIVITIES PROGRAM FOR SENIOR CITIZENS

PUBLIC SAFETY (O'NEIL)

STREETS (POWERS)

OTHER BUSINESS

1. EXECUTIVE (CLOSED) SESSION

(65ILCS – SECTION 2)

(MAY BE HELD TO DISCUSS PERSONNEL MATTERS (C) 1, COLLECTIVE BARGAINING (C) 2, PURCHASE OR LEASE OF REAL ESTATE (C) 5, SALE OR LEASE OF REAL ESTATE (C) 6, LITIGATION (C) 11, AND DISCUSSION OF CLOSED SESSION MINUTES (C) 21

2. ACTION TAKEN ON EXECUTIVE SESSION ITEMS (IF ANY)

BILLS

ADJOURNMENT

| | |
|------------------------------------|---|
| Cost for a Development Code Appeal | |
| Appeal | \$200.00 and newspaper publication cost |

Definition:

APPEAL. A legal request of a person aggrieved by a decision or order to change the interpretation or enforcement of the provisions of the Development Code or a request of a person aggrieved by the issuance of a citation. **APPEALS** may be made in regard to the zoning and subdivision regulations alike.

§ 151.076 INTERPRETATION OF DISTRICT BOUNDARIES.

(A) Establishment and interpretation of district boundaries. The boundaries of the Airport Overlay (AO) District and subarea districts are hereby enacted and established as set forth on the series of four maps incorporated in § 151.078 of these airport overlay regulations (District Maps), with precise boundaries being determined by scaling distances and features shown on these maps. Where interpretation is needed as to the exact location of the boundaries of the airport districts, as shown on the Airport Overlay (AO) District maps, the Director shall make the necessary determination of the boundary based on the purposes of these airport overlay regulations and underlying mapping data. Any property owner contesting the location of a district boundary affecting his or her property shall be given a reasonable opportunity to present their case in accordance with the appeal procedures established in the Development Code and in §§ 151.099 through 151.104 of these airport overlay regulations. The adopted district maps may include areas outside the territorial boundaries of the village in order to promote coordination with other participating local governments. The regulations of this Airport Overlay District shall not be deemed to extend to any property outside such territorial boundaries to which the village lacks jurisdiction to impose such regulation.

(B) Split parcels. For purposes of regulation of parcels that appear split by the district boundary lines, only that portion of a parcel that falls within the district shall be subject to the provisions and standards of these airport overlay regulations.

(C) Boundary changes. The boundaries of the Airport Overlay (AO) District may be subject to change reflecting new military mission activity and/or aviation operations at Scott AFB and MidAmerica Airport. Scott AFB and MidAmerica Airport shall communicate the results of updated analyses of noise and air safety zones, including AICUZ reports and FAA studies, to affected local governments. The Director shall notify the Air Force, MidAmerica Airport and other local governments that have adopted airport zoning regulations in the environs of Scott Air Force Base and MidAmerica

Airport of changes to the district boundary lines as shown in the maps in § 151.078 to promote the coordinated and consistent application of airport overlay regulations. Other coordinating local governments may adopt more stringent regulations than the minimum requirements in these airport overlay regulations. Boundary changes to the AO District or subarea districts shall be adopted pursuant to the procedures applicable to amendments to the Development Code.

§ 151.099 GENERALLY.

(A) The purpose of this Division 9 is to provide mechanisms for obtaining relief from the provisions of these airport overlay regulations. There are several ways that potential relief from hardship is addressed, including through nonconforming development, the grant of a variance, the grant of a special use permit, or through appeal.

(B) All cases shall be administered in accordance with the appeal, variance, nonconforming use, and special use permit procedures established in the Development Code, provided that all such procedures shall comply with applicable procedures set forth in the Airport Zoning Act, ILCS Ch. 620, Act 25, §§ 24, 27, 28, and 29.

(C) These airport overlay regulations provide supplemental requirements beyond those required by applicable state or federal law. The failure of the village to specifically or precisely conform to any notice, review, or other procedural requirement herein shall not invalidate any action or approval of the village unless such invalidation is required by law.

(D) Avigation easement. As a condition of approval of a Development Application in an Airport Overlay (AO) District subarea, including the application for a variance, rezoning or special use permit prior to receiving final approval of the application, the applicant may be required to convey to the appropriate authority an avigation easement consistent with the avigation easement described in § 151.087.

§ 151.100 BOARD OF APPEALS.

(A) The Village Zoning Board of Appeals is established and existing under the Code of Ordinances of the Village of Shiloh is hereby established as and shall serve as the Board of Appeals under these airport overlay regulations and all such other appeals as referenced in the definition of an appeal herein contained in the village ordinances. The Village Board of Appeals shall exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the Director in the enforcement of the airport zoning regulations of these airport overlay regulations; and

(2) To hear and decide specific variances under these airport overlay regulations.

(B) All appeals and variances shall be administered in accordance with the appeal and variance procedures established in the Development Code, provided that:

(1) The vote of a majority of the members of the Board of Appeals shall be sufficient for all purposes, including the reversal of any order, requirement, decision, or determination of the Director, or a decision in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations; and

(2) Meetings of the Board of Appeals shall be held at the call of the Chairman of the Board of Appeals and at such other times as the Board may determine. The Chairman, or in his absence the vice-chairman, may administer oaths or affirmations and issue subpoenas to compel the attendance of witnesses. All hearings of the Board of Appeals shall be public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board of Appeals and shall be a public record.

§ 151.101 APPEALS.

(A) Except as provided in this division, appeals shall be made in a manner consistent with procedures for appeals established within the Development Code, § 151.099, § 151.348— and all other applicable sections.

(B) All requests for appeals must be taken within the a reasonable time, as provided in the Development Code, by filing with the Director and with the Board of Appeal, a notice of appeal specifying the grounds thereof. The Director shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Chairman of the Village Board of Appeals Director certifies to the Board of Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in the Chairman's Director's opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by order of the Board of Appeals on notice to the Director and on due cause shown.

(D) The Board of Appeals shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time, consistent with the times and procedures for notice, hearing and decision of appeals provided in the Development Code. Upon the hearing any party may appear in person or by agent or by attorney.

(E) The Board of Appeals may, in conformity with the provisions of these airport overlay regulations and the Airport Zoning Act, ILCS Ch. 620, Act 25, § 1 et seq., reverse or affirm, wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Director from which the appeal is taken.

§ 151.102 VARIANCES.

(A) Except as provided in this division, variance applications shall be made in a manner consistent with the procedures for variances established within the Development Code, §§ 151.365 through 151.369, provided that the Board of Appeals established herein shall perform all functions of the Planning Commission described in §§ 151.365 through 151.369.

