

CODE OF ORDINANCES

VILLAGE OF NEW MILFORD, ILLINOIS

09.13.2021

**CODE OF ORDINANCES
VILLAGE OF NEW MILFORD**

TABLE OF CONTENTS

CHAPTER 1. GENERAL PROVISIONS

Sec. 1-1.	How Code Designated and Cited
Sec. 1-2.	Rules of Construction and Definitions
Sec. 1-3.	Catchlines of Sections
Sec. 1-4.	Amendments to Code
Sec. 1-5.	Unauthorized Alteration or Tampering with Code
Sec. 1-6.	Effect of Repeal of Ordinances
Sec. 1-7.	Severability of Parts of Code
Sec. 1-8.	General Penalty for Violation of Code: Continuing Violations

CHAPTER 2. ADMINISTRATION

Article I.

In General

Sec. 2-1.	Seal Adopted
Sec. 2-2.	Fiscal Year
Sec. 2-3.	Election Procedure; Time
Sec. 2-4.	Elected Officers/Excused Meetings
Sec. 2-5. through Sec. 2-15.	Reserved

Article II.

Officers and Employees Generally

Sec. 2-16.	Policy Prohibiting Sexual Harassment
Sec. 2-17. through Sec. 2-40.	Reserved

Article III.

President and Board of Trustees

Division 1. Generally

Sec. 2-41.	President-Compensation
Sec. 2-42.	President-Expense Reimbursement
Sec. 2-43. through Sec. 2-51.	Reserved

Division 2. Board of Trustees

- Sec. 2-52. Trustee-Compensation
- Sec. 2-53. Committees
- Sec. 2-54. through Sec. 2-59. Reserved

Division 3. Meetings

- Sec. 2-60. Time and Place of Regular Meetings
- Sec. 2-61. Roberts Rules of Order Applicable
- Sec. 2-62. Rules of Procedure
- Sec. 2-63. through Sec. 2-78. Reserved

Division 4. Publication Reimbursement

- Sec. 2-79. Zoning Notice Reimbursement

***Article IV.
Village Clerk***

- Sec. 2-80. Village Clerk Appointment
- Sec. 2-81. Village Clerk/Compensation/Benefits
- Sec. 2-82. Education/Experience/Bond/Oath/Office Hours
- Sec. 2-83. Duties
- Sec. 2-84. Removal From Office
- Sec. 2-85. Deputy Clerk
- Sec. 2-86. Filling Vacancy in Office

***Article V.
Ethics Act***

- Sec. 2-87. State Officials and Employees Ethics Act
- Sec. 2-88. through Sec. 2-99. Reserved

***Article VI.
Zoning Board of Appeals***

- Sec. 2-100. Reserved
- Sec. 2-101. Reserved

***Article VII.
Freedom of Information Act***

- Sec. 2-110. Adoption
- Sec. 2-111. Copying Costs
- Sec. 2-112. Officer Designation
- Sec. 2-113. Exemptions

CHAPTER 3. ADVERTISING

Article I.

General Provisions

- Sec. 3-1. Advertising unlawful businesses and articles
- Sec. 3-2. Posting bills
- Sec. 3-3 through 3-29. Reserved

Article II.

Billboards

- Sec. 3-30. Definitions of Billboards
- Sec. 3-31. Intent of Article
- Sec. 3-32. Definitions
- Sec. 3-33. Standards and criteria for review
- Sec. 3-34. Sign permit and certificate of appropriateness
- Sec. 3-35. Certificate of appropriateness
- Sec. 3-36. Exemptions from article regulations
- Sec. 3-37. Prohibited signs
- Sec. 3-38. Temporary signs
- Sec. 3-39. Signs on residential properties
- Sec. 3-40. Signs of religious, charitable, educational and other specified organizations
- Sec. 3-41. Commercial signs
- Sec. 3-42. Safety and maintenance
- Sec. 3-43. Review of existing permanent signs
- Sec. 3-44. Unlawful display deemed nuisance
- Sec. 3-45. Enforcement, penalties and revocation of permit
- Sec. 3-46. Failure to complete work
- Sec. 3-47. Violation of article regulations
- Sec. 3-48. Appeals
- Sec. 3-49. Variations
- Sec. 3-50. Liability for damages
- Sec. 3-51. Reimbursement for expenses
- Sec. 3-52. Maintenance
- Sec. 3-53. Removal of signs by the designated Village official
- Sec. 3-54 through Sec. 3-99. Reserved

Article III.

Electronic Message Signs

- Sec. 3-100. Definitions
- Sec. 3-101. Regulations
- Sec. 3-102. Violation; fine

Sec. 3-103. Application

CHAPTER 4. ALCOHOLIC BEVERAGES

Article I.

General

Sec. 4-1. Definitions

Article II.

Retail License

Sec. 4.2. Required; Sales in Violation of Terms of License

Sec. 4.3. Application; Contents; False Statements in Application

Sec. 4.4. Persons Not Entitled to License

Sec. 4.5. Classification of Licenses; Scope; Fees

Sec. 4.6. Restriction on Serving Hours of Alcoholic Beverages

Sec. 4.7. Payment of Annual Liquor License Fee

Sec. 4.8. Issuance of License

Sec. 4.9. Disposition of Fees

Sec. 4.10. License Term; Prorating Fees

Sec. 4.11. Record of Licenses Required

Sec. 4.12. Alcoholic Beverage Dispensing - Location

Sec. 4.13. Personal Nature of License; Transferability

Sec. 4.14. Renewal of License

Sec. 4.15. Enforcement and Penalties; Notice and Hearing

Sec. 4-16. Basset Program

Sec. 4-17. Duty to Employ a Security Officer

Sec. 4-18a. Patrons on Premises After Closing Hours

Sec. 4-18b. Inspections of Premises

Sec. 4-19. Disorderly or Illegal Conduct on the Premises;
Duty to Report

Sec. 4-20. through Sec. 4-50. Reserved

Sec. 4-51. Employment of Minors

CHAPTER 5. AMUSEMENTS

Reserved

CHAPTER 6. ANIMALS

Sec. 6-1. Definitions

Sec. 6-2. Dog Running at Large - Generally

Sec. 6-3. Stables, Pens, Sties, and Hutches

- Sec. 6-4. Cruelty to Animals
- Sec. 6-5. Killing Prohibited
- Sec. 6-6. Removal of Dead Animals
- Sec. 6-7. through Sec. 6-15. Reserved

- Sec. 6-16. License and Fee Required
- Sec. 6-17. Collar and Badges Required to be Worn by Animals
- Sec. 6-18. Redemption Fee - Unredeemed Dogs
- Sec. 6-19. Number of Dogs - Limitation
- Sec. 6-20. through Sec. 6-30. Reserved

- Sec. 6-31. Kennels for Breeding and Boarding Prohibited
- Sec. 6-32. through Sec. 6-40. Reserved

- Sec. 6-41. Catteries - Confining Animals to Limits' of Premises
- Sec. 6-42. Catteries - Sanitation Requirements
- Sec. 6-43. Catteries - Inspection
- Sec. 6-44. through Sec. 6-50. Reserved

- Sec. 6-51. Pet and/or Animal Dealers - Confining Pets and/or Animals to Limits of Premises
- Sec. 6-52. Pet and/or Animal Dealers -Sanitation Requirements
- Sec. 6-53. Pet and/or Animal Dealers - Inspection
- Sec. 6-54. through Sec. 6-60. Reserved

- Sec. 6-61. Veterinary Hospital - Sanitation Requirements
- Sec. 6-62. Veterinary Hospital - Inspection
- Sec. 6-63. through Sec. 6-70. Reserved

- Sec. 6-71. License
- Sec. 6-72. License and Fees
- Sec. 6-73. Restrictions on License
- Sec. 6-74. through Sec.6-90. Reserved

- Sec. 6-91. Winnebago County Health Department Animal Control Division
- Sec. 6-92. Penalty

CHAPTER 7. BUILDING AND BUILDING REGULATIONS

- Sec. 7-1. Building Codes.

CHAPTER 8. FIRE PREVENTION AND PROTECTION

Reserved

CHAPTER 9. GARBAGE AND REFUSE

- Sec. 9-1. Dumpsters, Rules and Regulations.
- Sec. 9-2. Garbage, Debris, Etc./Public Nuisance.

CHAPTER 10. HEALTH

- Sec. 10-1. Open, Outdoor Burning Not Permitted
- Sec. 10-2. Garbage and Refuse
- Sec. 10-3. Penalty
- Sec. 10-10. Firewood Storage

CHAPTER 11. LICENSES

Article I. Licenses

- Sec. 11-1. Definitions
- Sec. 11-2. License Required
- Sec. 11-3. Application for License
- Sec. 11-4. Restrictions on Number of License
- Sec. 11-5. Restrictions on License
- Sec. 11-6. Record of License
- Sec. 11-7. Fee for License
- Sec. 11-8. Payment of Fees
- Sec. 11-9. Revocation and Forfeiture
- Sec. 11-10. Expiration of License
- Sec. 11-11. Transfer of License
- Sec. 11-12. Minors
- Sec. 11-13. Penalty
- Sec. 11-14. through Sec.11-24. Reserved

Article II. Raffles

Division 1. General

- Sec. 11-25. Title
- Sec. 11-26. Purpose of Article
- Sec. 11-27. Definitions

Division 2. License and Classifications

- Sec. 11-28. License Required
- Sec. 11-29. Classification of Licenses

Division 3. Qualifications and Applications

- Sec. 11-30. Qualifications of Applicant
- Sec. 11-31. Application; Contents for Class A, B and C Licenses
- Sec. 11-32. Application for Class D and E Licenses

Division 4. Operation and Conduct

- Sec. 11-33. Operation and Conduct
- Sec. 11-34. Manager, Fidelity Bond
- Sec. 11-35. Record Keeping of Gross Receipts; Expenses; Net Proceeds

Division 5. Issuance and Enforcement

- Sec. 11-36. Issuance
- Sec. 11-37. Enforcement of Article

Article III.

***Branding, Body Carving, Body Piercing and Tattooing
Division 1. Regulations***

- Sec. 11-50. Definitions
- Sec. 11-51. License
- Sec. 11-52. Filing/Fee Provision
- Sec. 11-53. Application/Tattoo Establishment
- Sec. 11-54. Corporate Applicant/Exemption
- Sec. 11-55. Tattoo Artist License
- Sec. 11-56. Application form Tattoo Artist
- Sec. 11-57. Zoning Required
- Sec. 11-58. Required Inspections
- Sec. 11-59. Health and Sanitary Requirements
- Sec. 11-60. Verification of Application
- Sec. 11-61. Issuance of Tattoo Establishments License
- Sec. 11-62. Issuance of Tattoo Artist License
- Sec. 11-63. Operator to Maintain Register of Employees
- Sec. 11-64. Revocation or Suspension of Tattoo Establishment License
- Sec. 11-65. Revocation or Suspension of Tattoo Artist
- Sec. 11-66. Employment under Eighteen (18) Prohibited
- Sec. 11-67. Sale or Transfer
- Sec. 11-68. Name and Place of Business/Change of Location
- Sec. 11-69. Display of License
- Sec. 11-70. Inspection
- Sec. 11-71. Tattoo Establishment License Fees
- Sec. 11-72. Tattoo Artist License Fees

- Sec. 11-73. Employment Tattoo Artist
- Sec. 11-74. Exceptions
- Sec. 11-75. Violation/Penalty
- Sec. 11-76. Severability
- Sec. 11-77. Through Sec. 11-89. Reserved

**ARTICLE IV.
VIDEO GAMING TERMINALS**

- Sec. 11-90. Definitions
- Sec. 11-91. License Required
- Sec. 11-92. Issuance
- Sec. 11-93. License Fee
- Sec. 11-94. Display
- Sec. 11-95. Replacement Stamps
- Sec. 11-96. Placement of Video Gaming Terminals
- Sec. 11-97. Violations, Penalties and Suspension/Revocation.

CHAPTER 12. MISCELLANEOUS OFFENSES AND PROVISIONS

- Sec. 12-1. Disorderly Conduct
- Sec. 12-2. Penalty
- Sec. 12-3. Curfew
- Sec. 12-4. Parental Responsibility
- Sec. 12-5. Penalty
- Sec. 12-6. Noise
- Sec. 12-7. Possession or Sale of Drug Paraphernalia Unlawful
- Sec. 12-8.through Sec. 12-24. Reserved

- Sec. 12-25. Sexually-Oriented Businesses

CHAPTER 13. MOBILE HOMES AND MOBILE HOME PARKS

Reserved

CHAPTER 14. MOTOR VEHICLES AND TRAFFIC

Article I.

Inoperable Motor Vehicles

- Sec. 14-1. Definitions
- Sec. 14-2. Public Nuisance Declared
- Sec. 14.3. Repairs/Time Limit
- Sec. 14-4. Exception
- Sec. 14-5. Penalty
- Sec. 14-6. Enforcement
- Sec. 14-7. Removal, After Notice

Sec. 14-8. through Sec.14-20. Reserved

Article II.
Driving Licenses, Permits, and Registrations

Sec. 14-21. License or Permit Required
Sec. 14-22. Unlawful Use of License or Permit
Sec. 14-23. No Valid Registration
Sec. 14-24. Operation of Vehicle When Registration Cancelled,
Suspended or Revoked
Sec. 14-25. through Sec. 14-35. Reserved

Article III.
Traffic Signs, Signals, and Markings

Sec. 14-36. Obeying of Traffic Control Devices
Sec. 14-37. Authority for Traffic Signals
Sec. 14-38. Interference with Official Traffic Control
Devices
Sec. 14-39. Unlawful Use or Damage to Highways, Appurtenances
and Structures
Sec. 14-40. Unlawful Possession of Highway Sign or Marker
Sec. 14-41. Obstruction Traffic
Sec. 14-42. through Sec. 14-50. Reserved

Article IV.
Speed Restrictions

Sec. 14-51. Speed Limits
Sec. 14-52. Speed Limits (Cherokee Hills Subdivision)
Sec. 14-53. through Sec. 14-55. Reserved

Article V.
Transportation of Alcoholic Liquor

Sec. 14-56. Transportation of Alcoholic Liquor
Sec. 14-57. through Sec. 14-60. Reserved

Article VI.
Rules of the Road

Sec. 14-61. Obstruction of Traffic
Sec. 14-62. Stop Street
Sec. 14-63. Vehicles Approaching or Entering Intersection
Sec. 14-64. Mufflers, Prevention of Noise
Sec. 14-65. Reckless Driving

- Sec. 14-66. Drag Racing
- Sec. 14-67. Drive on Right Side of Roadway
- Sec. 14-68. Passing Vehicles Proceeding in Opposite Directions
- Sec. 14-69. Overtaking a Vehicle on the Left
- Sec. 14-70. Limitations on Overtaking on the Left
- Sec. 14-71. Following Too Closely
- Sec. 14-72. Required Position and Method of Turning at Intersections
- Sec. 14-73. Limitations on U-Turns
- Sec. 14-74. Starting a Parked Vehicle
- Sec. 14-75. When Signal Required
- Sec. 14-76. Signal by Hand or Arm or Signal Device
- Sec. 14-77. Method of Giving Hand and Arm Signals
- Sec. 14-78. Right-of-Way Rules
- Sec. 14-79. Vehicle Entering Highway From Private Road or Driveway
- Sec. 14-80. Emerging from Alley, Building, Private Road or Driveway
- Sec. 14-81. When Lighted Lamps are Required
- Sec. 14-82. Driving Upon Sidewalks
- Sec. 14-83. Negligent Driving
- Sec. 14-84. Truck Traffic Restrictions
- Sec. 14-85. Regulation of Off-Road Tracks
- Sec. 14-86. through Sec. 14-110. Reserved

**Article VII.
Equipment**

- Sec. 14-111. Definitions
- Sec. 14-112. Regulations
- Sec. 14-113. Bumper Requirements
- Sec. 14-114. Penalty
- Sec. 14-115. Lights
- Sec. 14-116. Brakes
- Sec. 14-117. Tires
- Sec. 14-118. Persons Required to Wear Safety Belts
- Sec. 14-119. Penalty
- Sec. 14-120. Squealing Tires
- Sec. 14-121. through Sec. 14-125. Reserved

**Article VIII.
Snow Removal - Emergencies**

- Sec. 14-126. Depth of Snow
- Sec. 14-127. Unlawful for any Person to Stop, Stand or Park any Vehicle on Street

- Sec. 14-128. Compliance
- Sec. 14-129. Penalty
- Sec. 14-130. Authorization of Village Police Officer
- Sec. 14-131. through Sec. 14-135. Reserved

Article IX.
Standing, Stopping and Parking

- Sec. 14-136. No Parking Areas
- Sec. 14-137. Areas Posted "No Parking" in the Village
- Sec. 14-138. Prohibited Places of Parking
- Sec. 14-139. No Parking Signs/Parking This Side Only Signs
- Sec. 14-140. Parking Instructions on Roadway
- Sec. 14-141. Penalty
- Sec. 14-142. Limitation on Parking of Trucks in Residential Areas
- Sec. 14-143 through Sec. 14-173. Reserved
- Sec. 14-174. Restricted Roadways
- Sec. 14-175. Weight of Vehicles Limited Because of Deterioration Due to Climatic Conditions; Signs
- Sec. 14-176. Penalties
- Sec. 14-177. Prohibition of the Operation of Snowmobiles on Municipally Owned Property
- Sec. 14-178. Handicap Parking Areas
- Sec. 14-179. through Sec. 14-199. Reserved

Article X.
***Snowmobile Ordinances, Snowmobiles,
Snowmobile Regulations***

- Sec. 14-200. Rules and Regulations

Article XI.
***Operation of Off-Highway Vehicles Prohibited
Adjacent to Residences***

- Sec. 14-201. Off-Highway Vehicles
- Sec. 14-202. through Sec. 14-249. Reserved

ARTICLE XII.
***PARKING AND STORAGE OF VEHICLES, RECREATIONAL VEHICLES AND
TRAILERS IN RESIDENTIAL DISTRICTS***

- Sec. 14-250. Definitions
- Sec. 14-251. Regulations
- Sec. 14-252. Penalties

CHAPTER 15. POLICE

Reserved

CHAPTER 16. SEWERS

Reserved

CHAPTER 17. STREETS AND SIDEWALKS

- Sec. 17-1. Prohibition on Removal of Snow and Ice from Private Property to Public Property
- Sec. 17-2. Permit Required
- Sec. 17-3. Application for permit
- Sec. 17-4. Specifications
- Sec. 17-5. Thickness, material and grade
- Sec. 17-6. Driveway widths
- Sec. 17-7. Driveway culverts
- Sec. 17-8. Curb cuts
- Sec. 17-9. Maintenance
- Sec. 17-10 through Sec. 17-40. Reserved

CHAPTER 18. SUBDIVISIONS

- Sec. 18-1. Definitions
- Sec. 18-2. Interpretation, Purpose and Effect of Regulation
- Sec. 18-3. Office of Plat Officer Created: Powers and Duties
- Sec. 18-4. Board of Trustees Review
- Sec. 18-5. Approval Prior to Recording
- Sec. 18-6. Variations
- Sec. 18-7. Prohibition of Subdivision
- Sec. 18-8. Exemptions
- Sec. 18-9. Vacation of Recorded Plats or Parts of Recorded Plats
- Sec. 18-10. Procedure
- Sec. 18-11. Required Improvements
- Sec. 18-12. Technical Requirements
- Sec. 18-13. Enforcement of Regulation
- Sec. 18-14. Penalties
- Sec. 18-15. Taxes and Special Assessments to be Paid Prior to Vacating Subdivision

CHAPTER 19. TAXATION

**Article I
Retailers' Occupation Tax**

- Sec. 19-1. Retail Sales Tax Rate
- Sec. 19-2. State Department of Revenue Report
- Sec. 19-3. Tax Payment to the State Department of Revenue
- Sec. 19-4. through Sec. 19-9. Reserved

**Article II.
Municipal Utility Tax**

- Sec. 19-10. Municipal Utility Tax
- Sec. 19-11. through Sec. 19-19. Reserved

- Sec. 19-20. Definitions
- Sec. 19-21. Simplified Municipal Telecommunications Tax
Imposed
- Sec. 19-22. Collection of Tax by Retailers
- Sec. 19-23. Returns to Department
- Sec. 19-24. Resellers
- Sec. 19-25. Severability
- Sec. 19-26. Effective Date

**Article III.
Municipal Cannabis Retailers' Occupation Tax**

- Sec. 19-27. Tax Imposed; Rate
- Sec. 19-28. Collection of Tax by Retailers

**Article IV.
Service Occupation Tax
Reserved**

**Article V.
RESERVED**

CHAPTER 20. VEGETATION

- Sec. 20-1. Certain Weeds Declared a Nuisance and Prohibited
- Sec. 20-2. Height Limitation for Certain Plants and Weeds;
Those Exceeding Limitation Declared a Nuisance

- Sec. 20-3. Notice to Abate
- Sec. 20-4. Abatement by Village; Costs

CHAPTER 21. Zoning

***Article I.
General Provisions***

- Sec. 21-1. Title
- Sec. 21-2. Purpose of Chapter
- Sec. 21-3. Definitions-Clarity of Interpretation
- Sec. 21-4. Definition-Enumeration
- Sec. 21-5. Interpretation of Chapter
- Sec. 21-6. Scope of Regulations
- Sec. 21-7. Use and Bulk Regulations
- Sec. 21-8. Lot Coverage
- Sec. 21-9. Lot Area and Dimension
- Sec. 21-10. Number of Dwellings on a Zoning Lot
- Sec. 21-11. Accessory Buildings
- Sec. 21-12. Existing Special Uses
- Sec. 21-13. Establish Building Setback Line
- Sec. 21-14. Accessory Buildings-Number Limitation

***Article II.
Nonconforming Uses and Structures***

- Sec. 21-15. Continuance of Use
- Sec. 21-16. Discontinuance of Use
- Sec. 21-17. Change or Conversion of Nonconforming Use
- Sec. 21-18. Terminations and Removal of Nonconforming Uses and Structures in Residential Districts
- Sec. 21-19. Repairs and Alterations
- Sec. 21-20. Damage and Destruction
- Sec. 21-21. Additions and Enlargements
- Sec. 21-22. Reserved

***Article III.
Zoning Districts Generally***

- Sec. 21-23. Enumeration
- Sec. 21-24. Zoning Maps
- Sec. 21-25. District Boundaries
- Sec. 21-26. Zoning of Streets, Alleys, Public Ways, Waterways and Right-of-Ways

Article IV.
Home Occupations

Sec. 21-27. Required Conditions

Article V.
Agricultural Districts

Sec. 21-28. AG Agricultural District
Sec. 21-29. RA Rural Agricultural District

Article VI.
Residential Districts

Sec. 21-30. General Purposes - RR, R1, and R2 Residential Districts
Sec. 21-31. R3 and R4 Residential Districts
Sec. 21-32. Reserved
Sec. 21-33. Off Street Parking Requirement in All Residential Districts
Sec. 21-34. RR Rural Residential District
Sec. 21-35. R1 One-Family Residential District
Sec. 21-36. R2 Two-Family Residential District
Sec. 21-37. R3 Multiple-Family Residential District
Sec. 21-38. R4 Multiple-Family Residential District
Sec. 21-39. Schedule of Special Uses in Residential Districts

Article VII.
Commercial Districts

Sec. 21-40. General Purposes
Sec. 21-41. Special Purposes
Sec. 21-42. CN Commercial Neighborhood District
Sec. 21-43. CC Commercial Community District, Includes Sub-Regional Shopping Centers
Sec. 21-44. CG Commercial General District

Article VIII.
Office District

Sec. 21-45. Reserved

Article IX.
Industrial Districts

Sec. 21-46. IL Industrial District

- Sec. 21-47. IG Industrial District
- Sec. 21-48. IH Heavy Industrial District

**Article X.
Parks (PK)**

- Sec. 21-49. Parks
- Sec. 21-50. through Sec. 21-54. Reserved

**Article XI.
Administrative**

- Sec. 21-55. Zoning Office
- Sec. 21-56. Zoning Board of Appeals
- Sec. 21-57. Appeals
- Sec. 21-58. Special Uses
- Sec. 21-59. Variations
- Sec. 21-60. Amendments to Chapter
- Sec. 21-61. Enforcement
- Sec. 21-62. through Sec. 21-76. Reserved

**Article XII.
Overlay Districts**

Division I. Baxter Road Commercial Overlay District

- Sec. 21-77. Purpose
- Sec. 21-78. Boundaries
- Sec. 21-79. Use Regulations
- Sec. 21-80. Site Development Standards

CHAPTER 22. Water

**Article I.
Water**

Definitions

**Article II.
Intent and Purpose**

- Sec. A. Provisions of Article II
- Sec. B. Scope
- Sec. C. Water Bills
- Sec. D. Computation of Time

Article III.
Water Service Connections

- Sec. 1. Application for Service
- Sec. 2. Application Fees, Mater Deposits and Connection Fees
- Sec. 3. Connection to the Water Main

Article IV.
Connection Inside and Outside Village Limits

- Sec. 1. Connections Inside Village Limits
- Sec. 2. Connections Outside Village Limits

Article V.
Disconnection of Water Service Lines and Demolitions

Article VI.
Water Meters

Article VII.
Protection of Water Department Property

Article VIII.
Access to Premises

Article IX.
Discontinuing of Service for Repairs

Article X.
Notice to Plumbers and Excavators

Article XI.
Water Main Extensions and Subdivisions

Article XII.
Replacing or Repairing Water Service Liens

- Sec. 1. Leak or Break
- Sec. 2. Costs

Article XIII.
Street Improvements

Article XIV.
Fire Hydrants

*Article XV.
Cross-Connections*

*Article XVI.
Private Wells*

*Article XVII.
Water Department Employees*

*Article XVIII.
Sprinkling Lawns or Water Banks*

*Article XIX.
Water Service Rates*

*Article XX.
Billing*

- Sec. 1. Billing Procedure
- Sec. 2. Delinquency Procedure
- Sec. 3. Person Responsible for Payment
- Sec. 4. Lien Notice of Delinquency
- Sec. 5. Revenues and Accounts

*Article XXI.
Customer Billing and/or Violation Appeals Procedure*

*Article XXII.
Termination of the Water Services*

- Sec. 1. Requested Turn Off/On or Disconnect/Re-Connect
- Sec. 2. Termination Due to Delinquency or Violation of this Article
- Sec. 3. Limitations on Termination of Water Service
- Sec. 4. Reinstatement of Water Services

**CHAPTER 23. REGULATIONS TO MINIMIZE FLOODING
AND FLOOD DAMAGE TO PROPERTY**

- Sec. 23-1. Purpose
- Sec. 23-2. Definitions
- Sec. 23-3. Base Flood Elevation
- Sec. 23-4. Duties of the Village Engineer
- Sec. 23-5. Development Permit

- Sec. 23-6. Preventing Increased Flood Heights and Resulting Damages
- Sec. 23-7. Protecting Buildings
- Sec. 23-8. Subdivision Requirements
- Sec. 23-9. Public Health and Other Standards
- Sec. 23-10. Carrying Capacity and Notification
- Sec. 23-11. Variances
- Sec. 23-12. Disclaimer of Liability
- Sec. 23-13. Penalty
- Sec. 23-14. Abrogation and Greater Restrictions

CHAPTER 23. LAND USE REGULATIONS

Article I

Soil Erosion and Sediment Control

- Sec. 23-100. Definitions
- Sec. 23-200 General Principals
- Sec. 23-300 Site Development Permit
- Sec. 23-400 Design and Operation Standards and Requirements
- Sec. 23-500 Enforcement

CHAPTER 24 PARKS AND RECREATION

Article I

General Provision

- Sec. 24-1. Hours Established
- Sec. 24-2 Rental of Village Park Pavilion at "Upper Village Park"
- Sec. 24-3 Cleaning/Damage Deposit
- Sec. 24-4 Alcohol and Excessive Noise Prohibited
- Sec. 24-5 Use of Barbecue Grills
- Sec. 24-6 Indemnification and Hold Harmless

CHAPTER 25 SMALL WIRELESS FACILITIES

Article I

General Provision

- Sec. 25-1. Purpose and Scope
- Sec. 25-2. Definitions
- Sec. 25-3. Regulation of Small Wireless Facilities
- Sec. 25-4. Dispute Resolution
- Sec. 25-5. Indemnification
- Sec. 25-6. Insurance

CODE OF ORDINANCES

CHAPTER 1

GENERAL PROVISIONS

Sec. 1-1. HOW CODE DESIGNATED AND CITED.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Village of New Millford, Illinois," and may be so cited.

Sec. 1-2. RULES OF CONSTRUCTION AND DEFINITIONS.

In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the board of trustees. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter of the context of such section may be repugnant thereto.

GENERALLY. All general provision, terms, phrases and expressions contained in this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

BOARD, BOARD OF TRUSTEES, VILLAGE BOARD. Whenever the term "board," "board of trustees" or "village board" is used, it shall be construed to mean the board of trustees for the Village of New Millford.

COMPUTATION OF TIME. Whenever a notice is required to be given or any act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be held shall not be counted. Where the day on which an act is to be done or a proceeding held falls on a Sunday or a legal holiday, said act shall be done or proceeding held on the next regular business day. Time shall mean Central Standard Time, except when the State of Illinois is on Daylight Saving Time and then it shall mean Central Daylight Saving Time.

CORPORATE OR VILLAGE LIMITS. The term "corporate limits" or "village limits" shall mean the legal boundaries of the Village of New Millford.

COUNTY. The words "the county" or "this county" shall mean the County of Winnebago in the State of Illinois.

DELEGATION OF AUTHORITY. Whenever a provision appears requiring the head of a department or some other village officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate or authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

GENDER. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

JOINT AUTHORITY. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

MONTH. The word "month" shall mean a calendar month.

NONTECHNICAL AND TECHNICAL WORDS. Words and phrases shall be construed according to common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

NUMBER. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

OATH. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

OFFICERS GENERALLY. Whenever any officer is referred to by title, such as "village clerk," "chief of police," "president," etc., such reference shall be construed as if followed by the words "of the Village of New Millford."

OWNER. The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

PERSON. The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

PERSONAL PROPERTY. Includes every species of property except real property, as herein described.

PRECEDING, FOLLOWING. The words "preceding" and "following" mean next before and next after, respectively.

PROPERTY. The words "property" shall include real and personal property.

REAL PROPERTY shall include lands, tenements and hereditaments.

SHALL. The word "shall" is mandatory.

SIDEWALK. The word "sidewalk" shall mean any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians, excluding parkways.

SIGNATURE OR SUBSCRIPTION includes a mark when the persona cannot write.

STATE. The words "the state" or "this state" shall be construed to mean the State of Illinois.

STREET. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public ways in the village and shall include all areas thereof embraced between the property lines and dedicated to the public use.

TENANT OR OCCUPANT. The word "tenant" or "occupant" applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

TENSE. Words used in the past or present tense include the future as well as the past and present.

VILLAGE shall mean the Village of New Millford, Illinois.

WHOLESALE, WHOLESALER, ETC. In all cases where the term "wholesale", "wholesaler" or "wholesale dealer" is used in this Code, unless otherwise specifically defined, it shall be understood and held to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for purposes of resale, as distinguished from a retail dealer who sells in smaller quantities direct to the consumer.

WRITTEN OR IN WRITING shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

YEAR. The word "year" shall mean a calendar year.

Sec. 1-3. CATCHLINES OF SECTIONS.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. AMENDMENTS TO CODE.

All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapter, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the board of trustees.

Sec. 1-5. UNAUTHORIZED ALTERATION OR TAMPERING WITH CODE.

It shall be unlawful for any person in the village to change or amend, by additions or deletions, any part or portions of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Village to be misrepresented thereby.

Sec. 1-6. EFFECT OF REPEAL OF ORDINANCES.

When any ordinance, repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took affect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

Sec. 1-7. SEVERABILITY OF PARTS OF CODE.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-8. GENERAL PENALTY FOR VIOLATION OF CODE: CONTINUING VIOLATIONS.

Whenever in this Code or in any ordinance or when any act is prohibited or is made or declared to be unlawful or a misdemeanor or a violations of this Code, or whenever in such Code of Ordinance the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor or a violation therefore, the violation of any such provision of this Code or any ordinance shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Seven Hundred Fifty Dollars (\$750.00). Each day any violation of any provision of the Code of Ordinances or any other ordinance in effect shall constitute a separate offense.

CHAPTER 2

ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. SEAL ADOPTED.

The corporate seal of the Village shall be circular in shape with the words "Village of New Millford" on the outer rim and in the center thereof.

Sec. 2-2. FISCAL YEAR.

The fiscal year of the Village shall begin on the first day of June of each year and end on the last day of May of the following year.

Sec. 2-3. ELECTION PROCEDURE; TIME.

Elections for municipal officers will be held in accordance with and at the times prescribed by state law.

Sec. 2-4. Each Officer, i.e. the President or a member of the board of trustees, shall have two (2) excused meetings per fiscal year.

Sec. 2-5. through Sec. 2-15. RESERVED.

ARTICLE II. OFFICERS AND EMPLOYEES GENERALLY

Sec. 2-16. POLICY PROHIBITING SEXUAL HARASSMENT

I. PROHIBITION ON SEXUAL HARASSMENT

It is unlawful to harass a person because of that person's sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of Village of New Milford, Illinois to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

II. DEFINITION OF SEXUAL HARASSMENT

This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

(3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Conduct which may constitute sexual harassment includes:

- Verbal: sexual innuendos, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature.

- Non-verbal: suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.

- Visual: posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.

- Physical: touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.

- Textual/Electronic: "sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a "reasonable

person."

III. PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT

An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the offending employee, and her/his immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

Any employee may report conduct which is believed to be sexual harassment, including the following:

- Electronic/Direct Communication. If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.

- Contact with Supervisory Personnel. At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the city manager or administrator, or the chief executive officer of the municipality.

The employee experiencing what he or she believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the municipality will not be presumed to have knowledge of the harassment.

- Resolution Outside Municipality. The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within 180 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 days.

Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

IV. PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS

No municipal official, municipal agency, municipal employee or municipal agency or office shall take any retaliatory action against any municipal employee due to a municipal employee's:

1. Disclosure or threatened disclosure of any violation of this policy,
2. The provision of information related to or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
3. Assistance or participation in a proceeding to enforce the provisions of this policy.

For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for a municipal employee's involvement in protected activity pursuant to this policy.

No individual making a report will be retaliated against even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (5 ILCS 430/15-10) provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an

employee who does any of the following:

1. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation,
2. Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee, or
3. Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

Pursuant to the Whistleblower Act (740 ILCS 174/15(a)), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (740 ILCS 174/15(b)).

According to the Illinois Human Rights Act (775 ILCS 5/6-101), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge - due within 180 days (IDHR) or 300 days (EEOC) of the alleged retaliation.

V. CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT

In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements,

procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in 5 ILCS 430/5-65, may be subject to a fine of up to \$5,000 per offense, applicable discipline or discharge by the municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

VI. CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT

A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to \$5,000 against any person who intentionally makes a false, frivolous or bad faith allegation.
(Ordinance No. 2018-1)

Sec. 2-17 through 2-40. RESERVED.

ARTICLE III. PRESIDENT AND BOARD OF TRUSTEES

DIVISION 1. GENERALLY

Sec. 2-41. PRESIDENT - COMPENSATION.

The salary of the President of the Board of Trustees for the Village of New Milford, Illinois, shall be \$290.00 for each

official Board Meeting attended by the President commencing in May of 2021. (Ordinance No. 2019-2)

Sec. 2-42. PRESIDENT - EXPENSE REIMBURSEMENT.

The Board of Trustees, for the Village of New Millford, Illinois, does hereby authorize the payment of One Hundred Fifty Dollars (\$150.00) per month to the Village President, as reimbursement, and not compensation, for actual expenses incurred by the Village President in representing the Village.

Sec. 2-43. through 2-51. RESERVED.

DIVISION 2. BOARD OF TRUSTEES

Sec. 2-52. TRUSTEE - COMPENSATION.

The salary of the Trustees for the Village of New Milford, Illinois, shall be \$200.00 for each official Board Meeting attended by the Trustee commencing in May of 2021. (Ordinance No. 2019-3)

Sec. 2-53. COMMITTEES.

(a) The following shall be the standing committees of the Board of Trustees:

- (1) Public Works, Public Safety and Annexations;
- (2) Economic Development, Finance and Ordinances;
- (3) Liquor commission.

(b) Special committees shall be created from time to time as directed by the Board of Trustees.

(c) All standing and special committees shall be composed of a minimum of three members, including the chairperson, unless the Board of Trustees directs otherwise. All committees shall be appointed by the Village President.

Sec. 2-54. through 2-59. RESERVED.

DIVISION 3. MEETINGS

Sec. 2-60. TIME AND PLACE OF REGULAR MEETINGS.

(a) The regular meetings of the board of trustees shall be held on the second Tuesday of each month at 6:30 P.M. (Ordn 2013-5)

(b) The meeting place of the board of trustees shall be the Village Hall, unless otherwise ordered by the board of trustees.

Sec. 2-61. ROBERTS RULES OF ORDER APPLICABLE.

Unless specifically authorized by a majority vote of the members of the board of trustees, Roberts Rules of Order as revised shall govern the deliberation of the Board of Trustees except when in conflict with any other provision of the Code of Ordinances. The trustees specifically reserve the right, upon majority vote, to deviate from Roberts Rules of Order.

Sec. 2-62. RULES OF PROCEDURE.

(a) The Village President shall preserve order and decorum and shall determine all questions of order. Rulings of the Village President on all matters of order and decorum shall be conclusive unless appealed to the Board by one member of the Board of Trustees and seconded by another member.

(b) Each member of the Board of Trustees, prior to speaking, shall be recognized by the Village President. No member shall speak longer than three (3) minutes upon recognition, unless permitted to do so by the Village President. Any member called to order shall immediately cease speaking, unless permitted to explain.

(c) Nonmembers may address the Board of Trustees if a written request is submitted to the Village Hall thirty (30) minutes prior to the Board meeting for which recognition is sought. The written request must identify the name of the speaker, the subject matter that will be addressed, and the speaker's interest in the subject. Each nonmember will be limited to three (3) minutes, unless a longer time period is permitted by a majority vote of the Village Board.

(d) A maximum of twenty (20) minutes shall be allowed for nonmembers to speak at each meeting. If a particular item is deemed by the Village President to be controversial, the Village President shall strive to allow all sides an equal amount of time within which to speak at each meeting, subject to the twenty (20) minute time limit. The Village President shall determine the sequential order in which nonmembers will be allowed to address the Board.