(B) Any person seeking a variance from the height limitations of these airport overlay regulations shall include as part of their variance application a determination from the FAA as to whether the proposed construction or alteration for which the variance is being sought would be a hazard to air navigation, pursuant to the standards and procedures set forth in 14 C.F.R. Part 77.

§ 151.104 AIRPORT HAZARD MARKING.

In granting any development application, the Director or Board of Appeals may, if it deems such action advisable to effectuate the purposes of these airport overlay regulations and the Airport Zoning Act, ILCS Ch. 620, Act 25, § 1 et seq., and reasonable in the circumstances, so condition such grant, consistent with ILCS Ch. 620, Act 25, § 25, as to require the owner of the structure or tree in question to permit the state or the village, as the case may be, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

§ 151.342 CORRECTIVE ACTION ORDER.

(A) Whenever the village staff finds, by inspection or otherwise, that any lot, structure, or use, or work thereon, is in violation of the Development Code, staff shall serve a corrective action order upon the responsible party in one of the following ways:

- (1) Delivered in person;
- (2) Sent by registered mail to last known address; or
- (3) Posted in a conspicuous place on or about the affected premises.

(B) The order to take corrective action shall be in writing and shall include:

- (1) A description of the premises sufficient for identification;
- (2) A statement indicating the nature of the violation;
- (3) A statement of the remedial action necessary to effect compliance;
- (4) The date by which the violation must be corrected;
- (5) A statement that the alleged violator is entitled to a conference with the village staff if he or she so desires;
- (6) The date by which an **appeal** of the corrective action order must be filed and a statement of the procedure for so filing; and
- (7) A statement that failure to obey a corrective action order shall result in revocation of the certificate of zoning compliance and may result in imposition of fines.

(C) In such case that the village staff states on the corrective action order that the violation must cease immediately, the corrective action order is equivalent to a stop order. Also, in the event that such violation poses an imminent peril to life or property, staff may institute, without notice or hearing, any emergency measures considered necessary to alleviate the perilous condition.

§ 151.348 **APPEAL.**

(A) Generally. Any person aggrieved by any decision or order of the village staff in any matters related to the interpretation or enforcement of any provision of this Code may **appeal** to the **Village Board of Appeals**. In no case can an **appeal** be made on construction document interpretation after the work has been completed. Every such **appeal** shall be made and treated in accordance with the provisions of this section.

(B) Filing, record transmittal.

(1) Every **appeal** shall be made within **28 45** days of the matter complained of by filing with the village staff a written notice specifying the grounds for **appeal**.

(2) An application shall be submitted for an **appeal** to the village staff who will review it to ensure it is complete. If it is incomplete, staff will notify the applicant that the application is invalid, and not a submittal of record. If staff certifies the application as complete, it will be forwarded to the Board of **Appeals** for consideration as herein provided. ~~The application shall be accompanied by a nonrefundable fee. (See Chapter 34.)~~

(3) The **appeal** application shall include at a minimum: The specific portion(s) of the ordinance or construction documents which applicant feels have been incorrectly interpreted and a list of specific code sections or construction documents in dispute. For construction document interpretation claims, the application must include an opinion from a licensed design professional stating that staff interpretation is not correct and design

professional's technical opinion of why it has been misinterpreted. A list of all property owners to whom the notice (see division (C) below) must be sent.

(4) The village staff shall transmit to the Village Board of Appeals all records pertinent to the case.

(C) Public hearing, notice. The Village Board of Appeals shall hold a public hearing on every appeal within a reasonable time after filing of the appeal notice. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date and place of the hearing, and briefly describing the issue to be decided shall be given not more than 30, nor less than 15, days before the hearing.

(1) The applicant will give notice by certified mail or notarized signatures on a sheet to all parties whose property would be directly affected by the proposal and must include all adjoining property owners. Applicant shall submit to the village staff prior to the public hearing proof (certified return receipt) that all parties have been notified. If proof is not given at least one business day prior to the public hearing, the application shall be removed from the agenda and the public hearing must be rescheduled.

(2) The village will publish notice in a newspaper of general circulation within its municipality.

(D) Stay of further proceedings.

(1) An appeal stays all further action on the matter being appealed unless the village staff certifies to the Village Board of Appeals, after the notice of appeal has been filed with them, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Village Board of Appeals or the circuit court grants a restraining order for due cause, and so notifies the village staff.

(2) Filing of an appeal on construction document interpretation shall also prohibit the applicant from performing any work in question until the decision of the Village Board.

(E) Recommendation, findings of fact. After the public hearing, the Village Board of Appeals shall submit its recommendation to the Village Board of Trustees. The recommendation shall state the Village Board of Appeals' findings regarding the appeal and its reasons therefor.

(F) Decision by Village Board of Trustees. The Village Board of Trustees shall render a decision on the appeal within a reasonable time after receipt of the Village Board of Appeals' recommendation. The Board of Trustees may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from to the extent and in the manner that they deem appropriate.

(Am. Ord. 2020-03-02A, passed 3-2-2020)

§ 151.451 MINIMUM SIZE AND DEVELOPMENTS PERMITTED.

(A) Generally.

(1) Planned unit developments are of three types in the village: residential, business and industrial.

(2) The minimum size for each type of planned unit development is five acres of contiguous land. This requirement may be reduced by the Village Board of Trustees on **appeal**, when it is found that conformance to the provisions contained elsewhere in this Code relating to lot size, bulk, dwelling type or number of structures or other requirements would result in a gross waste or inefficient use of a substantial portion of land area contained in a particular parcel proposed as the planned unit development or which would result in other consequences deemed incompatible with the purposes of this Code and the Comprehensive Plan. For areas located within the Town Core, as shown on the Comprehensive Plan Amendment of the PGAV Exhibit, the minimum size for a Planned Unit Development shall be one acre without the need for an **appeal**.

(3) Planned residential developments and planned commercial developments may be proposed in combination. Planned commercial developments and planned industrial developments may be proposed in combination. Planned residential developments and planned industrial developments may not be proposed in combination.

(B) Planned residential development (PRD). An area of minimum contiguous size, specified by this Code, to be planned, developed, operated and maintained as a unified development and containing one or more residential clusters, and with appropriate public, or quasi-public uses as may be approved by the Village Board of Trustees; provided that, such other uses are primarily for the benefit of the residential development.

(C) Planned commercial development (PCD). An area of minimum contiguous size, specified by this Code, to be planned, developed, operated and maintained as a unified development and containing one or more structures to accommodate retail, service, commercial or office uses, or a combination of such uses, and appurtenant common areas and accessory uses incidental to the predominant uses in the development.

(D) Planned industrial development (P1D). A planned development consisting primarily of industrial uses, with such other appropriate business, public or quasi-public uses as may be included on approval if the uses are primarily incidental to the industrial development.

(Am. Ord. 2013-12-02A, passed 12-2-2013)

§ 151.166 COMMERCIAL COMMUNICATION TOWERS.

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

ANTENNA. Any device that transmits and/or receives radio waves for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, microwave, cellular telephone and similar forms of communications. The term shall exclude satellite earth station antennas less than two meters in diameter (mounted within 12 feet of the ground or building-mounted) and any receive-only home television antennas.

AGL, ABOVE GROUND LEVEL. Ground level shall be determined by the average elevation of the natural ground level within a radius of 50 feet from the center location of measurement.

CABINET. A structure for the protection and security of communications equipment associated with one or more antennas where direct access to equipment is provided from the exterior and that has horizontal dimensions that do not exceed four feet by six feet, and vertical height that does not exceed six feet.

DISGUISED SUPPORT STRUCTURE. Any free-standing, human-made structure designed for the support of antennas, the presence of which is camouflaged or concealed as an appropriately-placed architectural or natural feature. Depending on the location and type of disguise used, the concealment may require placement underground of the utilities leading to the structure. Such structures may include, but are not limited to, clock towers, campaniles, observation towers, light standards, flag poles and artificial trees.

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

HEIGHT. The vertical distance measured from the average grade of the base of the structure at ground level to its highest point and including the main structure and all attachments thereto.

INCIDENTAL USE. Any use authorized herein that exists in addition to the principal use of the property.

MODIFICATION. Any addition, deletion or change, including the addition or replacement of antennas, or any change to a structure requiring a building permit or other governmental approval.

SHELTER. A building for the protection and security of communications equipment associated with one or more antennas and where access to equipment is gained from the interior of the building. Human occupancy for office or other uses or the storage of other materials and equipment not in direct support of the connected antennas is prohibited.

SUPPORT STRUCTURE. A tower or disguised support structure.

TOWER. A structure designed for the support of one or more antennas and including guyed towers, self-supporting (lattice) towers or monopoles but not disguised support structures or buildings. The term shall also include any support structure including attachments of 65 feet or less in height,

owned and operated solely for use by an amateur radio operator licensed by the Federal Communication Commission.

(B) General requirements. The requirements set forth in this section shall be applicable to all towers, antennas and other support structures installed, built or modified after the effective date of this section to the full extent permitted by law.

(1) Principal or incidental use. Antennas and support structures are special uses in NU, I-1, B-3 and B-4 Zone Districts subject to any applicable district requirement relating to yard or setback or 20% of tower height setback whichever is greater.

(2) Building codes, safety standards and zoning compliance. To ensure the structural integrity of antenna support structures, the owner shall see that it is constructed and maintained in compliance with all standards contained in applicable state and local building codes and the applicable standards published by the Electronics Industries Association, as amended from time to time. In addition to any other approvals required by this section, no antenna, tower or support structure shall be erected prior to receipt of a certificate of zoning compliance and the issuance of a building permit.

(3) Regulatory compliance. All antennas and support structures shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennas and support structures. Should such standards or regulations be amended, then the owner shall bring the devices and structure into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction or modification of any antenna or structure permitted by this section shall be granted for any applicant having an uncured violation of this section or any other governmental regulatory requirement related to the antenna or structures within the village.

(4) Security. All antennas and support structures shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build or modify antennas or support structures. Additional measures may be required as a condition of the issuance of a building permit or administrative permit as deemed necessary by the village staff or by the Zoning Board of Appeals in the case of a special use permit.

(5) Lighting. Antennas and support structures shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build or modify the antennas or support structure. Equipment cabinets and shelters may have lighting only as approved by the Village Board.

(6) Advertising. Except for a disguised antenna support structure in the form of an otherwise lawfully permitted pylon sign, the placement of advertising on structure regulated by this section is prohibited.

(7) Design.

(a) Subject to the requirements of the FAA or any applicable state or federal agency, towers shall be painted a color consistent with the natural or built environment of the site.

(b) Equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located.

(c) Towers shall not exceed the height limitation of any airport overlay zone as may be adopted by the village.

(d) Antennas attached to a building or disguised antennas support structured shall be of a color identical to or closely compatible with the surface to which they are mounted.

(e) All towers shall be surrounded by a minimum ten-foot high security fence enclosure. For requirements of towers and equipment screening in other than industrial zone districts, see division (D) hereof.

(f) An alternative means of screening may be approved by the Village Board, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved.

(g) All towers, disguised support structures and related structures, fences and walls shall be separated from the property zoned for a residential use or public building at least a distance equal to one-third the height of the tower.

(h) Vehicle or outdoor storage on any tower site is prohibited, unless otherwise permitted by the zoning.

(i) On-site parking for periodic maintenance and service shall be provided at all antenna or tower locations consistent with the underlying zoning district.

(j) Shared use.

1. Existing towers. Prior to the issuance of any permit to alter or modify any tower existing on the effective date of this chapter, the owner shall provide to the village a written and notarized agreement committing to make the tower available for use by others subject to reasonable technical limitations and reasonable financial terms. The willful and knowing failure of a tower owner to agree to shared use or to negotiate in good faith with potential users shall be unlawful and shall, among other remedies of the village, be cause for the withholding of future permits to the same owner to install, build or modify antennas or towers within the village.

2. Tower inventories. Prior to the issuance of any permit to install, build or modify any tower, the tower owner shall furnish the village staff an inventory of all of the towers in or within one and one-half miles of the village limits. The inventory shall include the tower's reference name or number, the street location, latitude and longitude, structure type, height, type and mounting height of existing antennas and an assessment of available ground space for the placement of additional equipment shelters. Upon being modified, any such tower shall be placed on the Multi-Use Interest Area Map for required collocation.

3. Shared use rewired; new towers. Any new tower approved at a height of 60 feet AGL (above ground level) or higher shall be designed and constructed to accommodate at least one additional user unless a larger number is indicated by the response to the notification provisions herein. A written agreement committing to shared use as required shall be submitted by the tower applicant. The willful and knowing failure of the owner of a tower built for shared use to negotiate in good faith with potential users shall be unlawful and shall be a violation of this section and, among other remedies of the village, shall be cause for the withholding of future permits to the same owner to install, build or modify antennas or towers within the village.