Sec. 2-63. through 2-78. RESERVED.

DIVISION 4. PUBLICATION REIMBURSEMENT

Sec. 2-79. ZONING NOTICE REIMBURSEMENT.

Each applicant who files for a zoning map amendment, variance or special use permit shall reimburse the Village for the

publication costs associated with the Notice of the public hearing required on said application within thirty (30) days of the date of invoice from the Village authorities.

ARTICLE IV. VILLAGE CLERK

Sec. 2-80. VILLAGE CLERK APPOINTMENT.

The position of Village Clerk shall become an appointed position with the appointment being made by the President with the approval of two-thirds of the Board of Trustees for the Village of New Millford effective May 1, 1991.

Sec. 2-81. VILLAGE CLERK/COMPENSATION/BENEFITS.

The position of Village Clerk shall commence on May first of each year. The Clerk's salary shall be set prior to May first of each year. The Clerk's salary effective March, 2019 shall be \$700.00 per month plus \$50.00 for each Special Meeting attended by the Clerk. (Ordinance No. 2019-1)

Sec. 2-82. EDUCATION/EXPERIENCE/BOND/OATH/OFFICE HOURS.

(a) The Village Clerk shall be in charge of all areas of Municipal Government which are placed under his/her control by the Village President and Board of Trustees and shall be directly responsible to the Village President and the Board of Trustees.

(b) The Clerk's position, requires a general knowledge of bookkeeping, record keeping, and office management.

(c) Before entering into the duties of this position, the appointed party shall take the oath administered by the Village President or his designated party and the Village Clerk shall also execute a Bond in the amount of Twenty-five Thousand Dollars (\$25,000.00) conditioned on the faithful performance of his/her duties prescribed by State Statute with the cost of the Bond being paid for by the Village of New Millford.

(d) The Village Clerk shall keep his/her office hours at the Village Hall and his/her office hours shall be determined from time to time in Ordinance form by the President and the Board of Trustees of the Village of New Millford.

Sec. 2-83. DUTIES.

The duties of the Village Clerk shall include but not be limited to those required by State Statute and also include the following.

(a) The Village Clerk shall also serve as the Village Collector.

(b) The Village Clerk shall be the custodian of the Village Seal and shall fix its impression on documents whenever required.

(c) The Village Clerk shall keep the accounts showing all money received, the source and the disposition thereof and such other accounts as may be required by Village Ordinance, State Statute, or other Board action.

(d) The Village Clerk shall deposit all monies received on behalf of the Village promptly to the village accounts, together with a statement as to the source of the monies.

(e) In addition to the record of ordinances, and other records which the Village Clerk is required by Statute to keep, he/she shall keep a register of all licenses and permits issued and payments thereon; a record showing all officers and regular employees of the Village; and such other records as may be required by the President and Board of Trustees.

(f) The Village Clerk shall be the custodian of all documents belonging to the Village which are not assigned to the custody of some other officer.

(g) The Village Clerk shall keep and maintain a proper index to all documents and records kept by him/her so that ready access thereto may be had.

(h) The Village Clerk shall attend all regular and special meetings of the Board of Trustees and all Committee Meetings unless excused therefrom and shall keep, in a suitable book, a full and faithful record of the proceedings. The Village Clerk shall issue Notice of all meetings of the Village Board and its committees.

(i) The Village Clerk shall deliver to the Village Board and its Committees all petitions, communications, reports, orders, claims and other papers referred to those committees. He/she shall also deliver to the Village President all ordinances or resolutions which may be required to be approved or acted upon by the Village President.

(j) The Village Clerk shall prepare the bills, along with an accurate listing of the same for review by the Board of Trustees.

(k) The Village Clerk shall assist the auditors with the

annual Village audits.

(1) The Village Clerk shall attend seminars designated by and approved by the Village Board.

Sec. 2-84. REMOVAL FROM OFFICE.

The President and Board of Trustees for the Village of New Millford, may remove the Village Clerk at any time by a two-thirds vote of the Village Board recommending removal without incurring liability to the Village Clerk for any compensation to him/her for the remainder of the annual appointment.

Sec. 2-85. DEPUTY CLERK.

The Village Clerk may, when necessary and with the prior approval of the Village Board, appoint a Deputy Clerk who during the temporary absence or disability of the Clerk shall be empowered to perform all the duties of the Village Clerk and the Clerk shall be held responsible for the acts of such deputy.

Sec. 2-86. FILLING VACANCY IN OFFICE.

In case the office of the Village Clerk shall become vacant for any reason, the President and Board of Trustees shall appoint a successor for the remainder of the term of the Clerk.

ARTICLE V. ETHICS ACT

Sec. 2-87: STATE OFFICIALS AND EMPLOYEES ETHICS ACT:

(a) The regulations of Sections 5-15 (5 ILCS 430/5-15) and Article 10 (5 ILCS 430/10-10 through 10-40) of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 et seq., (hereinafter referred to as the "Act" in this Section) are adopted by reference and made applicable to the officers and employees of the Village to the extent required by 5 ILCS 430/70-5.

(b) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the Village, is hereby prohibited.

(c) The offering or making of gifts prohibited to be offered or made to an officer or employee of the Village under the Act, is hereby prohibited.

(d) The participation in political activities prohibited under the Act, by any officer or employee of the Village, is hereby prohibited.

(e) For purposes of this Section, the terms "officer" and "employee" shall be defined as set forth in 5 ILCS 430/70-5(c).

(f) The penalties for violations of this Section shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the Act.

(g) This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of Village officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of 5 ILCS 430/70-5(a).

(h) Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the Village.

(i) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or hearings. This Section shall be deemed repealed without further action by the Corporate Authorities of the Village if the Act is found unconstitutional by the Illinois Supreme Court.

(j) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be

deemed repealed without further action by the Corporate Authorities of the Village.

Sec. 2-88. through 2-99. RESERVED.

ARTICLE VI. ZONING BOARD OF APPEALS

Sec. 2-100. RESERVED. (Ordinance No. 2020-4)

Sec. 2-101. RESERVED.

ARTICLE VII. FREEDOM OF INFORMATION ACT

Sec. 2-110. ADOPTION. The Village of New Milford hereby adopts in its entirety the Freedom of Information Act, 5 ILCS 140/1 *et seq.*, as amended by Public Act 96-0542, effective January 1, 2010, and as amended from time to time, which is incorporated herein by reference.

Sec. 2-111. COPYING COSTS. The Village shall charge a fee to recover the costs associated with copying records; however, such costs shall not exceed those allowable under the Freedom of Information Act.

Sec. 2-112. OFFICER DESIGNATION. That the Village Clerk is hereby designated as the Freedom of Information Officer of the Village under and pursuant to Section 3.5 of the Freedom of Information Act.

Sec. 2-113. EXEMPTIONS. The Village hereby adopts the exemptions listed in the Freedom of Information Act, 5 ILCS 140/7 and 7.5 and herein lists the exemptions in their entirety:

(1) The following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute;

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection;

(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs; and

(vii) the Notarial Record or other medium containing the thumbprint or fingerprint required

by Section 3-102(c)(6) of the Illinois Notary Public Act.

(b-5) Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

(iii) deprive a person of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;

(vi) constitute an invasion of personal privacy under subsection (b) of this Section;

(vii) endanger the life or physical safety of law enforcement personnel or any other person; or

(viii) obstruct an ongoing criminal investigation.

(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a

record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including:

(i) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(ii) All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation

shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, but only to the extent that disclosure would compromise security, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings.

(l) Library circulation and order records identifying library users with specific materials.

(m) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising

the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(t) Any and all proprietary information and records related to the operation of an intergovernmental risk

management association or self-insurance pool or jointly self-administered health and accident cooperative or pool.

(u) Information concerning a university's adjudication of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

(w) Information related solely to the internal personnel rules and practices of a public body.

(x) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.

(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(cc) Information and records held by the Department of Public Health and its authorized representatives

relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(hh) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act.

(ii) Beginning July 1, 1999, information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(kk) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(ll) Vulnerability assessments, security measures, and response policies or plans that are designed to

identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(mm) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility or by the Illinois Power Agency.

(nn) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(oo) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(pp) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(qq) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (qq) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(rr) Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public

Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

(ss) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(tt) Information about students exempted from disclosure under Sections 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009.

(2) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act

(3) Statutory Exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(k) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the

Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(q) Information prohibited from being disclosed by the Personnel Records Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

CHAPTER 3

ADVERTISING

ARTICLE I. - GENERAL PROVISIONS

Sec. 3-1. - Advertising unlawful businesses and articles.

It shall be unlawful to advertise any unlawful business or article in the village.

Sec. 3-2. - Posting bills.

It shall be unlawful to post any bills or advertisement on any public property without authority from the village president and village board of trustees. It shall be unlawful to post any bill or advertisement on any property without the written consent of the owner thereof.

Secs. 3-3-3-29. - Reserved.

ARTICLE II. - BILLBOARDS

Sec. 3-30. - Definitions.

(a) Billboard. A billboard is an object, device, display, sign or structure, or part thereof displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location, or to express a point of view, by any means, including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images, which are not substantially related to the primary economic activity or use conducted on the zoning lot occupied by it. Billboards do not include commercial signage related to the business conducted on the zoning lot, nor signs temporarily placed in residential lawns by residents, owners, contractors, real estate brokers or agents, or by or on behalf of political candidates or issues.

(b) Billboard area. The facing of a billboard, including copy, insignia, background, structural supports, and border and trim. The measurement shall be determined by the smallest rectangle inclusive of all letters and images. The structural

supports shall be excluded if they do not constitute a major part of the billboard or if the structure is not used to identify or attract attention to the business or product. A double-sided billboard, with sign faces parallel to each other, shall be deemed to have the billboard area of the larger sign face.

(c) Illuminated billboard. A billboard having its characters, letters, figures, designs or outlines illuminated by a source of artificial light.

(d) Spacing. Spacing of billboards shall be the minimum distance between outdoor advertising billboard structures measured along the nearest edge of the pavement between points directly opposite the billboards along each side of the highway and shall apply to outdoor advertising billboard structures located on both sides of the highway involved. Spacing shall be calculated with respect to existing billboards whether or not the existing billboards are within the corporate limits of the village.

Sec. 3-31. - Intent of article.

(a) Development of proper signage throughout village; role of Zoning Board of Appeals and board of trustees.

(b) Statement of policy. To ensure that the intent of this article is realized, it shall be the policy of the Zoning Board of Appeals by way of its review effects to:

(1) Operate, within its jurisdiction and in the interest of the people of the village, in a consistent, fair, objective and understanding manner;

(2) Encourage and inspire both public and private participation matters regarding signage and work with other governmental, civic, or other private bodies to enhance communication, understanding, and appreciation between them and the board;

(3) Encourage excellence in the design of signs throughout its acceptance of appropriate innovation and imaginative concepts;

(4) Encourage competition toward attractiveness in signs and discourage the type of competition which produces signs of ever increasing size, brightness and garishness;

(5) Give appropriate recognition to projects which exhibit outstanding design merit.

Sec. 3-32. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Area of an exposure means the area of a building wall facing in one principal direction, including doors and windows contained in such wall. Where such wall is irregular in plan, the area of the exposure shall be calculated as the area of the projection of such wall upon a plan parallel with the nearest adjacent street.

Area of sign means that area computed by the customary applicable mathematical formula for the shape of the sign face; or in the case of a sign made up of separate letters or characterizations connected in meaning by computing the area lying within straight line connecting the extreme projections, corners or edges of the letters, character of other figures composing the sign, by computing the total area of all faces, provided that if the distance between sign faces of a multifaced sign does not exceed 12 inches, such distance shall not be considered in computing the area of a sign.

Courtyard means an extent of open ground (not including a parking lot or loading area) walled by buildings on three sides which is open to the public and abuts a public street.

Garage sale means all general sales, open to the public, conducted from or on a residential premises in any residential zone, as defined by the zoning ordinance, as set forth in chapter 82, for the purpose of disposing of personal property owned and maintained by an individual or members of his immediate family residing on the property and acquired in the normal course of living in or maintaining a residence.

Ground signs means any sign supported by or attached to a ground sign standard, such standard being a freestanding frame, mast or other support not attached to any building.

Illuminated sign (external) means a sign characterized as having its source of artificial light located within the perimeter of such sign.

Public street means the area lying within the described limits of a dedicated right-of-way or thoroughfare for vehicular traffic (excluding an alley), such right-of-way or thoroughfare being open to the use of the public as a matter of right.

Sign means any symbol, lettering, pictorial representation, or combination thereof readily visible from courtyard or public property and used for informational, identification, or directional purposes or to sell or advertise products, services, activities, or events.

Street exposure means the exterior wall (including doors and windows) of a building having its frontage on a public street or a courtyard. The street exposure of an occupant is the street exposure of that portion of the building wall included in the space in the building occupied by such occupant.

Sec. 3-33. - Standards and criteria for review.

The following factors and characteristics which relate to the safety and appearance of signage shall govern the board's evaluation of design submittal:

(a) Projects which include a number of signs and graphics shall have an overall plan.

(b) Signs and graphics shall have a harmonious relationship with nearby signs, buildings and the neighborhood, and shall be designed so as not adversely to affect adjacent structures. In this respect the sign shall be related to its building, structure and neighborhood in terms of size, shape, material, location, lighting, and landscaping, if applicable.

(c) In its deliberations the board shall consider, among other things, the sign area allowances provided in this section as the maximum allowance, and if in its determination the size of the proposed sign is out of proportion or scale to the building or to other buildings or signs in the surrounding area, then the board may reduce the allowable sign area at its discretion.

(d) External lighting shall be arranged so that the light source is screened from view.

(e) The additional provisions of this article, as specified in this article, shall be part of the criteria of the design review process.

Sec. 3-34. - Sign permit and certificate of appropriateness.

(a) Permit required. A permit shall be necessary to erect, construct or display a sign. Application for sign permit shall be submitted to the designated village official on forms provided by the village by any person erecting or constructing any such sign. Such application shall also be considered an application for certificate of appropriateness and shall be accompanied by a permit fee to be set from time to time by ordinance of the village board of trustees.

(b) Application for certificate of appropriateness. Application for a certificate of appropriateness shall be considered by the board only after such application has been filed with the designated village official.

(c) Issuance of permit. Except as provided for in subsection (a) of this section, no sign permit shall be issued by the village board of trustees prior to the granting of the certificate of appropriateness by the village board of trustees.

(d) Permit fees. The fee for a permit to construct a sign less than 300 square feet in total area shall be as set forth in the village's zoning, land use and development permit fee schedule which may be amended by the village from time to time by resolution or ordinance. The fee for the construction of a sign of 300 square feet or greater of total area shall be as set forth in the village's zoning, land use and development permit fee schedule which may be amended by the village from time to time by resolution or ordinance. This fee is for the construction of new signs and not for the replacement of existing signs.

(e) Consideration of applications. Whenever the designated village official shall receive an application for a sign permit, it shall be his duty to examine the plans, specifications, and other submitted data, and if it appears that the proposed sign is in compliance with the minimum technical rules, regulations, and guidelines found in this article, and other laws and

ordinances of the village, he shall promptly issue a permit authorizing the construction and installation of the sign. If the sign application and the data submitted to the designated village official does not comply with the minimum technical rules, regulations, and guidelines found in this article, and the other laws and ordinances of the village, the designated village official shall promptly refer the application and other submitted data to the Zoning Board of Appeals for further findings and review.

(f) Petitioners for commercial signs; procedure. Petitioners for all commercial signs as regulated by section 3-41 which are less than 15 feet in height as measured from the normal sidewalk level, shall submit their application to the designated village official. The designated village official shall forward his recommendation to the president of the board of trustees who shall seek the advisory opinion of the board of trustees. If the president of the board of trustees receives a favorable review from the board of trustees, a sign permit shall be issued to the petitioners. If the president of the board of trustees has not made a decision within three weeks from the date the petition was tendered in proper form to the designated village official, the petition shall be deemed granted unless the petitioner is advised that additional information is needed by the village to adequately process the application, but in no event shall the village have more than 20 days to make its decision once all information has been tendered.

(g) Application for sign permit. Application for a sign permit shall, at a minimum, contain or have attached thereto the following information and material:

- (1) The name, address and telephone number of the owner of the property;
- (2) The name, address and telephone number of the applicant (owner of the sign);
- (3) The name, address and telephone number of the sign contractor, if any;
- (4) The location of the building, structure or lot to which, or upon which, the sign is to be attached or erected;
- (5) Two copies of a drawing and other material showing:

- a. The position of a proposed sign in relation to adjacent signs, buildings and structures;
- b. The design and size, structural details, material, and placement on the premises of a proposed sign or sign structure;
- c. Current color photographs showing existing signs on the premises and adjacent property, and the date on which such photographs were taken;
- d. A statement denoting the aggregate size of all signs existing on the premises at the time of making such application;
- e. Such other information as the designated village official or the Zoning Board of Appeals shall require to show full compliance with this article;
- f. The information submitted by the applicant shall be in sufficient detail to illustrate clearly the design for which approval is being sought and its relationship to the structure it serves. One set of such items shall be retained by the board and the other set shall be returned to the applicant.

Sec. 3-35. - Certificate of appropriateness.

(a) Preliminary consideration.

(1) The Zoning Board of Appeals shall, if requested in writing by a prospective applicant for a sign permit, give preliminary consideration to a specific project before a formal application is filed, and shall provide recommendations on matters pertaining to the purpose, intent, standards and criteria of this article as may be deemed appropriate to guide such prospective applicant in the development of a plan for a signage which could comply with this article.

(2) The Zoning Board of Appeals shall act in an advisory capacity only with regard to such preliminary

consideration and no approval or denial shall be given during such preliminary consideration.

(b) Final consideration.

(1) Upon receipt of an application for a sign permit for which a certificate of appropriateness is required by the designated village official, the Zoning Board of Appeals shall, as soon as practicable, consider the issuance of a certificate of appropriateness and may, if necessary, request additional evidence from the applicant or his agent, village personnel or other persons as to whether the sign proposal is in compliance with the intent, purpose, standards and criteria of this article.

(2) The Zoning Board of Appeals may, prior to making its decision, make recommendations to the applicant as to changes in the signage plans which, in its judgement, would tend to effect the general intent and purpose of this article.

(3) If the Zoning Board of Appeals makes recommendations for changes in the signage plan, the applicant shall, within 15 days following such review, notify the board in writing of his acceptance or rejection, and specify the reasons for rejection of such recommendations, if such may be the decision of the applicant.

(4) If the applicant shall fail to accept or reject the board's recommendations within the specified time period, it shall be assumed that the applicant has rejected such recommendations.

(5) A certificate of appropriateness shall be issued by the village board of trustees upon a majority vote, provided that there is compliance with all other rules, regulations and ordinances for the village.

(6) The village board of trustees shall not deny a certificate of appropriateness except upon the concurring vote of a majority of its members present.

(7) If consideration of an application for certificate of appropriateness by the board has not been initiated within 45 days following referral of the application by the designated village official to the Zoning Board of Appeals

or, having been initiated, has not been concluded within 60 days following the submission by the applicant of additional evidence required by the Zoning Board of Appeals, the village board of trustees, if the application is in order and the plans are in compliance with the minimum technical standards and requirements set forth in this article, issue a sign permit to the applicant for the work specified within such application and plans.