4. Notice of tower applications. Prior to any application for the construction of a new tower or disguised support structure, a copy of the application or a summary containing the height, design, location and type and frequency of antennas shall be delivered by certified mail to all known potential tower users as identified by a schedule maintained by the FCC. Proof of the delivery shall be submitted with the application to the village. The village staff may establish a form required to be used for the notifications. Upon request, the village staff shall place on a list the name and address of any user of towers or prospective users to receive notification of applications. The village staff shall, before deciding on the application or forwarding it to the Village Board for consideration, allow all persons receiving notice at least ten business days to respond to the village applicant that the party receiving notice be permitted to share the proposed tower or locate within one mile of the area. The failure of the receiving party to use this process or respond to any such notice shall be considered cause for denying requests by the party for new towers or structures.

5. **Appeal** of shared use violations. Any party seeking shared use of a tower subject to this provision shall after responding to notice of an application, negotiate with the applicant for the use. The applicant may on a legitimate and reasonable business basis choose between multiple requests for shared use on the same tower or structure and may reject any request where legitimate technical obstacles cannot be reasonably overcome or where the party requesting shared use will not agree to reasonable financial terms. Any party believing that the applicant has breached its duty to

negotiate in good faith for shared use shall immediately notify the applicant and the village staff in writing. A notice of breach of duty shall explain the precise basis for the claim and shall be accompanied by payment of an administrative review fee of \$500 to the village to offset the cost of review. After the applicant's receipt of the notice, the applicant shall have ten calendar days to provide a written submission to the village staff responding to the alleged violation of the shared use requirement. If deemed necessary by the village staff, he or she may engage, at the cost of the party alleging the violation, a neutral, qualified technical consultant to provide an opinion on feasibility or cost of the shared use request. If the village staff receives a notice alleging a violation of the shared use requirement, the time for a decision on an administrative permit is automatically extended for up to 30 days until the village staff has determined that the applicant has complied. An application for special use permit shall not be deemed complete for acceptance until a decision on compliance is reached.

(C) Use. The placement of antenna and towers are special uses in NU, I-1, B-3 and B-4 Districts only.

(D) Authorization by administrative permit. The placement of antenna and towers are special use in the Zone Districts indicated in § 151.046, however, the following may be permitted without a special use with Village Board approval.

(1) The attachment of additional antennas or shelters to any tower existing on the effective date of this section or subsequently approved in accordance with these regulations and requiring the enlargement of the existing tower compound area as long as all other requirements of this section and the underlying zoning district are met.

(a) The attachment of additional or replacement of antennas or shelters to any tower existing on the effective date of this section or subsequently approved in accordance with these regulations; provided that, additional equipment shelters or cabinets are located within the existing tower compound area;

(b) The mounting of antennas on any existing building or structure, such as a water tower; provided that, the presence of the antennas is concealed by architectural elements or fully camouflaged by painting a color identical surface to which they are attached; and

(c) The installation of antennas or the construction of a tower or support structure on buildings or land owned by the village following the approval of a lease agreement by the Village Board.

(2) The one-time replacement of any tower existing on the effective date of this section or subsequently approved in accordance with these regulations so long as the purpose of the replacement is to accommodate shared use of the site or to eliminate a safety hazard. The new tower shall be of the same type as the original except that a guyed or self-supporting

(lattice) tower may be replaced by a monopole. If the guyed or lattice tower to be replaced is 180 feet or less in height, it shall only be replaced with a monopole. The height of the new tower may exceed that of the original by not more than 20 feet with FAA approval. Subsequent replacements shall require the approval of a special use permit and FAA approval.

(3) The construction of a disguised support structure provided that all related equipment shall be placed underground or concealed within the structure when the structure is located in any district other than a district authorizing industrial uses. Equipment may be placed in a screened* cabinet if the disguised support structure is incidental to an industrial, commercial, institutional or other non-residential use. *Screening in this provision means to be completely enclosed by a wall, a solid fence or closely-planted shrubbery, at least ten feet in height and of sufficient density to block the view.

(4) Towers erected and maintained for a period not to exceed 45 days for the purpose of replacing an existing tower, testing an existing or proposed network or special events requiring mobile towers.

(E) Special use permit required. All proposals to install, build or modify an antenna or support structure not covered under division (D) hereof shall require the approval of special use permit following a duly advertised public hearing by the Village Board, subject to the forthcoming limitations.

(1) Applications for special use permits shall be filed and processed subject to the requirements of and in the manner and time frame as herein established. A decision by the Village Board shall be accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. Evidence shall be under oath and may be submitted with the application or thereafter or presented during the public hearing by the applicant or others. The applicant/petitioner must submit, with the special use petition, the document issued by the Federal Aviation Administration (FAA) indicating a "determination of no hazard to air navigation".

(2) No special use permit shall be issued unless the applicant has clearly demonstrated by substantial evidence that placement of an antenna on an existing support structure is not technologically or economically feasible. The Village Board may consider current or emerging industry standards and practices, among other information, in determining feasibility.

(3) In addition to the determinations or limitations specified herein, the Village Board shall also base its decision upon, and shall make findings as to, the existence of the following conditions:

(a) No existing towers, structures or buildings within the necessary geographic area for the applicant's tower meet the applicant's necessary engineering requirements considering:

1. Height;

2. Structural strength;
3. Resulting signal interference;
4. Feasibility of retrofitting;
5. Feasibility of redesigning the applicant's tower network; or
6. Other limiting conditions that render towers, structures or buildings within the applicant's area unsuitable.

(b) The design of the tower or structure, including the antennas, shelter and ground layout maximally reduces visual degradation and otherwise complies with provisions and intent of this section. New towers shall be of a monopole design, unless it is shown that an alternative design would equally or better satisfy this provision.

(c) The proposal minimizes the number and/or size of towers or structures that will be required in the area.

(d) The applicant has not previously failed to take advantage of reasonably available shared use opportunities or procedures provided by this chapter or otherwise.

(e) No land owned by any agency of the federal or state government, or by any political subdivision of the state, is available for locating the structure or tower. If any one, but not more than one, of the determinations is not satisfied, approval may be granted only on a finding of unique circumstances otherwise necessitating approval to satisfy the purposes of this section.

(4) No tower shall be approved at a height exceeding 150 feet AGL unless applicant clearly demonstrates that such height is required for the proper function of the applicant's system or that of a public safety communications system of a governmental entity sharing the tower. The showing must also be supported by the opinion of a telecommunications consultant hired by the village at the expense of the applicant. The opinion of the consultant shall include a statement that no available alternatives exist to exceeding the height limit or the reason why the alternatives are not viable and that the FAA has approved the height requested.