(8) All meeting and hearings, as required in this section, may be continued, irrespective of the time limits of subsection (b)(7) of this section, at the discretion of the Zoning Board of Appeals, provided that the applicant consents to such a continuance and, if continued with the consent of the applicant, the time restrictions set forth in subsection (b)(7) of this section shall not apply.

Sec. 3-36. - Exemptions from article regulations.

(a) *Total.* Signs, flags, and emblems, of and on the premises of the United States, the state and municipal corporations and public bodies of the state, shall be exempt from regulations of this article, unless the particular sign, flag, or emblem is advertising a parcel of real estate owned by a state or municipal corporation which is used primarily for recreational or revenue generating purposes.

(b) *Partial.* The following signs shall comply with sections 3-31, 3-37, and 3-42, but shall be exempt from all other regulations of this article, unless otherwise allowed:

(1) Permitted, nonilluminated signs of organizations described in section 3-40;

(2) Memorial plaques, corner stones, historical plaques and similar designations displayed for noncommercial purposes;

(3) Signs required of property owners or occupants by the police, fire or other governmental departments for the safety and convenience of the public;

(4) Directional signs or instructional signs conveying directions or instruction for the safety and convenience of the public (vehicular or pedestrian), or necessary for the operation of the premises, and not exceeding three square feet in area.

(5) Signage attached to vehicles located in establishments authorized to sell automobiles.

Sec. 3-37. - Prohibited signs.

No person shall display any sign of the following prohibited types, or in the following prohibited locations, unless otherwise authorized by this ordinance:

(a) Flashing signs (whether stationary, revolving or rotating) including message boards, which contain any flashing lights, running lights, or lights creating an illusion of movement;

(b) Signs upon, above or attached to the roof of any building, excluding those in existence at the time of enactment of this article;

(c) Signs painted directly on the wall of a building or on a fence;

(d) Signs, or spotlights or floodlights used to illuminate signage, projecting more than three inches over or into the right-of-way of any public street, sidewalk, alley or public place (except that over eight feet above the adjoining sidewalk they may project a maximum of 13 inches);

(e) Signs consisting of a string, cluster or series of lights;

(f) Signs which, as determined by the designated village official, may constitute a hazard to traffic or the public by reason of obstruction of view, distraction or danger to the safety of persons using public property.

(g) Reserved.

(h) Temporary signs or attention-getting devices that contain or consist of banners, posters, placards, pennants, ribbons, feather flags, streamers, strings of light bulbs or flags, a-frame signs, poster panels, spinners, signs attached to or on vehicles, inflatables or other similar devices, except as allowed and regulated under subsection 3-38(b).

(i) Advertise an activity, business, product or service no longer conducted on the premises upon which the sign is located.

(j) Reserved.

(k) Advertising signs and devices which direct attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed.

(l) No temporary signs or attention-getting devices shall be permitted with lights that flash, blink, or vary in intensity, and no temporary sign or attention-getting device shall be permitted with red, yellow, amber, or green lights.

(m) Temporary signs and attention-getting devices are not allowed on people for the purpose of outdoor advertising. Signage that is a permanent part of a person or mascot's costume is allowed and is subject to the following conditions for walking advertisers:

(1) Walking advertisers must remain on the zoning lot in which the business is located or in a location up to five feet away from the roadway adjacent to the zoning lot in which the business is located.

(2) Walking advertisers may not reduce the required parking, ingress/egress, travel lanes, impede the Americans with Disability Act compliance, or be located in the vision triangle on a corner property for a distance of 30 feet from the intersecting property lines.

(3) Permits are required and are subject to the allowances listed in subsection 3-38(b)(2).

(4) In instances of grand openings or closings, one walking advertiser is allowed in conjunction with one temporary sign or attention-getting device. Permits are required and are subject to the allowances listed in subsection 3-38(b)(1).

(n) No temporary signage shall be allowed that is torn, tattered, faded or partially destroyed.

Sec. 3-38. - Temporary signs.

(a) The following temporary signs shall be permitted, subject to the permit requirements of Section 3-38, in addition to signs otherwise permitted by this article:

(1) Real estate signs (nonilluminated), advertising the sale or lease of the lot or premises on which they are maintained, shall be less than ten square feet in area for residential zoned lots and less than 64 square feet in area for commercial, office, and industrial zoned lots. No one property shall be allowed to have more than one sign on the lot or premises, except, on corner lots, one such sign may face each street. Said signs shall be removed within seven days after the sale or lease of the premises. These temporary signs, referred to in this subsection (a)(1) shall be reviewed on an annual basis regarding their permissibility. In addition, signs advertising the sale of residential lots or premises are exempt from paying the established sign application fee.

a. Real estate signs (nonilluminated) advertising the sale or lease of a residential zoned lot or premises may be posted off the premises to be sold or leased on Sundays only. This type of sign referred to in this subsection (a)(1)a is not subject to annual review.

b. Real estate signs (nonilluminated) advertising the sale or lease of a commercial, office, or industrial lot or premises may be attached to the side of such building facing the street. The area of the sign shall not exceed 15 percent of the total area of the side of the building to which it is attached up to a maximum of 64 square feet. A sign as described in this subsection (a)(1) shall not be subject to annual review.

(2) Construction site signs (nonilluminated) identifying the parties engaged in the design and construction on the lot or premises on which they are displayed, and being less than ten square feet in area on a lot or premises located in any R-1 or R-2 residential district, established by the zoning ordinance, as set forth in chapter 21, or 32 square feet in area on a lot or district or CN, CC, CG, OF, IL, IG, IH district established by the zoning ordinance, as set forth in chapter 21, where new construction or remodeling work is in progress and not in excess of one sign on the lot or

premises; such signs to be removed within seven days after completion of such work as determined by the designated village official.

(3) Decorations displayed in connection with civic, patriotic or religious holidays, except that they shall be removed within 14 days after the appropriate holiday.

(4) Flags, emblems, and signs of political, civic, philanthropic, or educational organizations temporarily displayed with respect to an election or event for noncommercial purposes, to be removed seven days after such election or event.

(5) Garage sale signs (nonilluminated) placed on the lot or premises on which such sale is conducted or off premises less than ten square feet in area and not in excess of one sign on the lot or premises, except that on corner lots one such sign may face each street, and such signs shall be removed within 72 hours after posting.

(6) Signs required by a regulation of any governmental body having jurisdiction.

(7) Developers' signs and off premises identification signs, no larger than 64 square feet, no higher than 8 feet, that advertise the intended use, sale, lease, rental or development of land and/or buildings on any particular premises, or directing attention to the location and/or opening of a residential subdivision, commercial, industrial or institutional development.

(8) Temporary signs and attention-getting devices promoting special community activities, special events, or activities of nonprofit organizations are allowed. These activities may include an annual or semi-annual campaign special, unique or limited activity or service; a sign announcing an annual or semi-annual campaign, drive or event of a civic, philanthropic, educational, nonprofit or religious organization; indoor and outdoor art, craft and plant shows; Christmas tree sales; carnivals, circuses, fairs, rodeos and parades. Such temporary signs and attention-getting devices promoting the above events are allowed for 30 days prior to the event and must be removed within 72 hours after the occurrence of the event, and are subject to the following location restrictions:

a. Set back from all property lines a distance of at least ten feet.

b. No closer than one foot to any sidewalk and bike path.

c. May not be placed on a corner property for a distance of 30 feet from each intersecting roadway to allow motorists to maintain their view of the intersection.

d. May not face a parcel zoned residential with common lot lines.

(9) New and used car dealerships may have no more than (4) vehicle signs from the same business, which are advertising or business signs attached to a motor vehicle or semi-trailer which is parked and placed in position for the primary purpose of displaying the same to the public.

(b) All temporary signs and attention-getting devices, including banners, posters, placards, poster panels, inflatables, or other similar devices approved by the enforcing official, require a permit from the zoning office and are subject to the following regulations:

(1) A single temporary sign or attention-getting device is permitted for a consecutive 30-day period during the first six months of business opening to promote grand openings, or for a consecutive 30-day period prior to a business closing. Such sign or attention-getting device may not advertise products or services, and should only direct attention to a grand opening or closing. Permits are required.

(2) A single temporary sign or attention getting device is permitted, per business, for a consecutive 14-day period, not more than two times per calendar year, for the purpose of advertising special sales events or promotions. New and used car dealerships as described in Section 3-38(a)(9) are excepted from the single temporary sign requirement but are still subject to the display time limits.

(3) Temporary signs and attention getting devices require a permit and may only be placed in the following locations:

- a. On an existing sign structure so that such sign or attention-getting device meets all sign height and location requirements for the zoning district in which it is located.
- b. On a building so that such sign or attention-getting device does not project out from the building or above the roof line.
- c. A maximum of 2 signs are allowed on 11th Street in the business district.
- d. May not face a parcel zoned residential with commercial lot lines.

(c) A temporary sign described in subsection (a) of this section shall be removed within the stipulated time limits by the person posting or displaying such sign. The village is authorized and empowered to remove any such sign upon the expiration of the stipulated time limit, whereupon the person who posted or displayed such sign shall pay the sum to the village of \$75.00, or the actual cost incurred by the village, for the removal of the sign, whichever is greater.

(d) A temporary sign shall be attached to the site or constructed in a manner that both prevents the sign from being easily removed by unauthorized persons or blown from its location and allows for the easy removal of the sign by authorized persons.

(e) Temporary signs are not permitted in residential zoning districts, except as otherwise permitted in this section. Temporary signs shall not be attached to trees, shrubbery, utility poles or traffic control signs or devices.

(f) Temporary Sign Permit. All temporary signs, attention getting devices, and walking advertisers require a permit which is subject to the following application process:

(1) A temporary sign permit shall be submitted to the designated village official on forms provided by the village by any person erecting a temporary sign, attention getting device or walking advertiser as described above.

(2) The application must include the following:

- a. The name, address, business name and telephone number of the applicant;
- b. The address, zoning designation, and parcel identification number of the property where the sign is to be displayed;
- c. The type of sign to be displayed on the property;
- d. A scaled drawing of the proposed sign, showing the design, elevations, sign face dimensions and area, sign materials and the location and size of all current signs displayed on the property;

(3) A \$20.00 fee shall apply for each temporary sign. There shall be no cost for the first two signs.

(4) The content of any message shall not be considered in the evaluation of a temporary sign permit application.

(5) The Village Clerk, or his or her designee, shall grant or deny the temporary sign permit application based upon the information submitted with the application and other information obtained by or submitted to the village. The permit shall be approved if the application complies with all of the applicable provisions of this Section and any other objective requirements imposed by law and the applicable permit fee has been paid. All temporary sign permit applications will be reviewed and granted or denied within 7 days of submission.

(6) The Village Clerk, or his or her designee, may revoke a sign permit if, in the opinion of the Village Clerk, there exists any material and misleading false statement of fact in the temporary sign permit application and/or if the signs are in violation of the required conditions outlined in this section.

Sec. 3-39. - Signs on residential properties.

No sign shall be displayed on building or premises or that portion thereof used for residential purposes regardless of the

zoning district in which located, or on any vehicles parked or stored on such residential property where such vehicle is readily visible to the general public, except for signs exempt under section 3-36 or permitted under section 3-38 and except for the following permitted signs:

(a) One nameplate sign not exceeding 80 square inches in area, which may be combined with a street or house number sign;

(b) Noncommercial signs behind or affixed to windows and doors;

(c) In the case of apartment houses for three or more families, there shall be permitted, in addition to the foregoing and in addition to any other signs permitted in this article by reason of any commercial use of the first floor, one identification sign not exceeding five square feet in area indicating the name of the building and of the ownership or management thereof.

Sec. 3-40. - Signs of religious, charitable, educational, and other specified organizations.

(a) No sign shall be displayed on the building or premises of a religious, philanthropic, civic, charitable or private educational institution or organization or any private club, except for signs exempt under section 3-36 or permitted under section 3-38 and except for the following signs:

(1) Identification signs, identifying the name or nature of the institution or organization;

(2) Bulletin board signs being structures of a permanent nature, but having changeable words or figures.

(b) The total area of all signs on the premises of each such institution, or organization shall not exceed 50 square feet in area, and no one sign shall exceed 30 square feet in area.

Sec. 3-41. - Commercial signs.

(a) Defined. All signs not included or regulated in sections 3-38, 3-39, and 3-40 and not exempted by section 3-36 shall be deemed to be commercial signs for the purposes of this

article, regardless of the zoning district (as established by the zoning ordinance, as set forth in chapter 21) in which the premises are located.

(b) Regulations. Commercial signs of any type not prohibited by section 3-37 may be displayed, subject to the specific sign regulations as set forth in this section:

(1) No awning sign or sign displayed on or attached to a building by an occupant (excluding window signs) shall contain information other than that which identifies the name of the occupant, the nature of the occupant's business and the logo or trademark of such occupant.

(2) No sign regulated by subsections (b)(7), (b)(8), and (b)(9) of this section shall exceed 100 square feet in area per face of such sign.

(3) No sign shall be attached to any wall of any building unless it is placed substantially parallel to the surface of such wall and is safely and securely fastened thereto.

(4) For each side of a building the total area of commercial signs, other than exempt signs and signs permitted under subsection (c) of this section, ground signage and window signs of the section, shall not exceed 15 percent of the total area of such side of the building, exclusive of any such exposure that is occupied for residential purposes or by an institution or organization reflected in section 3-40 or by a governmental or public body.

(5) In cases where a building is occupied by more than one occupant, the total area of the commercial signs of each occupant shall be limited to 15 percent of the area of the street exposure of such occupant.

(6) The owner of a building shall be permitted to display on or attach to the building one identification sign not exceeding five square feet in area indicating the name of the building or management hereof. The area of such sign shall not be included in the 15 percent overall limitation contained in subsections (b)(4) and (b)(5) of this section.

(7) A ground sign, permitted under subsections (b)(8) and (b)(9) of this section, shall not, together with its

stand, exceed more than 15 feet in height above the ground level (as measured from the normal level of the sidewalk), except as permitted by subsection (b)(8) of this section. A ground sign stand or base must be enclosed, and bare pole supports are prohibited unless they do not exceed two in number and are covered with a nonoxidizing coating when initially installed and, if poles are used to support such sign, then a sufficient amount of landscaping in the nature of trees, shrubs, and bushes shall surround such poles. The material for the sign base must be comparable to the materials used for the business building (i.e., a brown brick building must have a sign base of brown brick or similar material unless variance is granted pursuant to section 3-50). The area of the sign base shall be no less than 80 percent of the width of the sign and no less than 50 percent of the depth of the sign. If a ground sign is supported by poles, such poles must be constructed of metal, as wood poles are specifically prohibited.

(8) If no commercial signs other than the exempt signs and signs permitted under subsection (b)(6) of this section are displayed on or attached to a building occupied by fewer than three commercial occupants, one ground sign may be displayed on the premises on which the building is located, provided that such ground sign, together with its stand, shall not exceed 15 feet in height as measured from the sidewalk. A ground sign stand or base must be enclosed. Bar pole supports are prohibited unless they do not exceed two in number and are covered with a nonoxidizing coating when initially installed and, if poles are used to support such sign, then a sufficient amount of landscaping in the nature of trees, shrubs, and bushes shall surround such poles. The material for the sign base must be comparable to the materials used for that business building (i.e., a brown brick building must have a sign base of brown brick or similar material). The area of the sign base shall be no less than 80 percent of the width of the sign and no less than 50 percent of the depth of the sign.

(9) In addition to other signs displayed on or attached to a building, a building occupied by three or more commercial occupants may display a directory-type sign (subject to the 15 percent limitations contained in subsection (b)(7) of this section, a directory-type sign may be a ground sign on the premises on which the building is located. If a ground directory type sign is used, a ground sign stand or base must be enclosed. Bar pole

support is prohibited unless they do not exceed two in number and are covered with a nonoxidizing coating when initially installed and, if such poles are used to support such sign, then a sufficient amount of landscaping in the nature of trees, shrubs, and bushes shall surround such poles. The materials used for that business building (i.e., a brown brick building) must have a sign base of brown brick or similar material. The area of the sign base shall be no less than 80 percent of the width of the sign and no less than 50 percent of the depth of the sign.

(10) No sign shall be externally illuminated unless the source of such light shall be so located, shielded and directed as not to be directly visible from any surrounding public street or private residence; and no sign shall be internally illuminated except one having an opaque background and illuminating only letters, trademarks and logos.

(11) Neon sign and similar gaseous tube illuminated signs with exposed lighting components shall be limited to three such sign per street exposure for each separate building and shall be indoor signs located on the ground floor level.

(12) The surface brightness of any illuminated sign, whether externally illuminated or internally illuminated, shall not exceed 250 foot lamberts. Such sign, if displayed on or attached to a building (including a window sign), shall not be displayed on or above the second floor window sill level of such building.

(13) No illuminated sign shall be located within 100 feet of the boundary of any R-1 or R-2 residential district established by the zoning ordinance, as set forth in chapter 21, if any illuminated face of such sign is parallel with or substantially parallel (an angle less than 45 degrees) with the residential zoning district boundary or otherwise has an adverse visual impact on adjacent residential properties.

(14) The total area of all signs on an awning shall not exceed ten percent of the total exterior surface area of the awning. The area of such sign shall be included in the 15 percent overall limitation contained in subsections (b)(4) and (b)(5) of this section.

(15) Poster board signs or billboard signs, being defined as those signs whose single face area exceeds or equals 300 square feet, shall not exceed 35 feet in height. All billboards shall be limited to 600 square feet of sign area per face, plus 50 square feet area for extensions or cutout. As used in this section, a sign face is defined as a specific sign area containing one or more messages which can be viewed from one direction only. The support for signs covered by this section must be enclosed in a base, and bare pole supports are prohibited unless they do not exceed two in number and are covered with a nonoxidizing coating when initially installed and, if poles are used to support such sign, then a sufficient amount of landscaping in the nature of trees, shrubs, and bushes shall surround such poles unless such poles are located in a parking lot. All freestanding signs, structures erected after the approval of this article, shall not be permitted to be erected within 1,500 feet of any other such sign on the same side of any roadway located within the village's jurisdiction. The application to the village for installation of signage regulated by this subsection (b)(15) shall be accompanied by a foundation plan approved by a licensed state structural engineer for the village's review.

(16) Location of advertising signs in relation to public parks. No advertising sign shall be permitted to be erected within 300 feet of any public park of more than five acres in area if facing such park and visible therefrom.

(17) Setbacks for freestanding business or advertising signs. Freestanding business or advertising signs erected after the adoption of this article shall have a minimum setback for any part of the sign equal to at least one-fourth of the required building setback of the zoning district. Existing freestanding signs which do not meet the requirements of this section may not be altered or changed in any perpetuating manner unless proof is supplied to the village board of trustees that such sign was not legally in existence prior to this article.

(18) Irrespective of the other provisions of the Code of Ordinances, to insure the health, safety and welfare of the village, no further billboards may be constructed, installed or replaced within the village boundaries.

All current billboards may remain provided they are maintained. In the event that a current billboard should be damaged so that 50 percent of the structure or its support system is rendered unsafe, said billboard shall be removed and no replacement shall be allowed.

All other provisions of the Code of Ordinances regulating billboards shall remain in force as to existing billboards.

(19) Irrespective of the terms of section 3-37(a), commercial establishments selling gasoline to the public may install one electronic pricing sign provided said sign complies with all other village ordinances.

(c) Directional and instructional signs. Directional or instructional signs accessory to parking and driveway areas are permitted in addition to signs permitted under section 3-36(b), subject to the following regulations:

(1) One sign may be erected to designate each entrance to or exit from a parking or driveway area; each such sign may not exceed three square feet in area; such signs may be double-faced;

(2) One sign designating the conditions of use shall be permitted for each parking or driveway area; such signs shall not exceed a maximum of ten square feet in area;

(3) In standard traffic marking colors, lane markers, directional arrows and other directional or instructional devices painted on the pavement of parking and driveway areas shall be permitted without limitation. The area of signs permitted under this subsection shall not be included in the 15 percent overall limitation contained in subsections (b)(4) and (b)(5) of this section.

(d) Service stations; car washes. Signs on or accessory to automobile service stations and car washes and the premises thereof shall conform to all regulations contained in this article and, in addition, shall be limited to two double-faced signs per establishment. In computing the number of signs displayed, however, the following shall not be deemed to constitute signs on such premises:

(1) Matter appearing on gasoline pumps as purchased or installed;

(2) Matter appearing on nonilluminated vending machines as purchased or installed (not to exceed three such machines visible to the general public) that dispense or offer for sale any products or services, provided that such machines are grouped together;

(3) Signs required by state law displayed in connection with the operation of automobile service stations or pump islands; provided, however, that:

- a. Minimum state standards shall constitute that maximum permissible standards within the village for the display of such required signs;
- b. No items of information other than those specifically required by state law shall be displayed on such required signs; and
- c. The size of each such required sign shall be related to the state mandated letter size (the size of sign, in each case, to be approved by the board of trustees).

Sec. 3-42. - Safety and maintenance.

(a) All signs shall be designed and constructed adequately and safely to support their weight and to withstand wind and other stresses to which they may be subjected.

(b) All signs in which electrical wiring and connections are to be used shall have affixed thereon a plate showing the voltage of the electrical apparatus used in connection therewith.

(c) No sign shall be erected, relocated, maintained or otherwise permitted to obstruct or prevent free ingress or egress from any window, door, fire escape or stairway of any building or structure. No sign shall be attached to a fire escape.

(d) No sign shall be erected, constructed or maintained where by reason of its position, shape, color or wording, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; nor shall it otherwise cause a safety hazard.

(e) All signs, canopies and awnings, in addition to complying with applicable provisions of this article shall be kept and maintained in a safe, neat and orderly condition and appearance and shall be repainted or otherwise maintained periodically to prevent corrosion or deterioration caused by weather, age or other conditions. The owner of a sign shall be responsible for providing such maintenance to his sign. For freestanding signs, such maintenance shall also require that the ground area, for a distance of not less than ten feet in all directions, be kept free and clean of weeds, trash and other debris. If a sign is not maintained in a safe, neat and orderly condition by the owner of the sign, the owner of the premises upon which such sign is displayed shall be liable for such maintenance.

(f) Whenever any business, service or other use moves from or vacates premises previously occupied by it, or for any reason renders a sign not applicable to the premises (an abandoned sign), all signs relating to such business, service or use shall be removed from such premises within ten days from the date of such event. If such sign is not removed, the owner of the premises upon which such sign is displayed shall be liable for such removal within ten days.

Sec. 3-43. - Review of existing permanent signs.

All signs existing on the effective date of the ordinance from which this division is derived, shall be exempt from compliance of the terms of this article with the exception of section 3-52, maintenance.

Sec. 3-44. - Unlawful display deemed nuisance.

It shall be unlawful to display any sign as such term is defined in section 3-32 in violation of the provisions of this article. Any sign displayed in violation of this article shall be deemed a public nuisance.

Sec. 3-45. - Enforcement, penalties and revocation of permit.

(a) The designated village official is hereby authorized and empowered to enforce this article.

(b) Before any use may be made of a sign authorized under the provisions of this article, a final inspection of the premises must be obtained from the designated village official to ensure compliance with the evidence upon which the sign permit was issued.

(c) The designated village official may make inspections and tests necessary to obtain compliance with the provisions of this article and shall have right of entry upon any premises for inspection whenever the premises are open to the general public. If entry is refused, the inspector, showing reasonable cause to believe the existence of a violation, may apply to the appropriate court for a warrant authorizing entry.

(d) Any person who displays a sign shall comply with the provisions of this article.

Sec. 3-46. - Failure to complete work.

(a) If the person to whom the sign permit has been granted fails to comply or ensure completion of the work required in accordance with the provisions of the permit, the designated village official shall notify such person in writing of any such failure. If such failure is not corrected within ten days after notification, the sign permit may be revoked by order of the village board of trustees.

(b) Any sign permit or certificate of appropriateness issued under this article may be revoked by order of the village board of trustees when it is shown by satisfactory proof that:

(1) The permit was issued without or in excess of the authority of the designated village official;

(2) The application for sign permit and certificate of appropriateness contained material misrepresentation of fact;

(3) The sign or structure was erected, constructed, reconstructed, altered or used in a manner not in compliance with the submittal which served as the basis for the issuance of the permit or certificate of appropriateness.

(c) In the event of revocation of a sign permit or certificate of appropriateness, the sign or structure authorized

by such permit or certificate shall be removed within 30 days of notice of the revocation at the expense of the applicant.

(d) When by reason of nonavailability of materials or any other valid circumstances, it becomes necessary to vary the provisions under which a certificate of appropriateness was granted, the applicant shall submit the necessary changes, along with a written report stating the circumstances necessitating such changes, to the Zoning Board of Appeals for its approval.

(e) If, after a certificate of appropriateness is granted, the sign covered by such certificate shall not be constructed, erected and/or installed within six months after the date thereof, then such certificate (and any sign permit issued in connection therewith) shall expire by the terms thereof, and no sign thereunder shall be constructed, erected and/or installed until a new certificate of appropriateness has been granted by the board.

Sec. 3-47. - Violation of article regulations.

(a) The designated village official shall give a registered and certified written notice of the violation to any person displaying a sign in violation of this article (other than violations of section 3-37). Such notice shall demand compliance with the requirements of this article within 48 hours from the time of the receipt of such notice (weekends and holiday excluded) for temporary and window signs, and within ten days from other signs.

(b) Any person displaying a sign in violation of this article after such 48 hours or the ten-day period, as the case may be, shall be subject to a penalty not exceeding \$10.00 per offense. Each day of such violation shall constitute a separate offense with respect to the computation of fines.

(c) If a sign shall be found to be unsafe or insecure, or constructed, erected or maintained in violation of this article, and if the owner of such sign fails to remove or alter the sign (following proper notice), such sign may be removed or altered by the village at the expense of the owner of the sign.

(d) If any sign presents an immediate peril to persons or property, such sign may be removed by the village summarily and without notice. Such removal without notice shall not preclude the village from recouping the costs of such removal.

(e) In addition to other remedies as specified in this article, the village may institute any appropriate action or proceeding to prevent, restrain, correct, or abate any violation of this article, including such actions as may be necessary for the village to recoup costs incurred in pursuance of the removal or alteration of signs as may be required by this article.

(f) All rights and privileges acquired under the provisions of this article are mere licenses, revocable at any time by order of the village board of trustees.

Sec. 3-48. - Appeals.

(a) An appeal may be taken to the board of trustees from any order, requirements, decision or determination made by the designated village official or the Zoning Board of Appeals in the enforcement of this article, which appeal shall act as a stay of all proceedings in furtherance of the action appealed from until a final decision by the village board of trustees.

(b) All final decisions of the village board of trustees under this section shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, 735 ILCS 5/3-101 et seq.

Sec. 3-49. - Variations.

(a) Any person may apply to the Zoning Board of Appeals for a variation from the terms of this article and a permit to construct or alter or maintain any sign which does not conform to the requirements of this article.

(b) A request for variations shall be filed with the designated village official who shall promptly refer them to the Zoning Board of Appeals for advisory purposes who will forward it to the village board of trustees for final action.

(c) Variations shall be permitted only if:

(1) They are in harmony with the general purpose and intent of this article.

(2) The plight of the petitioner is due to unusual circumstances;

(3) There are practical difficulties or particular hardship in the way of carrying out the strict requirements of this article; and

(4) The variation will not alter the essential character of the locality.

(d) Every variation granted by the village board of trustees shall be accompanied by findings and facts specifying the reasons for granting the variation.

(e) Notwithstanding the provisions of subsections (a)-(d) of this section, the Zoning Board of Appeals shall not have the power to recommend to the village board of trustees:

(1) Grant variations from the terms of sections 3-34 and 3-35 (design review procedures).

(2) Permit signs which are prohibited under section 3-37 (prohibited signs).

(3) Permit signs which violate the safety and maintenance provisions of sections 3-37(c), 3-37(d), 3-35(b) and section 3-42.

(4) Exempt signs from the requirements of section 3-43 (review of existing permanent signs).

(5) Vary the amortization provisions of section 3-44, as applied to any given sign.

Sec. 3-50. - Liability for damages.

Neither the provisions of this article nor the issuance of any sign permit or certificate of appropriateness shall be construed as relieving any person erecting, owning or maintaining any sign from liability arising by reason of personal injury or property damage resulting therefrom or work relating thereto, or as limiting the liability of any such person by reason of personal injury or property damage so resulting. The provisions of this article shall not be construed as imposing upon the village or its officials or employees any liability by reason of the approval of any sign under any of the provisions of this article.

Sec. 3-51. - Reimbursement for expenses.

The applicant for a sign permit shall reimburse the village for all engineering and legal costs incurred by the village in processing the application. These expenses must be paid to the village prior to the village issuing its sign permit. If 30 days has expired from the date of notice of expenses referred to in this section, and payment in full has not been made to the village, the applicant for the sign permit shall be deemed rejected by the village irrespective of how the board of trustees has previously ruled.

Sec. 3-52. - Maintenance.

Every sign including, but not limited to, those for which permits or for which no permits are required, shall be maintained in a safe, presentable, and good structural material condition at all times, including the replacement of defective parts, painting, repainting, cleaning, and all other acts required for the maintenance of such signs. All signs in existence as of the effective date of the ordinance from which this article is derived shall also be required to maintain, repair, and keep their signs in good structural condition and if any sign face support structure is not maintained so as to prohibit the formation of rust on such base, the village, after 30 days' notice of the violation of this section, shall cause the removal of such sign. Any owner of such sign being in violation of the section shall be served with a notice of their violation to continue to maintain such sign in a proper fashion, and if such sign is not repaired within 30 days from receiving a notice of the violation, such owner of the sign shall be deemed in violation of this section. Each day, after the 30-day notice to repair, that the sign remains unrepaired, the owner of such sign shall be liable to the village for a fine of \$100.00 per day. In addition to the fine, as set forth in this section, if the sign which is in violation of this section is not made to comply with the adequate safety standards, the village shall require its removal in accordance with this section.

Sec. 3-53. - Removal of signs by the designated village official.

(a) The designated village official shall cause to be removed any sign that endangers the public safety such as an

abandoned, dangerous, or materially, electrically, or structurally defective sign or a sign for which no permit has been issued other than those signs exempt. The designated village official shall prepare a notice which shall describe the sign and specifically the violation involved and which states that if the sign is not removed or the violation is not corrected within 30 days, the sign shall be removed in accordance with the provisions of this section.

(b) All notices mailed by the designated village official shall be sent by certified mail. Any time periods provided in this article shall be deemed to be commenced on the date of the receipt of the certified mail.

(c) The notice shall be mailed to the owner of the property on which the sign is located as shown on the last tax assessment roll. If known, or if reasonable care should be known, the notice shall be made to or delivered to the owner of the sign and the occupant of the property. Any person having an interest in the sign or the property may appeal the determination of the designated village official ordering removal of compliance by filing a written notice of appeal with the Zoning Board of Appeals for the village, within ten days after receipt of the notice.

(d) In case of emergencies, the designated village official may cause the immediate removal of the dangerous or defective sign without notice.

(e) Any sign removed by the designated village official shall become the property of the village and may be disposed of or in any manner deemed appropriate by the board of trustees. The cost of removal of the sign by the village shall be considered a debt owed to the village by the owner of the sign and the owner of the property and may be recovered by any appropriate court action by the village or by assessment against the property. The cost of removal shall include any and all incidental expenses incurred by the village in connection with the sign removal.

Secs. 3-54-3-99. - Reserved.

ARTICLE III. - ELECTRONIC MESSAGE SIGNS

Sec. 3-100. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Electronic message display. A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Electronic message displays may be permitted as special uses in the commercial and industrial zoning districts subject to the following requirements:

(1) Operational limitations. Such displays shall contain static messages only, changed only through dissolve or fade transitions, or with the use of other subtle transitions and frame effects that do not have the appearance of moving text or images, but which may otherwise not have movement, or the appearance or optical illusion of movement, of any part of the sign, design, or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating or varying of light intensity. There shall be no blinking; however scrolling is allowed. There shall be no pictures or images allowed on the electronic message display.

(2) Minimum display time. Each message on the sign must be displayed for a minimum of once every ten seconds.

Dissolve. A mode of message transition on an electronic message display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lost legibility simultaneously with the gradual appearance and legibility of the second message.

Fade. A mode of message transition on an electronic message display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

Frame. A complete, static display screen on an electronic message display.

Frame effect. A visual effect on an electronic message display applied to a single frame to attract the attention of viewers.

Transition. A visual effect used on an electronic message display to change from one message to another.

Sec. 3-101. - Regulations.

(a) Only one electronic message display may be installed on each property.

(b) All electronic message displays are prohibited from being a freestanding sign or secondary sign.

(c) The width of an electronic message display cannot exceed the width of the primary sign on the same pole.

(d) The maximum square footage on the main sign and the electronic message display may not exceed 100 square feet. Each electronic message display's total area may not exceed 20 square feet.

(e) The electronic message display must be located below the primary sign.

(f) No electronic message display may display words that may confuse the driving public, such as "stop," "beware," "caution," etc.

(g) Each property requesting an electronic message display must have a minimum of 250 linear footage to qualify for said signage and a distance of a 750-foot radius from any other electronic message display sign.

(h) Only one electronic message display is allowed per pole, including monument signs.

(i) All electronic message displays must be mounted on a pole or base and are not allowed on the surface or roofs of buildings.

(j) An electronic message display advertising must pertain to the businesses on which the property is located, except for a municipal electronic message display.

(k) All electronic message displays must be turned off when the business is not operating.

(l) Each electronic message display shall be maintained in a safe, neat and orderly condition and appearance and shall be repainted or otherwise maintained periodically to prevent corrosion or deterioration caused by weather, age or other conditions.

Sec. 3-102. - Violation; fine.

Any party found in violation of the terms of this article is subject to a fine of not less than \$75.00 to \$750.00 per day.

Sec. 3-103. - Application.

Prior to the installation of any electronic message display, the owner shall file an application with the Village of New Milford, Illinois, and pay an application fee as set forth in the village's zoning, land use and development permit fee schedule which may be amended by the village from time to time by resolution or ordinance.

(Ordinance No. 2021-08)

CHAPTER 4

ALCOHOLIC BEVERAGES

ARTICLE 1. GENERAL

Sec. 4-1. DEFINITIONS.

Unless the context otherwise requires, the following terms as used in this chapter shall be construed according to the definitions given below.

ALCOHOL. "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

ALCOHOLIC LIQUOR. "Alcohol Liquor" means any spirits, wine, beer, ale, or other liquid containing more than one-half percent (1/2%) of alcohol by volume, which is fit for beverage purposes.

BEER. "Beer" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like.

CLUB. "Club" means 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 and consumption of alcoholic liquors kept, used and maintained by its organization to provide a meeting place by either owning said building or leasing of the same suitable and adequate for the reasonable, comfortable use and accommodation of its members and guests and to be staffed with a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and guests.

MINOR. "Minor" means any person under the age of twenty-one (21) years of age.

RETAIL SALE. "Retail Sale" means the sale for use or consumption and not for resale.

RESTAURANT. "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals actually are served and regularly served, and 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.

ARTICLE II. RETAIL LICENSE

Sec. 4-2. REQUIRED; SALES IN VIOLATION OF TERMS OF LICENSE.

It shall be unlawful to sell or offer for sale at retail in the village any alcoholic liquor without having a retail liquor dealer's license, or in violation of the terms of such license.

Sec. 4-3. APPLICATION; CONTENTS; FALSE STATEMENTS IN APPLICATION.

Applications for licenses required by this Article shall be made to the Village President and Board of Trustees 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 affirmation and shall contained the following statements and information:

(a) The name, age, address, social security number, citizenship, place of birth, and if a naturalized citizen, the time and place of naturalization, of the applicant in case of an individual; in the case of a co-partnership, the persons entitled to share in profits thereof; and in the case of a corporation, the objects for which organized, the date and state of incorporation, the names, dates of birth, social security numbers, and addresses of the officers and directors, and, if a majority interest of the stock of such corporation is owned by one (1) person or his or her nominee, the name and address of such person;

(b) The character of the business of the applicant;

(c) The location and description of the premises or place of business which is to be operated under the license;

(d) Whether the applicant seeks to sell alcoholic liquor upon the premises as a restaurant, and if so, whether the premises are maintained and held out to the public as a place where meals are actually and regularly served and whether the premises have adequate and sanitary kitchen and dining room equipment and capacity with sufficient employees to prepare, cook and serve suitable foods;

(e) If applicant is a club, whether it has the qualifications described in the Illinois Act relating to alcoholic liquors;

(f) Whether the applicant owns the premises for which the license is sought, and if not, whether the applicant has a lease on such premises covering the full period for which the license is sought, giving the name and address of the lessor and the period covered by the lease;

(g) Whether the applicant is licensed as a food dispenser, giving that license number if applicable;

(h) Whether the location of applicant's business for which the license is sought is within 100 feet of any church, school, hospital, home for aged or indigent persons or for veterans, their wives or children, or any military or naval station;

(i) Whether any manufacturer, distributor or importing distributor has directly or indirectly furnished, loaned or rented any interior decorations other than signs for inside or outside use, costing in the aggregate more than \$100.00 in any one calendar year for use in or about the premises for which the license is sought;

(j) Whether any manufacturer, distributor or importing distributor has directly or indirectly paid or agreed to pay for this license, advanced money or anything else, or any credit (other than merchandise credit in the ordinary course of business for a period not to exceed 90 days), and whether such a manufacturer, distributor, or importing distributor is directly or indirectly interested in the ownership, conduct or operation of the place of business (interior decorations and signs referenced above exempted);

(k) Whether there is any sign or advertisement on the proposed premises using the word 'saloon' or 'bar'?