(F) Obsolete non-complying tower structure. Any upper portion of a tower which is not occupied by active antennas for a period of 12 months, and any entire tower which is not so occupied for a period of six months, shall be removed at the owner's expense. Removal of upper portions of a tower manufactured as a single unit shall not be required. Failure to comply with this provision shall constitute a nuisance that may be remedied by the village at the tower or property owner's expense. Any applicant for a new tower or disguised structure not built as disguised part of another existing or permitted structure shall place a bond or other security with the village prior to any final approval for the purpose of removing any tower or disguised structure as required herein and to compensate the village for performing proper maintenance of the towers or disguised structures to ensure the

structures do not become unsafe or otherwise fail to be maintained in compliance with this chapter. The bond or security shall be in the form approved by the village staff, and in the amount of \$15,000, or such other amount as is determined by the village staff to satisfy the requirements hereof with regard to the specific tower or structure to which it would apply.

(G) Commercial operation of unlawful tower or antennas.

Notwithstanding any right that may exist for a governmental entity to operate or construct a tower or structure, it shall be unlawful for any person to erect or operate for any private purpose of any antenna, tower or disguised support structure in violation of any provision of this chapter, regardless of whether the antenna or structure is located on land owned by a governmental entity.

(H) Penalty. Any person violating this provision shall be subject to a fine of not more than \$500 or 90 days in jail or both. Each day the violation continues shall constitute a separate offense.

(I) Applications for permits required by this section shall be made on the appropriate forms to the village staff and accompanied by payment per § 151.166(J), or such other fee as may be established by the Board.

(1) A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating all existing and proposed improvements including buildings, drives, walkway, parking areas and other structures, public right-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydroponic features and the coordinates and height AGL of the existing or proposed tower.

(2) The application shall be reviewed by the Zoning Administration to determine compliance with the above standards and transmit the application for review and comment by other departments and agencies as may be affected by the proposed facility, and forwarded to the Village Board of Trustees.

(J) Application fee.

(1) Application review fee for permits covered by this section to be per § 34.01.

(2) Applications requiring a special use permit shall also include the associated fee per § 34.01.

§ 151.303 WETLANDS.

(A) Purpose.

(1) Wetlands of the village are indispensable and fragile resources.

(2) In their natural state, wetlands reduce pollution and nutrients from a broad range of sources, store and convey flood waters, reduce erosion,

provide wildlife nesting and feeding areas, provide habitat for plants, provide outdoor recreation opportunities, provide buffers, reduce the effects of adjacent light and noise sources and provide education and scientific study opportunities.

(3) Wetlands play a critical role in water resource protection and watershed management.

(4) The village, therefore, wants to ensure that no further loss of wetland functions and acreage occur within the village and that any activities in wetlands will not increase hazards.

(5) The village also wants to ensure integration of wetland protection into its local comprehensive land use plan and development, ecosystem management and storm water management plan.

(B) Definitions. For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

HABITAT LINKAGE. Corridors to help plants and animals migrate. These linkages include streams, riparian corridors or any conservation corridor that provides a physical habitat link.

WETLANDS. Those areas that are permanently or seasonally inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. WETLANDS generally include swamps, marshes, bogs, fens and similar areas. These areas are commonly shown on the National Wetland's Inventory Map.

(C) Permits.

(1) Unless exempted under division (G) herein, no person may conduct or cause to be conducted a regulated activity within or affecting a wetland without a permit from the village. Any person proposing to conduct or cause to be conducted a village regulated activity shall file an application for a permit with the village. Ten copies of the application shall be submitted. The applicant shall provide within ten days of filing a permit application a written notice of the permit application to the owners of each tract of property adjacent to the property containing the wetland that is the subject of the permit. The applicant shall also post a notice of the proposed permit, within ten days of the filing of the application, in a local newspaper of general circulation.

(2) A permit applicant shall include the following information in the application:

(a) A map of the area that will be affected by the activity, including wetland and water boundaries for the area affected and the existing uses and structures;

(b) A description of the proposed activity, including its purpose, the location and dimensions of any structures, grading or fills, drainage, roads,

sewers and water supply, parking lots, storm water facilities, discharge of pollutants and onsite waste disposal;

(c) A description of any public benefit to be derived from the proposed project;

(d) A description of the entire parcel owned by the applicant, including a topographical survey of the property and a sketch map indicating the location of the wetland on the parcel;

(e) A description of any natural hazards at the site, including flood, erosion and soil bearing capacity hazards, and an indication of how the applicant will avoid increasing hazards on other lands and avoid hazard losses associated with the proposed activity;

(f) An explanation of other alternatives the applicant has considered, why the proposed activity cannot be located at other sites, and why other alternatives cannot be used to fulfill the desired purpose of the proposed activity;

(g) The names and addresses of adjacent landowners as determined by the current tax assessment roles and a description of adjacent uses and their distance from the proposed activity; and

(h) Proposed measures to reduce the impact of the proposed activity on wetland and habitat linkage functions and values and to compensate for impacts.

(3) The village may require additional information where that information is needed to determine the compliance of the proposed activity with the criteria for issuance of a permit. Where informational deficiencies are apparent in the application, the village shall advise the applicant of the need for additional information within 30 days of the receipt of the application.

(4) As part of the permit application process, the applicant shall notify, within ten days, by certified mail other state, federal and local government entities that may have jurisdiction over the proposed activity, as well as any other persons or entities that have requested to receive notification of wetland permit applications from the village. All people and entities so notified shall have 30 days from the date of the applicant's notification to provide comments to the village.

(5) The village shall also hold a public hearing concerning the permit application if the proposed activity may have significant impact upon wetland resources.

(6) The village shall issue, conditionally issue, or deny a permit within 120 days of receipt of a permit application unless the permit applicant has failed to supply needed information or additional information gathering is needed to determine the compliance of the permit with regulatory criteria.

(7) In granting a permit, the village may impose conditions that must be carried out to meet the goals of this Code and the permit criteria. The

village may suspend or revoke a permit if it finds that the applicant has not complied with the conditions or limitations set forth in the permit. The village may require a bond in an amount and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit.

(8) (a) A permit applicant shall submit a fee to the village when submitting an application to the village for a regulated activity. The village shall deny any permit application that does not include the appropriate fee.

(b) The amount of the fee shall be \$1,000 for each acre pro rata that will be affected by a regulated activity. However, no fee shall be due from any entity listed in ILCS Ch. 415, Act 5, § 12.2(e) of the Environmental Protection Act, as currently enacted or later amended.

(c) All fees collected by the village under this section shall be deposited into the Village Wetlands Protection and Maintenance Fund.

(D) Criteria for issuance of permits.

(1) The village shall issue a permit when it finds that the proposed activity is in the public interest.