(l) Whether the applicant is engaged in the manufacture of alcoholic liquors, giving the place of manufacture, if applicable;

(m) Whether the applicant is conducting the business of an importing distributor of alcoholic liquors;

(n) Whether an individual applicant, or any partner of a partnership applicant, or any officer, manager, or director of a corporate applicant, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, has ever been convicted of any felony under any Federal or State Law, giving the name of the person so convicted, the date and the offense, if applicable;

(o) Whether an individual applicant, or any partner of a partnership applicant, or any officer, manager, or director of a corporate applicant, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, has ever been convicted of a violation of any Federal or State liquor law, giving the name of the person so convicted and the date, if applicable;

(p) Whether an individual applicant, or any partner of a partnership applicant, or any officer, manager, or director of a corporate applicant, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, has ever been convicted of being the keeper of a house of ill fame or of pandering or any other crime or misdemeanor opposed to decency and morality, giving the name of the person so convicted, the date and the offense, if applicable;

(q) Whether an individual applicant, or any partner of a partnership applicant, or any officer, manager, or director of a corporate applicant, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, has ever permitted an appearance bond forfeiture for any of the violations referenced above;

(r) Whether an individual applicant, or any partner of a partnership applicant, or any officer, manager, or director of a corporate applicant, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, has made application for a similar license for this period for any premises other than those described above, giving the name of the applicant, the location of the premises, and the date and disposition of the application, if applicable;

(s) Whether any law enforcing official, mayor, alderman, member of a city council or commission, member of a village board of trustees, or member of a county board, is

directly or indirectly interested in the business for which the license is sought;

(t) Whether any license previously issued by the State, Federal or local authorities to an individual applicant, or to any partner of a partnership applicant, or to any officer, manager, or director of a corporate applicant, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, has been suspended or revoked, giving the name of the licensee and the reasons and date of said suspension or revocation, if applicable;

(u) Whether the business will be conducted by a manager or agent, giving that person's name, address, and the authority conferred upon him or her by the corporation with relation to the operation or management of the business for which the license is sought, if applicable;

(v) The applicant's Retail Occupational Tax Number; and

(w) The type of license applied for.

Sec. 4-4. PERSONS NOT ENTITLED TO LICENSE.

No license required by this Article shall be issued to:

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

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

(c) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant; (*Ordinance No. 2017-41*)

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

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

(f) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant. (Ordn. 2017-41)

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

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

(i) A corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than five (5) percent 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;

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

(k) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, or who shall have forfeited his bond to appear in court to answer charges of any such violation;

(l) 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 issued;

(m) Any law reinforcing public official, the Village President or any member of the Board of Trustees; no such official shall be interested in any way, either directly or indirectly in the manufacture, sale or distribution of alcoholic liquor;

(n) A person not eligible for a state retail liquor dealers license;

(o) Any person or any store or other place of business where the majority of the customers are minors or where the main business is selling of school books, school supplies, food or drink to such minors.

Sec. 4-5. CLASSIFICATION OF LICENSES; SCOPE; FEES.

Every person, firm, or corporation engaged in business in the retail sale of alcoholic liquor in the Village shall pay a license fee. Licenses shall be classified in the following manner with the appropriate license fee listed herein:

(a) Class A. Class A license which shall authorize the retail sale of alcoholic liquor for the consumption on the premises as well as retail sale of alcoholic liquor in packages or bottles not for consumption on the premises; said license may also permit said sales in packages or bottles on the premises, immediately adjacent to those licensed premises where alcoholic liquor is consumed, when said premises are operated under the same name, same ownership, and within the same common building, each day of the week. The fee for such license shall be One Thousand One Hundred Dollars (\$1,100.00) per year. This liquor license shall only be applicable for Monday through Saturday sales.

(b) Class B. Class B license shall authorize the retail sale on the premises specified of beer and wine only, for consumption on the premises, as well as other retail sales of alcoholic liquor and packages or bottles not for consumption on the premises of beer and wine only. The fee for such license shall be Four Hundred Fifty Dollars (\$450.00) per year. This liquor license shall only be applicable for Monday through Saturday sales.

(c) Class C. A Class C liquor license shall be issued for a Class A, Class B, or Class E license but shall authorize the sale of the specific alcoholic beverages indicated for each class for Sunday sales only. The fee for such license shall be Three Hundred Fifty Dollars (\$350.00).

(d) Class D. There is hereby created a Class of "daily" or "temporary" liquor license which shall authorize the retail sale of alcoholic liquor on a one day basis only. This license may be renewable for three consecutive days by the same license holder upon application being made to the Board of Trustees for the Village of New Milford. There shall also be a limit of four licenses issued in any calendar year including the

license issued annually to the Village of New Milford for the purpose of any Village picnic to be held in the Village. The hours of sale of alcoholic beverages for any Class D license shall be set by the Board of Trustees of the Village of New Milford at the time of the issuance of said license. The fee for such license shall be Three Hundred Dollars (\$300.00) per day. Any not-for-profit organization may request a waiver of the license fee from the Board of Trustees of the Village of New Milford at the time of their application.

(e) Class E. A Class E liquor license shall authorize the dispensing of alcoholic beverages for consumption on the premises only for parties, weddings, banquets or other social events. This license shall specifically be applicable to clubs as defined in Section 4-1 herein. This liquor license shall be applicable for a time period not to exceed six (6) days and only for those days falling on a Monday through Saturday inclusive. The fee for such license shall be Six Hundred Fifty Dollars (\$650.00) for each six-day license issued. Should the license be issued for less than six days, the fee shall still be Six Hundred Fifty Dollars (\$650.00).

(f) Class F. A Class F license shall authorize the retail sale on the premises specified of beer and wine only in packages or bottles not for consumption on the premises. The fee for such a license shall be Three Hundred Fifty Dollars (\$350.00) per year. This license shall be applicable and allow the holder of said license to sell alcoholic beverages seven (7) days a week.

(g) Class G. A Class G liquor license shall be issued for a Class A or Class B license, but shall authorize the sale of the specific alcoholic beverage indicated for consumption on the premises only for each class for Friday and Saturday sales until 3:00 A.M. the following day. (Ordn. 2006-10)

Class A	\$1,100.00
Class B	\$1,100.00

(h) Class H. A Class H liquor license shall be issued for a Class A or Class B license but shall authorize the sale of the specific alcoholic beverage indicated for each class for Sunday sales only.

Class A\$600.00
Class B\$600.00

(i) Class I. A Class I license shall authorize the retail sale on the premises specified of alcoholic liquor only in packages or bottles not for consumption on the premises. The fee for such a license shall be Eight Hundred Fifty Dollars (\$850.00) per year. This license shall be applicable and allow the holder of said license to sell alcoholic liquor seven (7) days a week.

This license shall be applicable to a Caterer Retailer. A "Caterer Retailer" is defined as a person or entity who serves alcoholic liquors for consumption either onsite or offsite, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. Further, a Caterer Retailer license shall allow the holder to serve alcoholic liquors as an incidental part of a food service that serves prepared meals which excludes the serving of snacks as the primary meal, either on or offsite whether licensed or unlicensed. (*Ordinance No. 2017-40*)

(j) Class J. A Class J license shall authorize the retail sale on the premises specified of alcoholic liquor containing at least 40 percent alcohol by volume only in packages or bottles not for consumption on the premises. The fee for such a license shall be Four Hundred Fifty Dollars (\$450.00) per year. This license shall be applicable and allow the holder of said license to sell alcoholic liquor containing at least 40 percent alcohol by volume seven (7) days a week.

(k) Class K. Any holder of a Class A, B, C, or G liquor license may apply for a Class K license, which Class K license shall be required, in order for the applicant to have, locate, operate, or maintain Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.) within the Class A, B, C, or G licensed establishment. Any person holding a Class K license shall comply with all provisions of the Illinois Video Gaming Act. The annual fee for a Class K license shall be \$500.00 and which fee shall be in

additional to the annual Class A, B, C, or G license fee.

(1) Class "BB" (Bar-Boutique Gaming). Class "BB" shall authorize the retail sale of alcoholic liquor on the premises specified for consumption on the premises only provided the licensed premises also has, locates, maintains and lawfully operates Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class "BB" licensed establishment. The annual fee for such license shall be \$5,000.00."

A Class "BB" License and the holder thereof, shall be subject to the following limitations:

1. The licensed premises shall not exceed 2,000 square feet.
2. Live music, DJ, karaoke, and/or juke boxes are prohibited on the licensed premises. Notwithstanding the foregoing, a music system, operated solely by the licensee, shall be permitted so long as such system is operated at such levels so as to not be heard outside of the licensed premises.
3. Licensee shall not be permitted to have a patio or beer garden of any kind.
4. No alcohol related signs which are visible from the outside of the licensed premises shall be permitted on the licensed premises.
5. No games, other than the Video Gaming Terminals as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*, shall be permitted on the licensed premises, including, but not limited to, pool tables, dartboards, and shuffle board.
(Ordinance No. 2014-1)

(m) For Classes A, B, C, G, and K the number of licenses issued by the Village of New Milford shall be limited in number and in geographical areas as stated as follows:

- (a) From South Bend Road to Leonard Road five (5) liquor licenses.

- (b) From South Bend Road to Baxter Road five (5) liquor licenses.
- (c) From the Baxter Road intersection with Route I-39 to 11th Street five (5) liquor licenses.

The restriction on the number of licenses stated above are applicable to Class A, Class B, and Class K licenses only. (Ordinance No. 2014-2)

Sec. 4-6. RESTRICTION ON SERVING HOURS OF ALCOHOLIC BEVERAGES

(a) All holders of Class A, Class B, Class E, Class F, and Class I, and Class J liquor licenses may be open for business and serve alcoholic beverages Monday through Saturday from 6:00 a.m. until 2:00 a.m. the following day.

(b) All holders of Class C, Class F, Class I, and Class J liquor licenses may be open for business and serve alcoholic beverages each Sunday from 10:00 a.m. until 12:00 midnight.

(c) All holders of Class A, B, E, F, I, and J liquor licenses may be open for business and serve alcoholic beverages until 3:00 a.m., Monday through Saturday, on New Year's Eve. The holder of a Class C liquor license may be open for business and serve alcoholic beverages upon any Sunday provided it falls on New Year's Eve until 3:00 a.m.

(d) DELETED (Ordinance No. 2021-07)

Sec. 4-7. PAYMENT OF ANNUAL LIQUOR LICENSE FEE.

Payment of all license fees covered by this Chapter shall be paid on or before the 1st day of May of each year.

Sec. 4-8. ISSUANCE OF LICENSE.

(a) Prior to the issuance of any new liquor license, prior to the issuance of any renewed liquor license at the discretion of the Liquor Commission, the applicant shall have the premises that will be covered by the liquor license inspected by the Winnebago County Building Department in order to verify compliance with all applicable building, property maintenance, and fire and

health codes of the State of Illinois, County of Winnebago and Village of New Milford.

(b) Upon successful completion of the inspection, if required, and upon the approval of the Village President and Board of Trustees of the application for a license required by this Article, the Village President shall issue to the person or entity applying therefore a license signed by the Village President to sell alcoholic beverages under the provisions of this Article, indicating the classification under which the license is issued, the term for which said license is granted and an indication that the fee has been paid in full.

Sec. 4-9. DISPOSITION OF FEES.

All fees shall be paid to the Village Clerk and forthwith turned over to the Village Treasurer at the time an application for license required by this Article is submitted to the Board of Trustees. In the event that 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 account or in such other fund as shall be designated by the President and Board of Trustees.

Sec. 4-10. LICENSE TERM; PRORATING FEES.

Each license issued pursuant to this chapter shall terminate on the last day of March, following the date of issuance. The fee to be paid shall be reduced in proportion to the full calendar months which have expired in the year prior to the issuance of the license. There shall be no refund to owners of licenses that are cancelled prior to expiration by virtue of the sale of the business or for any other reason.

Sec. 4-11. RECORD OF LICENSES REQUIRED.

The Village Clerk shall keep a complete record of all licenses issued by him/her pursuant to this article.

Sec. 4-12. ALCOHOLIC BEVERAGE DISPENSING - LOCATION.

All liquor licenses of any kind, issued by the Village of New Milford, shall state the geographical location where the person

or entity who is issued said license is authorized to sell or distribute the alcoholic beverages. Said person or entity granted authority by the Village to sell alcoholic beverages are prohibited from selling alcoholic beverages in any location other than that designated on the liquor license.

The location may be changed only upon the written permission of the Village President. No change of location shall be permitted unless the proposed new location is proper for the retail sale of alcoholic liquor under the laws of the State of Illinois and other ordinances of this Village.

Sec. 4-13. PERSONAL NATURE OF LICENSE; TRANSFERABILITY.

A license issued pursuant to this Article shall be purely a personal privilege, good for not to exceed one (1) year after issuance thereof unless sooner revoked and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Said license shall cease upon the death of the licensee and shall not descend by the laws of testate or intestate, provided that the executors or the administrators of the estate of any deceased licensee and the trustee of any insolvency or bankruptcy licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the appropriate court and may exercise the privileges of the deceased or insolvent licensee after the death of such decedent or during the pendency of the bankruptcy until the expiration of the license, but not longer than six (6) months after the death or the filing of insolvency of said licensee. For the purpose of bankruptcy, the insolvency referred to herein refers to a filing under Chapter 7 of the United States Bankruptcy Code.

It shall be unlawful for any owner of a firm, partnership, or for more than five percent (5%) of the stock of a corporation to whom a liquor license has been issued, to sell, transfer, assign, gift or otherwise dispose of any interest whatsoever in said firm, partnership, or of said five percent (5%) of the stock of a corporation without first applying for a new license. A violation of this paragraph shall result in the automatic revocation of the license issued hereunder.

Sec. 4-14. RENEWAL OF LICENSE.

Any person or entity licensed under the provisions of this

Article may renew his license at the expiration thereof if he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purposes. The renewal provided for in this section shall not be construed as a vested right which shall in any case prevent the Village from decreasing the number of licenses to be issued within its jurisdiction or to deny renewal of said license.

Sec. 4-15. ENFORCEMENT AND PENALTIES; NOTICE AND HEARING.

(a) Enforcement.

1. The Village President and Board of Trustees shall enforce the provisions of this Article and shall send a notice by certified mail to any licensee specifying the nature of any violations by the licensee under this Article. Such notice shall specify the date, time and location of a hearing to be held on any such violation. The hearing shall be held within fourteen (14) days from the mailing of such notice.

2. The Village President or any person designated by him shall serve as the hearing officer. The hearing officer shall determine whether or not a violation of State law or of this Article has occurred and if so, shall determine what penalty shall be invoked. The hearing officer shall notify the licensee of any penalty invoked, in writing, by certified copy, within seven (7) days after the hearing has been completed.

(b) Penalties.

1. Revocation or Suspension. The hearing officer may revoke or suspend any license issued under this Article for any violation of any provision of this Article or for any violation of State law.

2. Costs. In the event that a violation of any of the provisions of this Article or of State law are found to have occurred, then, and in that event, the hearing officer may assess any costs for administrative expenses, or fees incurred for the Village of New Milford conducting said hearings.

3. Fine. In lieu of suspension or revocation, a hearing officer may instead levy a fine on the licensee for violations of any provisions of this Article or the State law in addition to the costs set forth in paragraph (b)(2) above of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) for each violation. Each day in which the violation continues shall constitute a separate violation for the purpose of

the determination of the fine and costs. Not more than Ten Thousand Dollars (\$10,000.00) in fines under this subsection may be imposed by the hearing officer against any licensee during the period of the licensee's license.

Sec. 4-16 BASSET PROGRAM

(a) For licenses issued on or after April 1, 2008, the Village of New Milford Liquor Commission may, at its discretion, request that licensees complete a State certified Alcohol Sellers and Servers Education and Training (BASSET) program for all persons who sell or serve alcoholic beverages, all management personnel working on premises, and anyone whose job description entails the checking of identification for the purchases of alcoholic beverages, pursuant to that license. Said program shall be completed within sixty (60) days of the date of the request by the Liquor Commission.

(b) A state certified BASSET training program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by 235 ILCS 5/3-12 (11.1) and 6-27 and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card (a picture type ID is optional) to participants as proof of completion.

(c) A photocopy of certificate of completion for all owners, managers, employees, or agents required by the Liquor Commission to have BASSET training shall be maintained by the licensee in a manner that will allow inspection, upon demand, by any designee of the state or local liquor control authorities.

(d) Municipalities and licensees must honor all State of Illinois Liquor Control Commission (ILCC) BASSET approved programs.

Sec. 4-17. DUTY TO EMPLOY A SECURITY OFFICER.

On licensed premises where dancing is permitted, or where, in the judgment of the Liquor Control Commission, it is necessary for the purpose of keeping order, or where, in the judgment of the Commission, the parking or departing of automobiles is obstructing

or endangering traffic or causing a public nuisance, it shall be the duty of the licensee, upon the request of the Commission, to engage a professional security officer, not an employee of the licensee, at the expense of the licensee during such hours as it may be deemed necessary by the Commission.

Sec. 4-18a. PATRONS ON PREMISES AFTER CLOSING HOURS.

It shall be unlawful for any person, other than a licensee or his employees or agents, to remain on or about licensed premises beyond fifteen (15) minutes after the serving hours established under Section 4-6 of this Chapter.

Sec. 4-18b. INSPECTIONS OF PREMISES.

The premises used by a licensee for the retail sale of alcoholic liquor shall be open at all times to inspection by any law enforcement officer, authorized inspector or members of the Village Board. The failure or refusal to permit and allow such entry and inspection may be the basis for suspension of the license and the rights and privileges granted therewith to the licensee for the premises sought to be inspected after a hearing as required under state law.

Sec. 4-19. DISORDERLY OR ILLEGAL CONDUCT ON THE PREMISES; DUTY TO REPORT.

(a) The licensee shall at all times keep good order in, upon and about the premises, and it shall be unlawful for a licensee to permit noisy, disorderly or obscene conduct in, upon or about the licensed premises.

(b) It shall be unlawful for any licensee or any employee or agent of the licensee to engage in any activity or conduct, or to allow any other person to engage in any activity or conduct, in, upon or about the licensed premises, which is prohibited by any ordinance of the Village, state law or law of the United States.

(c) Each licensee and each of his or her employees or agents shall promptly report to the Winnebago County Sheriff's Department any incident occurring in, upon or about the licensed premises and in his or her knowledge or view relating to the commission of any crime including any violation of this Chapter and shall truthfully and fully answer all questions and investigations of any identified Sheriff's Deputy who makes inquiry concerning any persons in, upon

or about the licensed premises and any events taking place in, upon or about the licensed premises, and shall cooperate fully in any such investigation, including the giving of any oral or written statements at such reasonable times and in such reasonable locations to any Sheriff's Deputy engaged in said investigation.

(d) Each licensee shall maintain on each licensed premises not less than one telephone in good operating order which phone must be within easy access of the bartender or other responsible person in charge of the premises at all times for the purpose of reporting to the Sheriff's Department incidents occurring in, upon or about the licensed premises.

Sec. 4-51. EMPLOYMENT OF MINORS.

(a) It shall be unlawful for any licensee to employ any person under the age of twenty-one (21) years to mix, handle, or dispense alcoholic liquor. Bartenders must be twenty-one (21) years of age or older.

(b) It shall be unlawful for any licensee to employ any person under the age of eighteen (18) years to ring up liquor sales at checkout counters for the sale of packaged goods.

(c) Employees other than defined above may be eighteen (18) years of age in any place in the Village to serve alcoholic liquor. Waitresses, waiters or any other persons serving alcoholic liquor must be eighteen (18) year of age or older.

CHAPTER 5
AMUSEMENTS

RESERVED

CHAPTER 6

ANIMALS

Sec. 6-1. DEFINITIONS.

Unless the context otherwise requires, the following terms as used in this ordinance shall be construed according to the definitions given below:

DOMESTIC AND/OR FARM ANIMALS. Horses, cows, cattle, swine, sheep, goats, donkeys, mules, burrows, asses, rabbits, ferrets, mink or any animal raised and/or kept for the purpose of work, meat, milk, or pelt fur or skin.