(2) In determining whether a proposed activity is in the public interest, the village shall consider the goals of this Code and any more specific criteria for permit issuance adopted by the village. The village shall also consider the impact on habitat linkage. To find that a proposed activity is in the public interest, the village must find that:

(a) There will be no net loss of wetland function within the village. At a minimum, this shall require findings that there will be no net loss within the village of:

1. Wetland habitat for breeding, nesting, foraging, resting or protection of any species, including those species on the federal or state list of threatened, endangered or rare species;

2. Storm water and floodwater retention capacity;

3. Groundwater recharge capacity;

4. Ability to improve water quality through sedimentation, filtration, biological treatment or other functions;

5. Recreational opportunities such as hunting or fishing, hiking and the like; and

6. Habitat linkage system.

(b) There will be no net loss of wetland acreage;

(c) The proposed activity will not cause flooding, erosion or other hazards that will threaten other landowners or the public;

(d) An adequate upland buffer will be provided to protect remaining wetland acres from sediment, pollutants and other threats. This buffer must be at least 50 feet, except as otherwise provided in the criteria adopted by the village. The buffer width for a development site may be varied to a

minimum of one-half of the required buffer width provided that the total required buffer area is achieved;

(e) The state has certified that the proposed activity will not cause or contribute to a violation of any state water quality standards;

(f) The proposed activity will not otherwise threaten health and safety, cause nuisances, impair public rights to the enjoyment and use of public waters, or threaten a rare or endangered plant or animal or a unique ecosystem;

(g) There is no reduction in the buffering of adjacent light and noise sources; and

(h) Any adverse impacts will be minimized. In evaluating the impact of the proposed permit, the village shall consider the cumulative effect of existing and reasonably anticipated future activities upon wetland resources. The village shall consider any irreversible and irretrievable commitment of resources that will result from the proposed activity, and the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity. The village shall also consider any proposed impact reduction and compensation measures only after determining that there are no practicable alternatives to the proposed activity and that the measures are consistent with this Code.

(E) General permits.

(1) In carrying out its functions relating to regulated activities, the village may, after notice and opportunity for public hearing, issue a general permit on a category of regulated activity if the village determines that the activities in that category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Best management practices shall be prescribed for activities regulated by a general permit. Any general permit issued under this division shall:

(a) Be based on the guidelines set forth in this Code; and

(b) Set forth the requirements and standards that will apply to the activity authorized by the general permit.

(2) No general permit issued under this subsection shall be valid for a period of more than two years after the date of its issuance.

(3) A general permit may be revoked or modified by the village if, after opportunity for public hearing, the village determines that the activities authorized by the general permit have an adverse impact on the environment or the activities are more appropriately authorized by individual permits.

(F) Creation, restoration and compensation; mitigation banks.

(1) The village shall encourage private landowners, other agencies, land trusts and others to restore wetlands in order to achieve the long-term

goal of a net gain in wetland resources and habitat linkages. The village shall identify possible restoration sites in cooperation with other organizations if available.

(2) When a permit applicant proposes wetland restoration, creation or enhancement to compensate for damage to a wetland, the village shall consider the risk of failure of the impact reduction and compensation measures and may require that permit applicant to implement measures prior to undertaking the proposed activity.

(3) The village may not accept as an impact reduction or compensation measure any measure that creates or restores, on a pro rata basis, less than one acre of wetland for every one acre of wetland disturbed by a regulated activity within the village. In deciding whether the compensation ratio proposed by the project applicant is sufficient to provide no net loss of wetland functions and acreage, the village shall consider.

- (a) The sensitivity of the wetland type;
- (b) The success of other efforts to restore this wetland type;
- (c) The length of time it will take before a compensation wetland will become fully functioning;
- (d) The degree of difficulty that will be encountered in creating or restoring wetland hydrology in this setting;
- (e) The adequacy of the overall project design;
- (f) The threats, if any, posed to the compensation wetland by pollution or other activities;
- (g) The adequacy of proposed protection and management measures for the proposed compensation wetlands;
- (h) The extent to which monitoring and mid-course correction capabilities are proposed;
- (i) The extent to which bonds or other assurances are provided to insure long-term success;
- (j) The reduction of habitat linkage; and
- (k) Any other factors the village determines to be relevant.

(4) The village may use the compensation ratios established under the Illinois Interagency Wetland Policy Act of 1989, being ILCS Ch. 20, Act 830, and its implementing regulations and guidelines to establish minimum compensation ratios under this Code. However, all compensating shall be within the village limits and shall not result in a loss of habitat linkages. Compensation activities can not be performed outside the immediate sub-watershed where the regulated activity will occur. Compensatory activities shall occur within the village, in the same general area and habitat linkage as that of the wetland to be affected by the permitted activity.

(5) The village may also authorize permit applicants, in appropriate circumstances, to compensate for loss of wetland functions by utilizing

wetland mitigation banks. The village may authorize a permit applicant to use a bank if there is no practicable onsite alternatives and using the bank will provide a net benefit in wetland functions and acreage within the village. The village may permit some combination of onsite impact reduction, compensation measures and offsite mitigation banks.

(G) Exemptions.

(1) Except as provided in division (G)(2) below, the following activities are not prohibited by or otherwise subject to regulation under this Act:

(a) Normal farming, silviculture or ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber and forest products and upland soil and water conservation, practices;

(b) Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches and transportation structures;

(c) Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance, but not construction of drainage ditches;

(d) Construction of temporary sedimentation basins on a construction site that does not include any regulated activities within or affecting a wetland; and

(e) Construction or maintenance of farm roads, forest roads or temporary roads for moving mining equipment, where the roads are constructed and maintained in accordance with best management practices to assure that flow and circulation patterns and chemical and biological characteristics of wetlands are not impaired, that the reach of wetlands is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized.

(2) Any regulated activity having as its purpose bringing a wetland into a use to which it was not previously subjected, where the flow or circulation of waters may be impaired, or where the reach of the wetlands shall be reached, shall be required to have a permit.

(H) Administrative **appeals**. Any permit applicant who has been denied a permit in whole or in part, and any person who participated in the permit proceeding and who is aggrieved by a decision of the village to grant a permit in whole or in part, may **appeal** the decision to the Village Board within 30 days of the permit grant or denial.

(I) Penalties: enforcement.

(1) A person who directly or through any employee or agent knowingly violates this Code or any rule established under this Code is guilty of a Class A misdemeanor. Each violation of this Code shall be a separate offense, and in the case of continuing violation, each day's continuance shall be deemed to be a separate and distinct offense.