DOMESTIC AND/OR FARM FOWLS. Chickens (large or bantam), ducks, geese, turkeys, guineas, or any fowls raised and/or kept for the purpose of meat, eggs, or plumage.

PETS. Dogs, cats, birds, or any animal large or small, fowl large or small, fish or reptiles owned or kept as a family or household pet.

STABLES, PENS, STIES, AND HUTCHES. Herein defined as any place, enclosure, or premises, domestic or farm animals are housed or kept.

COOPS, LOFTS, PENS, OR RUNWAYS. Herein defined as any place, enclosure, or premises, domestic and/or farm fowl are housed or kept.

KENNELS. Any establishment, or premises wherein or whereon, dogs are kept for the purpose of breeding, boarding, sale, exchange, or sporting.

CATTERIES. Any establishment, or premises, wherein cats are kept for the purpose of breeding, boarding, sale, exchange or sporting.

PET AND/OR ANIMAL DEALERS. Any person engaged in the business of dealing in domestic or farm animals, domestic, and/or farm fowl, and or pets.

VETERINARY HOSPITAL. Any place institution, or enclosure used for harboring or reception for care and treatment of any animals, domestic and/or farm, fowl, domestic and/or farm, and pets.

VILLAGE POUND. Any place, or enclosure designated by the President, and Board of Trustees, to be used for the impounding of any animals or dogs found running at large in the Village of New Millford, Illinois, contrary to any of the provisions of the ordinances of the Village of New Millford, Illinois.

Sec. 6-2. DOG RUNNING AT LARGE - GENERALLY.

(a) No dog shall be permitted to run at large within the Village, unless said animal is secured on the owner's premises in a fenced in area or by a leash.

(b) Any dogs found running at large are declared to be a public nuisance and subject to be abated destroyed and removed.

(c) If any owner or possessor of a dog shall permit the same to run at large at any time within the limits of the Village, he shall be subject to the penalties imposed by this code.

Sec. 6-3. STABLES, PENS, STIES, AND HUTCHES.

It shall be unlawful for any person to keep, harbor, or maintain a stable, pen, sty, hutch, coop, loft or runway, within the Village of New Millford, Illinois.

Sec. 6-4. CRUELTY TO ANIMALS.

It shall be unlawful for any person to be guilty of cruelty to any animal by overloading, overdriving, overworking, beating, torturing, tormenting, mutilating, failing to provide any animal in his charge or custody as owner or otherwise, with proper food, drink, and shelter, abandon any animal or any age or condition, or causing or knowingly allow the same to be done.

Sec. 6-5. KILLING PROHIBITED.

It shall be unlawful to kill, or attempt to kill or wound, by the use of firearms, air gun, bow and arrow, pelting with stone or otherwise, or by the use of snip-snaps or sling shot, any bird or squirrel within the Village of New Millford, Illinois.

Sec. 6-6. REMOVAL OF DEAD ANIMALS.

Any person having a dead animal, or an animal past recovery which is not killed for meat, or is improper to use as meat, or in an offensive condition, or sick with an infectious or contagious disease on his premises within the Village of New Millford, Illinois, and every person whose animal or any animal in his charge or under his control in any street or place may

die or become, or be in a condition past recovery, shall at once remove or cause the removal of such animal.

Sec. 6-7 through 6-15. RESERVED.

Sec. 6-16. LICENSE AND FEE REQUIRED.

Every person within the Village owning, keeping, or harboring any dog within the Village, shall register the dog with the Winnebago County Health Department Animal Control Division, who shall keep a record of all dogs so registered. It shall be the further duty of such person to pay such assessed fee to the Winnebago County Health Department Animal Control Division, and each dog licensed shall have a rabies tag.

Sec. 6-17. COLLAR AND BADGES REQUIRED TO BE WORN BY ANIMALS.

Every person keeping or harboring any dog licensed under the provisions of this Article shall keep and maintain a collar around the neck of the dog with rabies badges and badges required by the County fastened thereto. Every dog found in the Village without such badges shall, for the purpose of this Article be deemed an unlicensed dog.

Sec. 6-18. REDEMPTION FEE - UNREDEEMED DOGS.

For every dog taken up and impounded, as provided in this Article for which no license fee has been paid there shall be paid to the Village Clerk for the pound masters fee and the use of the Village, by any person desiring to purchase or redeem such dog the following fees; a purchase or redemption fee of Five Dollars (\$5.00), a license fee of One Dollar (\$1.00) for male dogs, Two Dollars (\$2.00) for female dogs for the license year, and the sum of One Dollar (\$1.00) to be paid to the pound master for taking up and or impounding such dog. Two Dollars (\$2.00) of the purchase or redemption fee shall be paid to the pound master. Any person purchasing or redeeming any such dog shall, in addition to the above fees, pay to the Village Clerk the cost of keeping any such dog while in the pound at the rate of not to exceed One Dollar (\$1.00) per day or fraction thereof. If such amounts are paid by any person desiring to redeem or purchase any such dog so impounded within three (3) days after the impounding thereof, such person shall be entitled to redeem or purchase such dog. If such dog not be redeemed within three (3) days after being impounded, such dog may be destroyed or taken to the Humane Shelter at the discretion of the Pound Master and/or the approval of the Humane Shelter.

Sec. 6-19. NUMBER OF DOGS - LIMITATION

(a) Except as hereinafter provided, it shall be unlawful for any person, persons, associations or corporations to keep more than two (2) dogs over four months of age of either sex in any home, trailer, pen, yard, or building within the Village of New Millford.

(b) Any person, persons, associations or corporations desiring to keep more than two (2) dogs as described in paragraph (a) hereof, shall first obtain the appropriate zoning and a Small Animal Dealers License.

(c) The annual license fee for a Small Animal Dealers License required by any person, persons, associations or corporations owning or keeping, for any purpose, more than two (2) dogs as described in paragraph (a) hereof, shall be Twenty-five Dollars (\$25.00).

Sec. 6-20 through 6-30. RESERVED.

Sec. 6-31. KENNELS FOR BREEDING AND BOARDING PROHIBITED.

No kennels for the breeding or boarding of dogs shall be allowed in the Village.

Sec. 6-32 through 6-40. RESERVED.

Sec. 6-41. CATTERIES - CONFINING ANIMALS TO LIMITS' OF PREMISES.

No cat shall be permitted to stray or be taken anywhere outside the limits of the cattery, unless such animal is on a leash, or is taken out temporarily for the purpose of breeding, trial, show, or exhibition.

Sec. 6-42. CATTERIES - SANITATION REQUIREMENTS.

All catteries shall be kept free and clean from any decaying food and from filth of any kind. The cattery, buildings and pens shall be white-washed or disinfected from time to time and shall be kept in a sanitary condition satisfactory to the commissioner of health of the Village of New Millford.

Sec. 6-43. CATTERIES - INSPECTION.

The Winnebago County Health Department Animal Control Division shall periodically inspect each such cattery to determine the provisions of this ordinance are being complied with.

Sec. 6-44 through 6-50. RESERVED.

Sec. 6-51. PET AND/OR ANIMAL DEALERS - CONFINING PETS AND/OR ANIMALS TO LIMITS OF PREMISES.

No pet or other animal shall be permitted to stray or be taken outside the limits of the dealer's premises, unless such pet or other animal is on leash, sold, or is taken out temporarily for the purpose of trial, show, or exhibition.

Sec. 6-52. PET AND/OR ANIMAL DEALERS - SANITATION REQUIREMENTS.

All pet and animal, dealers premises shall be kept free and clean from any decaying food and from filth of any kind. The dealer's buildings and pens shall be white-washed or disinfected from time to time and shall be kept in a sanitary condition satisfactory to the Winnebago County Health Department Animal Control Division.

Sec. 6-53. PET AND/OR ANIMAL DEALERS - INSPECTION.

The Winnebago County Health Department Animal Control Division shall periodically inspect each such pet and animal dealer's establishment to determine whether the provisions of this ordinance are being complied with.

Sec. 6-54 through 6-60. RESERVED.

Sec. 6-61. VETERINARY HOSPITAL - SANITATION REQUIREMENTS.

All veterinary hospitals shall be kept free and clean from decaying food and from filth of any kind. All parts of such buildings, premises, or enclosures shall be disinfected from time to time and shall be kept in a sanitary condition satisfactory to the Winnebago County Health Department Animal Control Division.

Sec. 6-62. VETERINARY HOSPITAL - INSPECTION.

The Winnebago County Health Department Animal Control Division shall periodically inspect each such place of business to determine whether the provisions of this ordinance are being complied with.

Sec. 6-63 through 6-70. RESERVED.

Sec. 6-71. LICENSE.

(a) It shall be unlawful for any person, firm, or corporation to engage in the business or occupation of kennel, cattery, pet and/or animal dealer, or Veterinary Hospital within the limits of the Village of New Millford, Illinois without first having obtained a license therefore, in accordance with the terms and provisions of this ordinance. No person shall be deemed fully licensed until a license has been issued and

delivered to the applicant therefore. A separate license shall be required for each location, place or premises where such business or occupation is proposed to be carried on.

(b) Application for such license shall be made to the Village Clerk in writing, signed by the applicant if an individual, or by a duly authorized agent thereof, if a firm or corporation, verified by oath or affidavit, and shall further contain the following information and statements.

1. The name and address of the applicant in case of an individual, the name and address of the firm or corporation and the name of the authorized agent of the firm or corporation.

2. The character of business of the applicant.

3. The location and description of the premises or place of business which is to be operated under such license.

4. A statement that the applicant has or has not made similar application for a similar or other license in premises other than described in this application, and the disposition of such application.

5. A statement that the applicant will not violate any of the laws of the United States, the State of Illinois, or any ordinance of the Village of New Millford, Illinois.

Sec. 6-72. LICENSE AND FEES.

(a) License for kennels, catteries, pet and/or animal dealers and Veterinary Hospitals, and the fees therefore shall be as follows:

1. The license fee for kennels shall be \$25.00.

2. The license fee for catteries shall be \$25.00.

3. The license fee for pet and/or animal dealers shall be \$25.00.

4. The license fee for a Veterinary Hospital shall be \$25.00.

(b) Applicants for a license hereunder shall, at the time of application for such license, pay to the Village Clerk at the annual rate specified for the type of license for which he makes application. In the event the license applied for is denied, the fee shall be returned to the applicant; if the license is granted the fee shall be deposited in the General Fund.

(c) All license provided for by this ordinance shall terminate and expire on the 31st day of December next after the issuance thereof.

Sec. 6-73. RESTRICTIONS ON LICENSE.

No license shall be issued to:

1. A person who is not of good character and reputation in the community in which he lives.

2. A person whose license issued under this ordinance has been revoked for cause.

3. A firm or corporation, unless the owners or officers of such firm or corporation shall be qualified to obtain a license.

Sec. 6-74 through 6-90. RESERVED.

Sec. 6-91. The Winnebago County Health Department Animal Control Division is hereby authorized to enforce the provisions of this ordinance.

Sec. 6-92. Except as provided to the contrary under this chapter, any person who violates any provisions of this chapter shall, upon conviction, be subject to a fine of not less than Ten Dollars (\$10.00) nor more than Two Hundred Dollars (\$200.00) for each offense.

CHAPTER 7

BUILDING AND BUILDING REGULATIONS

Sec. 7-1. Building Codes. The following building codes will be adopted and approved for enforcement within the Village of New Milford, Illinois:

2015 Illinois Building Code
2015 Illinois Mechanical Code
2014 National Electrical Code
2014 Illinois Plumbing Code
2015 International Energy Construction Code

(Ordinance No. 2020-3)

CHAPTER 8

FIRE PREVENTION AND PROTECTION

ARTICLE 1. HAZARDOUS MATERIALS

Sec. 8-1. - Definitions.

Sec. 8-2. - Prohibited acts.

Sec. 8-3. - Response authority.

Sec. 8-4. - Liability for costs.

Sec. 8-5. - Defenses.

Sec. 8-6. - Release in accordance with law.

Sec. 8-7. - Public duty immunity.

Sec. 8-8. - Contractual indemnification; subrogation.

Sec. 8-9. - Costs and penalties.

Sec. 8-1. - Definitions.

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

Costs: All expenses incurred by the Village and/or the New Milford Fire Protection District for any removal or remedial action.

Facility: Any building, structure, installation, equipment, pipe or pipeline including but not limited to any pipe into a sewer or publicly owned treatment works, well, pond, lagoon, impoundment, ditch, landfill, storage container, tank, motor vehicle, truck trailer, rolling stock or aircraft. Also, any site or area where a hazardous material has been deposited, stored, disposed of, abandoned, placed, or otherwise come to be located.

Hazardous materials: Any material, substance or mixture of materials or substances which are toxic, flammable, corrosive, explosive, carcinogenic or radioactive including, but not limited to, any substance or material which is designated a hazardous material pursuant to the "Hazardous Materials Transportation Act" (49 U.S.C.A., sections 1801 et seq.) in a quantity and form which may pose a

substantial present or potential hazard to human health, property or the environment when improperly released, treated, stored, transported, disposed of, or otherwise managed.

Person: Any individual, business, firm, partnership, corporation, limited liability company, association, trust, estate, joint venture or other legal entity, or their legal representative, agent or assign.

Release: Any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping or disposing of a hazardous material into or on any land, air, water, well, stream, sewer or pipe so that such hazardous material or any constituent thereof may enter the environment.

Remedial action: Any action consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous material into the environment, to prevent or minimize the release of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous materials or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

Removal: The cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess, and evaluate the release or threat of release of hazardous materials, the disposal of removed material, or the taking of such action as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment. The term includes, but is not limited to, security fencing, provision of

alternative water supplies, and temporary evacuation of threatened individuals.

Response: Any removal or remedial action.

Sec. 8-2. - Prohibited acts.

No person shall cause, threaten or allow the release of hazardous materials into the environment unless such release is in accordance with an appropriate permit granted by the state environmental protection agency or other state or federal agency having primary jurisdiction over the release and such release is in such place and manner as will not create a substantial present or potential hazard to human health, property or the environment.

Sec. 8-3. - Response authority.

(a) The fire chief of the New Milford Fire Protection District, or his authorized representative, shall have authority to respond to any release or threatened release of hazardous materials within the Village or which affects or may affect the Village, including, but not limited to, any public water supply, wells or sewage treatment works. This authority includes, but is not limited to, remedial action and removal.

(b) The fire chief shall report any release or threatened release of hazardous materials to all appropriate Federal, State and local public health, safety and emergency agencies within 24 hours of any substantial release of hazardous materials.

(c) The fire chief shall take such remedial or removal action as he may deem necessary or appropriate to respond to the release or threatened release of hazardous material.

(d) All Village personnel shall cooperate with and operate under the direction of the fire chief or other person then exercising response authority under this article until such time as the person exercising such response authority has determined that the response is complete or responsibility for response is assumed by the federal, state or local public health, safety or emergency agency having primary jurisdiction over the release or threatened release.

Sec. 8-4. - Liability for costs.

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in [Section 8-5](#) hereof, the following persons shall be jointly and severally liable for

all costs of removal and remedial action incurred by the Village and/or the New Milford Fire Protection District as a result of a release or threatened release of a hazardous material:

(a) The owner and operator of a facility or vessel from which there is a release or substantial threat of release of a hazardous material;

(b) Any person who, at the time of disposal, transport, storage or treatment of a hazardous material, owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of any such hazardous material;

(c) Any person who by contract, agreement, or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by such person at a facility owned or operated by another party or entity from which facility there is a release or substantial threat of a release of such hazardous materials;

(d) Any person who accepts or accepted any hazardous materials for transport to disposal, storage or treatment facilities from which there is a release or a substantial threat of release of such hazardous substances.

Sec. 8-5. - Defenses.

There shall be no liability under [Section 8-4](#) hereof for a person otherwise liable who can establish by a preponderance of the evidence that the release or substantial threat of release of a hazardous material and the damages resulting therefrom were caused solely by:

(a) An act of God;

(b) An act of war;

(c) An act or omission of a third party, other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship existing directly or indirectly with the defendant (except where the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail), if the defendant establishes by a preponderance of the evidence that:

1. He exercised due care with respect to the hazardous materials concerned, taking into consideration the characteristics of such hazardous material, in light of all relevant facts and circumstances; and

2. He took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions.

(d) Any combination of the foregoing.

Sec. 8-6. - Release in accordance with law.

There shall be no liability under this article for any release permitted by state or federal law, but only to the extent that such release is made in accordance with applicable state and federal laws, regulations and permit requirements and the ordinances of the Village.

Sec. 8-7. - Public duty immunity.

There shall be no liability under this article for damages as a result of any actions taken or omitted by the response authority, his agents and employees with respect to an incident creating a danger to public health, welfare or the environment as a result of any release or threatened release of a hazardous material including, but not limited to, actions taken or omitted in the course of rendering:

(a) Remedial action or removal under this article;

(b) Care, assistance or advice in accordance with this article;

(c) Care, assistance or advice in accordance with the national contingency plan pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C.A. Section 9605).

(d) Care, assistance or advice in accordance with the Hazardous Material Emergency Response Reimbursement Act (430 ILCS 55/1);

(e) Care, assistance or advice at the direction of the response authority;

(f) Care, assistance or advice at the direction of an on-site coordinator appointed under said national contingency plan, the Hazardous Material Emergency Response Reimbursement Act, any Village emergency service and disaster plan now in effect or hereinafter adopted or by such other public health, safety or emergency agency exercising jurisdiction over the release or threatened release of a hazardous material.

Sec. 8-8. - Contractual indemnification; subrogation.

(a) No conveyance, transfer, sale, indemnification, hold harmless, or similar agreement shall be effective to release the owner or operator of any facility or vessel or any person who may be liable for a release or threat of release under this article from the liability imposed under this article. Nothing in this section shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this article.

(b) Nothing in this section, including the provisions of subsection (a) hereof, shall bar a cause of action that an owner or operator or any other person subject to liability under this article, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

Sec. 8-9. - Costs and penalties.

Any person who is liable for the release or threatened release of a hazardous material who fails to pay for or provide removal or remedial action upon or in accordance with a notice and request of the response authority, or in accordance with any order of any court having jurisdiction of the matter, shall be liable to the Village for any costs incurred by the Village and/or the New Milford Fire Protection District, including but not limited to attorney fees and any other costs associated with the enforcement of this section, as a result of such failure to provide or take such removal or remedial action, together with the cost of any removal or remedial action taken by the Village and/or the New Milford Fire Protection District in accordance with this article. In addition, any such person shall be guilty of a violation of this article and shall be fined not less than \$100.00 nor more than \$750.00 for each offense. A separate offense shall be deemed committed for each day on which a violation occurs or continues. The Village shall have the right to enforce the provision of this Section on behalf of the New Milford Fire Protection District to recover any costs incurred by the New Milford Fire Protection District related to any remedial or removal action taken by the New Milford Fire Protection District." (Ordinance No. 2013-7)

CHAPTER 9

GARBAGE AND REFUSE

Sec. 9-1. DUMPSTERS RULES AND REGULATIONS.

(1) Dumpsters located within property zoned RR, R1 and R2 are prohibited except for construction/demolition pursuant to a valid building permit. If dumpsters are approved for construction purposes, the dumpsters must be located on private property or may be located on public right-a-way with the approval of the Board of Trustees for the Village of New Milford.

(2) Dumpsters are permitted in zoning districts other than RR, R1 or R2 provided such dumpsters are enclosed by a fence of sufficient size to obscure any view of said dumpster.