(2) A person who violates this Code or the rules promulgated under this Code or causes a violation by his or her employee or agent shall be liable for a civil penalty not to exceed \$50,000 for the original violation and an additional civil penalty not to exceed \$10,000 for each day during which any loss of wetland functions caused by the violation continues. The penalty shall be recovered in an action brought by village staff. In determining the appropriate civil penalty to be imposed the court may consider any matters of record concerning mitigating or aggravating factors for determining the penalty, including, but not limited to, the following:

(a) The duration and gravity of the violation;

(b) The presence or absence of due diligence on the part of the violator in attempting to comply with the requirements of this Code and the rules promulgated under this Code or to secure relief as provided by this Code;

(c) Any economic benefits received by the violator from the violation of this Code;

(d) The amount of monetary penalty that will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Code by the violator and other persons similarly subject to this Code; and

(e) The number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.

(3) The village may terminate a permit if the holder violates any conditions of the permit, obtains a permit by misrepresentation or fails to disclose relevant facts.

(4) The village, may, institute a civil action in circuit court for an injunction or other appropriate legal action to restrain a violation of this Code or of any rule adopted under this Code. In the proceeding, the court shall determine whether a violation has been committed or is likely to occur, and shall enter any order it considers necessary to remove the effects of the violation and to prevent the violation from occurring, continuing or being renewed in the future. An order may include a requirement that the violator restore the affected wetland area, including a provision that, if the violator does not comply by restoring the wetland or habitat linkage within a reasonable time, the village may restore the wetland or habitat linkage to its condition prior to the violation and the violator shall be liable to the village for the cost of restoration.

(5) Any penalty assessed pursuant to this Code, including costs of wetland or habitat linkage restoration and any restoration requirements, shall be recorded by the clerk of the court as a lien against the land and shall not be removed until the penalty is paid or the restoration is completed.

(6) All costs, fees and expenses in connection with an enforcement or restoration action shall be assessed as damages against the violator.

(7) All penalties collected by the village under this section shall be deposited into the Village Wetlands Protection and Maintenance Fund.

(8) Enforcement actions under this section may be concurrent or separate.

(J) Village Wetlands Protection and Maintenance Fund. All fees collected by the village pursuant to this Code shall be deposited into the Village Wetlands Protection and Maintenance Fund, which is hereby created as a special fund in the village budget. In addition to any money appropriated from the General Revenue Fund, the Village Board shall appropriate moneys in the Village Wetlands Protection and Maintenance Fund to the Park Fund in amounts deemed necessary to implement this Code and maintain wetlands within the village.

(K) Preemption. Nothing in this Code shall be construed as a limitation or preemption of any statutory or regulatory authority arising under the Environmental Protection Act or ILCS Ch. 55, Act 5, § 5-1062 of the Counties Code.

Non-Development Code Sections:

Section 30.18 Landscape & Streetscape Recommendations

(I) Procedures upon order to prune or remove.

(1) In conjunction with the provisions hereof above, the following procedures shall be used.

(a) When the Village Staff finds it necessary to order the pruning or removal of trees or plants infected with disease or infested with damaging or disease-carrying insects upon private property as provided for herein, he or she shall serve a written order upon the property owner to correct the condition creating danger or hazard to the public or to village vehicles or equipment.

(b) The order required herein shall be served by at least one of the following methods:

1. By personal delivery of the order to the property owner of record;
2. By mailing a copy of the order to the address of the owner of the property based on the most recent address on file in the office of the St. Clair County Assessor;
3. If the property owner cannot be located for service by the means specified in divisions (I)(1)(b)1. and 2. above, then a copy of the order shall be published twice not less than 15 days between publications in a local newspaper of general circulation.

(2) The order required herein shall set forth a time limit not earlier than seven days from the date of the order for compliance. In cases of extreme danger to persons or public property, the Village Staff upon finding a hazardous condition, shall have the authority to require forthwith compliance immediately upon service of the order.

(a) The property owner to whom an order thereunder is directed shall have the right within seven days of the service of the order, to **appeal** to the Village Board. The **appeal** shall be filed with the Village Clerk. The Village Board shall review the order and the property owner's reason for **appeal** not later than their next regularly scheduled meeting so long as the meeting is not sooner than seven days following receipt of the **appeal** by the Village Clerk. Unless the order is revoked or modified it shall remain in full force and be obeyed by the property owner to whom directed. No property owner to whom an order is directed shall fail to comply with such order within ten days after an **appeal** shall have been determined and a copy thereof served on the responsible person or party. Any persons or parties jointly or severally aggrieved by any decision of the Village Board under this section may seek a review of the decision by the Circuit Court of St. Clair County.

(b) When a property owner to whom an order is directed shall fail to comply within the specified period of time, the Village Staff shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person or party.

(c) When, in the opinion of Village Staff, there is an actual and imminent danger from a damaged or diseased tree which would endanger life; or when any tree, or any part thereof, has fallen and life is endangered, the Village Staff is authorized and empowered to take whatever action as may be necessary to render the tree or part thereof temporarily safe, whether or not the notice procedure as previously described in this section has been instituted.

(d) The costs incurred in the performance of any procedure required as a result of conditions as outlined in divisions (G) and (H) above shall be billed to the owner of the real property where the work is performed. If such bill is not paid within 30 days after forwarding a statement therefore by the Village Staff, the costs shall be levied against the property upon which the work was performed as a special assessment. The levying of the assessment herein shall not affect the liability of the persons or parties where the work was performed. The special assessment shall be collected in the same manner as other taxes or unpaid village bills by placement of a lien on the property.

(J) Interference. It shall be unlawful to delay or in any manner or interfere with Village Staff in planting, pruning, spraying or removing any tree, shrub, vine or flowering plant in any public street, boulevard, alley, park or other public place, or in the removal of any stone, cement or other material from about the trunk thereof; to interfere with or delay the Village Staff in the removal of dangerous or diseased trees on private property; or to interfere with the Village Staff in the discharge of duties provided for in this subchapter.

(K) Penalties. Any person who violates any provision of this section of this Code or who fails to comply with any notice issued pursuant to the provision of this chapter upon being found guilty of violation, shall be subject to a fine in accordance with Chapter 34 of the Codified Ordinance Book. Each day during which any violation of the provisions of this section shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this section, the injury, mutilation or death of a tree, shrub or other plant located on village-owned property is caused, the cost of repair or replacement of the tree, shrub or other plant shall be borne by the persons or parties in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture.

Section Taxation - Revenue

§ 33.28 APPEAL.

(A) The Local Tax Administrator shall send written notice to a taxpayer upon the Local Tax Administrator's issuance of a protestable notice of tax due, a bill, a claim denial or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) The reason for the assessment;
- (2) The amount of the tax liability proposed;
- (3) The procedure for appealing the assessment; and
- (4) The obligations of the village during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the Local Tax Administrator of a determination of tax due or assessment may file with the Local Tax Administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the Local Tax Administrator within 45 days of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the Local Tax Administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within 14 days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the 45-day period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the Local Tax Administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than 90 days after the expiration of the 45-day period. (Ord. 876, passed 1-2-2001)

§ 33.29 HEARING.

(A) (1) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under section nine, above, the Local Tax Administrator shall conduct a hearing regarding any appeal.

(2) The taxpayer may request that a hearing officer conduct the hearing rather than the Local Tax Administrator.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer.

Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed 14 days.

(C) (1) At the hearing, the Local Tax Administrator/hearing officer shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment.

(2) The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) (1) At the conclusion of the hearing, the Local Tax Administrator/hearing officer shall make a written determination on the basis of the evidence presented at the hearing.

(2) The taxpayer or tax collector shall be provided with a copy of the written decision.

(Ord. 876, passed 1-2-2001)

§ 33.30 INTEREST AND PENALTIES.

In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(A) Interest. The village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be 1% per month, or portion thereof.

(B) Late filing penalties. If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of 5% of the amount of tax for each month the return is late up to a maximum of 25% of the net tax amount shall be added.

(Ord. 876, passed 1-2-2001)

§ 33.31 ABATEMENT.

The Local Tax Administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the Local Tax Administrator shall determine reasonable cause exists for delay or failure to make a filing.

(Ord. 876, passed 1-2-2001)

§ 33.34 VOLUNTARY DISCLOSURE.

For all locally-imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation or assessment from the Local Tax Administrator, a taxpayer is entitled to file an application with the Local Tax Administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of 1% per month, for all periods prior to the filing of the application but not more than four years before the date of filing the

application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than 90 days after the filing of the voluntary disclosure application or the date agreed to by the Local Tax Administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this section must be paid within 90 days after a final determination and the exhaustion of all **appeals** of the additional amount owed or the date agreed to by the Local Tax Administrator, whichever is longer.

(Ord. 876, passed 1-2-2001)

Nuisance Section:

§ 90.02 ABATEMENT; NOTICE REQUIRED.

(A) General. Whenever the village staff finds that a nuisance or other condition listed in this chapter exists, he or she shall cause to be served upon the property owner or occupant a written notice to abate the nuisance within five days after such notice has been duly served.

(B) Contents of notice to abate. The notice to abate shall contain:

- (1) A description of what constitutes the nuisance or other condition;
- (2) The location of the nuisance or condition;
- (3) A notice that the nuisance must be abated within five days after service of the notice; and
- (4) A statement that if the nuisance or condition is not abated as directed and no request for a hearing is made before expiration of the five days after notice has been served on a person, the village will abate it and assess the costs against the person.

(C) Abatement; hearing; **appeal**. Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to village staff, #1 Park Drive, Shiloh, Illinois, within the time stated in the notice or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

(Ord. 2015-11-02A, passed 11-2-2015)

Business – Liquor License Section

§ 110.11 LICENSE REVOCATION.

(A) Village staff may revoke or suspend any license issued under the provisions of this chapter; provided, the Commissioner determines that the licensee violated any provisions of this chapter, the Dram Shop Act of the state, any other valid ordinance of the village or any applicable regulation established by village staff, consistent with the law. However, village staff shall issue a three-day notice to the licensee before acting to suspend or revoke the license. This gives the licensee an opportunity to appear and defend himself, herself or themselves.

(B) If village staff has reason to believe that continued operation of a premises serving or selling alcoholic liquor immediately threatens the welfare of the community, village staff may issue a written order stating the reason for the action, and without notice or hearing, order the licensee's premises closed for not more than seven days. The licensee has an opportunity to be heard during that period. Exception: This will not affect a licensee also engaged in operating another business or businesses on the same premises. The order shall not be applicable to the other business. Village staff shall, within five days after the hearing, if determined that the license should be revoked or suspended, state the reason or reasons for the action in a written order to revoke or suspend and shall serve a copy of the order within the five days upon the licensee. The licensee may **appeal** the decision to village staff's order in accordance with state statutes.

(C) The following conditions are examples of situations which can result in suspension or revocation of a liquor license. This list is representative and in no way provides a comprehensive listing.

(1) Gambling. It is unlawful to keep, place, maintain or operate any gambling device or instrument in and upon premises used to serve, consume, sell or give away alcoholic liquor except in accordance with Chapter 112 of the Village Code. However, this section does not apply to bingos, lotteries or other gambling-like events; or devices licensed by the village and/or the state.

(2) Disorderly house. No person licensed under this chapter shall allow any disorderly or riotous conduct, such as drunkenness, quarreling or fighting, excessive noise or gambling in any house or premises kept or used for the sale of alcoholic liquor.

(3) Sanitary conditions. It is unlawful for a person licensed under this chapter to maintain the premises in an unsanitary condition. The keeper of the premises shall maintain both the interior and exterior in a wholesome and sanitary condition. This includes keeping all toilets clean and free of odors, toilet fixtures operational and providing toilet supplies. Outside sidewalks, streets, alleys, gutters and drains next to the premises shall be free from all rubbish or other like matter, materials or waste.

(Am. Ord. 2012-07-02C, passed 7-7-2012)

§ 111.05 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the Clerk after notice and hearing, pursuant to the standards in

§ 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. This notice shall be mailed to the licensee at his or her last known address, at least ten days prior to the date set for the hearing.

§ 111.06 STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the license application;
- (B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license;
- (C) Any violation of this chapter;
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

Solicitors Section

§ 111.04 STANDARDS FOR ISSUANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(B) The application shall be approved unless the investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant has committed the following will constitute valid reasons for disapproval of an application:

- (1) Has been convicted of a crime of moral turpitude;
- (2) Has made willful misstatements in the application;

(3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like;

(4) Has committed prior fraudulent acts; or

(5) Has a record of continual breaches of solicited contracts.

§ 111.05 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the Clerk after notice and hearing, pursuant to the standards in

§ 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. This notice shall be mailed to the licensee at his or her last known address, at least ten days prior to the date set for the hearing.

§ 111.06 STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

(A) Any fraud or misrepresentation contained in the license application;

(B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license;

(C) Any violation of this chapter;

(D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or

(E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

§ 111.07 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 shall have the right to appeal to the Board of Trustees. The appeal shall be taken by filing with the Board of Trustees, within 14 days after notice of the decision has been mailed to the person's last known address, a written statement setting forth the grounds for appeal. The Board of Trustees shall set the time and place for a hearing, and notice for the hearing shall be given to the person in the same manner as provided in § 111.05.

(B) The order of the Board of Trustees after the hearing shall be final.