(3) Dumpsters permitted in any zoning district for construction/demolition purposes are not required to be enclosed by a fence. Said dumpsters are only permitted pursuant to a valid building permit, and must be removed when the building permit expires.

(4) Dumpsters that are overflowing or have garbage exposed so that debris is blown from the dumpsters are deemed to be a nuisance.

Sec. 9-2. GARBAGE, DEBRIS, ETC. / PUBLIC NUISANCE.

(1) REGULATIONS. It shall be unlawful for any person to allow garbage or debris to be located upon his property. Any violation of this Section shall be deemed a public nuisance.

(2) DEFINITIONS. For the purpose of this Article the following definitions shall apply:

A. GARBAGE: Garbage shall be defined as offal; refuse, animal or vegetable matter; or trash.

B. DEBRIS: Debris shall be defined as materials which are placed outside in a haphazard manner, which may create rodent and pest harborage or items which are not intended or customarily stored outdoors and which if left exposed and unprotected from the elements have, or potentially will, deteriorate by reason of vandalism, moisture and exposure. Such materials can include rubbish and items which might otherwise be

considered usable such as furniture, appliances, boards, cardboard boxes of items, clothing, dishes, machinery and so forth.

C. TRASH: Trash shall be defined as worn out, broken up, or worthless things; and refuse.

D. RUBBISH: Rubbish shall be defined as waste or rejected matter.

(3) PENALTY. Any person, persons, corporations, firms or organizations which shall violate any provision of this Article shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) plus cost of court. Each day any violation of this Section shall continue shall constitute a separate offense.

CHAPTER 10

HEALTH

Sec. 10-1. DEFINITION.

Open Burning as used herein is defined as the combustion of any matter in the open or in an open dump without originating and/or passing through equipment for which a permit has been issued by the Illinois Environmental Protection Agency.

A. No person, partnership or corporation shall cause or allow the open burning of any materials whatsoever in the Village of New Milford with the following exceptions:

(i) Burning of the materials grown on the property which is the site of open burning, such as leaves, tree limbs, branches or bushes is permitted only during the calendar month of April and between the dates of October 20 and November 20 of each year from 6:00 a.m. to 9:00 p.m. and is subject to the following conditions:

(1) Must be limited to an area no greater than four (4) feet in diameter; and

(2) Shall not be within twenty-five (25) feet of any structure and shall be in a safe area where it will not constitute a fire hazard to any structure, trees, vegetation or undergrowth; and

(3) Shall not be started until such time as appropriate safety equipment, such as buckets, shovels, garden hoses or fire extinguishers, are available for immediate use at all times.

(ii) Burning at any time by farmers, or by their agents or employees under the strict supervision and in the course of their employment. As used in this Section, the word "farm" shall be defined as follows:

(1) An area of ten (10) or less contiguous acres having an annual sale of agricultural products not less than \$250.00; or

(2) An area of greater than ten (10) contiguous acres having an annual sale of agricultural products of \$50.00 or more.

(iii) Burning authorized by a special permit issued by the Illinois Environmental Protection Agency, pursuant to the provisions of Rule 504 of the Open Burning Regulations of the State of Illinois.

(iv) Burning supervised by any fire protection district serving the Village for the purpose of instruction in methods of fire-fighting or fire hazard elimination. The Village President and supervisor of local law enforcement agency shall be notified in advance of any such burning.

(v) Recreational burning, defined as "an occasional burning of fuels for legitimate campfire, recreational or cooking purpose", shall be allowed if, and only if, the following conditions are complied with:

(1) Must be contained in a fire-safe vessel; or a pit no greater than four (4) feet in diameter surrounded by rocks or brick; and

(2) Shall be limited to untreated dry wood which has a length not in excess of the diameter of the fire-safe vessel or pit aforementioned herein; and

(3) Shall not be within twenty-five (25) feet from any structure and shall be in a safe area where it will not constitute a fire hazard to any structure, trees, vegetation or undergrowth; and

(4) Buckets, shovels, garden hoses or fire extinguishers shall be available for immediate use at all times.

B. All burning permitted under this section shall at all times be monitored and attended by an adult of at least eighteen (18) years of age until the fire is extinguished.

C. Prior approval by the Village Board as required by the Code of Ordinances is required for any person, partnership or corporation which wishes to cause or allow open burning not permitted under the provisions herein.

- D. SPECIAL CONDITIONS. The supervisor of the local law enforcement agency or Fire Protection District serving the Village may, in their sole discretion, prohibit any burning which will be offensive or objectionable due to smoke or odorous emissions when atmospheric or local circumstances make such fires a nuisance or hazardous. The official in his or her sole discretion may order the extinguishment of any burning, which creates or adds to a hazardous or objectionable situation or condition.
- E. Open burning permitted by the exceptions stated herein shall, under no circumstances, occur upon the paved or improved portions of any street, highway or other public roadway.
- F. PENALTIES. A violation of Section 10-1 is punishable by a minimum fine of Fifty Dollars and No/100 (\$50.00) and a maximum fine of Five Hundred Dollars and No/100 (\$500.00). The Village of New Milford as a result of violation of this Ordinance shall be charged against the violator and considered an additional expense to the fine referred to herein.

Sec. 10-2.

It shall be unlawful for any person, entity, or party to abandon, leave, deposit, discard, or dump any garbage or refuse on or along any public roadway, highway, street, or alley, within the Village of New Millford, Illinois.

Sec. 10-3.

A violation of Section 10-2 is punishable by a minimum fine of Fifty Dollars (\$50.00) and a maximum fine of Five Hundred Dollars (\$500.00). In addition, all costs incurred by the Village of New Millford or its designated agents in removing the items left in violation of this Ordinance shall be charged against the violator and considered an additional expense to the fine referred to above.

Sec. 10-10.

A. DEFINITIONS.

FIREWOOD. Split wood or unsplit wood cut into lengths not exceeding three (3) feet for the purpose of burning in a fireplace or as a recreational fire.

FULL CORD. Firewood measuring four (4) feet in height, by four (4) feet in width, by eight (8) feet in length.

B. REQUIREMENTS.

(i) Firewood shall be kept or stored outdoors in accordance with the following requirements:

(1) Firewood shall be stored or kept in a neat and secure stack.

(2) Any storage of more than one (1) full cord of firewood outside of a fully enclosed structure shall be enclosed by a fence in such a manner so as to visually obstruct viewing of wood storage from adjacent private or public view when observed from normal grade level activity.

(3) Unless screened by a fence or wall, firewood shall be stacked no closer than five (5) feet from the property line.

(4) Firewood stacks shall not be permitted to become infested with rats, rodents or other vermin. Weeds shall be cut and wood stored in a manner that will assure continuous rodent control.

CHAPTER 11

ARTICLE I. LICENSES

Sec. 11-1. DEFINITIONS.

Unless the context otherwise requires the following terms as used in this ordinance shall be construed according to the definitions given below.

(a) DOOR TO DOOR SALESMEN, VENDORS, PEDDLERS, AND SOLICITORS. Any person male or female, going from person to person, family to family, door to door, home to home, business to business, store to store, building to building, displaying, selling, taking orders for delivering, distributing, or soliciting his or her wares, products, produce, articles, or services, or representing any club, company, corporation, organization, or business (public or private) within the Village of New Millford, Illinois.

Sec. 11-2. LICENSE REQUIRED.

(a) It shall be unlawful for any person (male or female) club, company, corporation, organization or business (public or private) to engage in the business or occupation of door to door selling, vending, peddling, or soliciting within the Village of New Millford, Illinois without first having obtained a license therefore, in accordance with the terms and provisions of this ordinance. No person (male or female) club, company, corporation, organization, or business (public or private) shall be deemed fully licensed until a license has been actually issued and delivered to the applicant therefore.

(b) A license will be issued to any religious organization Boy Scouts or Girl Scouts without charge upon the receipt of the prescribed application.

Sec. 11-3. APPLICATION FOR LICENSE.

Application for such license shall be made to the Village Clerk in writing, signed by the applicant verified by oath or affidavit, to be read and approved by the President and Board of Trustees of the Village of New Millford, Illinois and shall contain the following information and statements.

(a) Name, address, and phone number of applicant.

(b) Citizenship of applicant, his or her place of birth, and if a naturalized citizen, the time and place of naturalization.

(c) The character of business of the applicant.

(d) A statement whether applicant has made similar application for a similar license in premises other than described in this application, and the disposition of such applicant.

(e) Whether a previous license by the federal government, state, county, city, village, or subdivision thereof, has been revoked, and the reasons therefore.

(f) A statement that the applicant will not violate any of the laws of the United States, State of Illinois, County of Winnebago, or the Village of New Millford, Illinois in the conduct of his or her business.

Sec. 11-4. RESTRICTIONS ON NUMBER OF LICENSE.

Licenses for door to door selling, vending, peddling, and/or soliciting hereunder shall be issued by the Village Clerk following the approval and authorization for the issuance of such license by the President and Board of Trustees, and such license may be renewed at its expiration provided the same has not lapsed, been revoked or cancelled and provided further that each applicant for a license or for the renewal thereof fully comply with all the conditions and provisions of this ordinance.

Sec. 11-5. RESTRICTIONS ON LICENSE.

(a) No license shall be issued to a person who is not of good character and reputation in New Millford, Illinois, and or the community in which he or she resides.

(b) A person who is not a citizen of the United States.

(c) A person whose license issued under this ordinance has been revoked for cause.

(d) A person who has been convicted of a violation of any federal law, state law, county law, city law, village law concerning door to door selling, vending, peddling, and or soliciting, subsequent to the passage of this ordinance, or shall have forfeited his or her bond to appear in court to answer charges for any such violation.

Sec. 11-6. RECORD OF LICENSE.

The Village Clerk shall keep or cause to be kept a complete record of all such license issued by him.

Sec. 11-7. FEE FOR LICENSE.

The annual fee for license issued under this ordinance shall be Five Dollars (\$5.00). In the event that application for a license is made after the first day of July the applicant is entitled to receive a license for the six (6) months intervening between July first and the last day of December at the rate of Three Dollars (\$3.00) for six (6) months. Any license issued prior to July first shall be counted as a whole year. Any license issued after July first shall be counted as six (6) months. All license to be dated from and payable from January first and July first and shall expire as provided for in this ordinance. The fee for a license issued for one day only shall be One Dollar (\$1.00) and the license to be dated for the day it is issued to be used. This one (1) day license cannot be renewed.

Sec 11-8. PAYMENT OF FEES.

Applicants for a license hereunder shall at the time of application for such license pay to the Village Clerk the rate specified for the license for which he or she makes application. 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 turned over to the Village Clerk and shall be deposited by him in the general corporate fund or in such other fund as the Board of Trustees may designate.

Sec. 11-9. REVOCATION AND FORFEITURE.

All licenses issued in pursuant of this ordinance shall contain the recital and express condition that the person accepting same does so subject to all the provisions of this ordinance and of any ordinances of the Village of New Millford, Illinois, and any person or persons licensed under the provision of this ordinance who shall be convicted of a violation under this ordinance upon a trial before a Police Magistrate or Justice of the Peace or other court shall thereby forfeit such license and such license shall be and after such conviction absolutely null and void and such license shall not be deemed continued or kept in force by reason of any appeal from the judgment rendered upon such trial; and the person holding or to whom was issued any license which shall have been forfeited shall also forfeit to the Village all sums of money paid for such license. The Village Board of Trustees may revoke any license for any violation of any provision of this ordinance or

for any violation of any federal, state, county, city, or village law pertaining to door-to-door salesmen, vendors, peddlers and or solicitors.

Sec. 11-10. EXPIRATION OF LICENSE.

All licenses provided for by this ordinance shall terminate and expire on the thirty-first (31st) day of December next after the issuance thereof.

Sec. 11-11. TRANSFER OF LICENSE.

A license issued under the provisions of this ordinance shall be purely a personal privilege good for not to exceed the expiration date unless sooner revoked as in this ordinance provided and shall not be subject to attachment, garnishment, or execution nor shall it descend by the laws of testate or intestate devolution, but shall cease upon the death of the license.

Sec. 11-12. MINORS.

No female under the age of eighteen (18) years or male under the age of twenty-one (21) years shall make application or receive a license as specified in this ordinance.

Sec. 11-13. PENALTY.

Any person, male or female, firm or corporation violating any provisions of this Chapter shall be subject to a penalty of not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00) for each offense, and a separate offense shall be deemed committed on each day on which or during which a violation occurs or continues.

Sec. 11-14 through 11-24. RESERVED.

ARTICLE II. RAFFLES

DIVISION 1. GENERAL

Sec. 11-25. Title.

This Article shall be known, cited, and referred to as the "Raffle Ordinance of the Village of New Millford, Illinois.

Sec. 11-26. Purpose of Article.

The purpose of this Article is to regulate and control the conduct of raffles within the corporate areas of the Village of New Millford, Illinois.

Sec. 11-27. Definitions.

- (a) The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable organization means an organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit upon the public.

Education organization means an organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools, and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

Fraternal organization means an organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of the government by caring for those who otherwise would be cared for by the government.

Labor organization means an organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

Licensee means an organization which has been issued a license to operate a raffle.

Net proceeds means the gross receipts from the conduct of raffles, less sums expended for prizes, local license fees, and other reasonable operating expenses incurred as a result of operating a raffle.

Non-profit means organized, operated, and conducted on a not-for-profit basis, with no personal profit inuring to anyone as a result of the operation.

Raffle means a form of lottery, as defined in <sec>28-1(b) of the Criminal Code of 1961, (720 ILCS 5/28-2)

conducted by an organization licensed under this Article in which:

- (1) The player pays or agrees to pay something of value for a chance represented and differentiated by a number or by a combination of numbers or by some other means one or more of which chances is to be designated the winning chance; and,
- (2) The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

Religious organization means any church, congregation, society or organization founded for the purpose of religious worship.

Value of non-cash prizes means the retail value of such prizes.

Veterans organization means an organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

- (b) "Village" means the Village of New Millford, Illinois. Words not defined in this section shall be interpreted in accordance with the definitions contained in the most current edition of Webster's New Collegiate Dictionary.

DIVISION 2. LICENSE AND CLASSIFICATIONS.

Sec. 11-28. License required.

No person, firm or corporation shall conduct a raffle or sell chances for a raffle in the Village without first having obtained a license pursuant to this Article. Licenses for raffles shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans'

organizations which operate without profit to their members, which have been in existence continuously for a period of five (5) years immediately before making application for a license and have had during the entire five (5) year period a bona fide membership engaged in carrying out their objectives and which maintain an office in the Village, or to a non-profit fund raising organization that the Village determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

Sec. 11-29. Classification of Licenses.

A) Class A: General Raffle License

A General Raffle License shall permit the conduct of a raffle with a maximum single cash prize or the maximum retail value of a single non-cash prize not exceeding \$150,000 and an aggregate maximum value of all cash and non-cash prizes awarded not exceeding \$250,000.

Multiple drawings may be held to award the prized but all drawing must occur on the same day at the same location.

The following fees are based upon the total aggregate value of all cash and non-cash prizes and shall be paid to the Village Clerk when the application for a raffle license(s) is filed:

Less than \$100.....	No fee
\$100 to \$4,999.....	\$10.00
\$5,000 to \$9,999.....	\$25.00
\$10,000 to \$25,000.....	\$50.00
Over \$25,000 but not to exceed \$250,000.....	\$50.00 plus an additional \$50.00 for each additional multiple of \$25,000

B) Class B: One Ticket, Multiple Raffles License

A Class B license allows up to four (4) raffles to be conducted with the same raffle tickets. Each ticket shall specify the dates of ticket sales and the dates of each drawing. Each drawing date shall be considered a separate raffle and will require a

separate license and fee. Each license will allow one (1) drawing event for the prizes awarded.

Although a Class B license allows up to four (4) raffles, the maximum value of a cash or non-cash prize or prizes awarded to a single winner shall not exceed \$150,000 and the aggregate value of all prizes awarded in all of the raffles shall not exceed \$250,000.

The fees for Class A Raffle Licenses will apply for each of the licenses secured for Class B raffles.

C) Class C: One Time Emergency Raffle License

A Class C Raffle License allows a non-for-profit fund raising organization or group, organized for the sole purpose of providing financial hardship assistance to an identified individual or group of individuals suffering severe financial hardship as a result of an injury, disability, accident or disaster, to conduct one (1) raffle for that purpose.

The fee for a Class C license shall be Ten Dollars (\$10) payable to the Village Clerk at the time of application.

D) Class D. Annual Raffle License

An Annual Raffle License shall permit the conduct of a raffle or raffles, or the sale of chances for a raffle or raffles, in which the maximum value of all cash or non-cash prizes for a single drawing shall not exceed Five Thousand Dollars (\$5,000). Class D raffles shall be licensed annually from the 1st day of January and ending on the 31st day of December of the year. If raffle chances are sold during one calendar year, and the drawings held in another calendar year, a license must be obtained for each year.

Such license shall permit no more than fifty-two (52) raffles. The aggregate value of all prizes awarded annually shall not exceed \$250,000.

The fee for a Class D license shall be Two Hundred Dollars (\$200) payable to the Village Clerk at the time of application. Such annual licenses shall not be prorated as to term or fee.

E) Class E: Limited Annual Raffle License

A Limited Annual Raffle License permits an organization to regularly conduct raffles among its own membership at a regularly scheduled organizational meeting. Chances for these raffles may only be sold, and the drawings held, on the date of the meeting. The aggregate value of the prizes awarded at each of these drawings may be exceed One Hundred Dollars (\$100). Class E raffles shall be licensed annually on a calendar year basis.

Such licenses shall permit no more than sixty (60) raffles per year. The aggregate value of all prizes awarded annually shall not exceed Five Thousand Two Hundred Dollars (\$5,200).

The fee for a Class E license shall be Twenty-five Dollars (\$25) payable to the Village Clerk at the time of application. Renewal applications shall be made on or before November 1 for the following year. Class E licenses shall not be prorated as to term or fee.

F) Fee Not Refundable

The application fees are not refundable, even in the event that the application is rejected by the Village Board, or if the raffle is cancelled.

DIVISION 3. QUALIFICATIONS AND APPLICATIONS

Sec. 11-30. Qualifications of applicant.

Raffle licenses shall be issued only to bona fide charitable, educational, fraternal, labor, religious and veterans organizations that operate without profit to their members and which have been in existence continuously for a period of five (5) years or more immediately before making application for a license and which have had during the entire five (5) year period, a bona fide membership engaging in and carrying out their objectives, or to a not-for-profit fund raising organization or group that is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering severe financial hardship as a result of an illness, disability, accident or disaster. The following groups or individuals are ineligible for any raffle license:

- (1) Any person who has been convicted of a felony;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any person who is not of good moral character;
- (4) Any organization in which a person described in subsections (1), (2), or (3) of this section has a proprietary equitable, or credit interest or in which such person is active and employed.
- (5) Any organization in which a person described in subsections (1), (2), or (3) of this section is an officer, director, or employee, whether compensated or not; and,
- (6) Any organization in which a person described in subsections (1), (2), or (3) of this section is to participate in the management or operation of a raffle.

Sec. 11-31. Application; Contents for Class A, B and C Licenses.

Any person seeking to conduct or operate a raffle described in Section 26-30, subsections A, B, or C, shall file an application with the Village Clerk on forms provided by the Village Clerk. Applications must be submitted to the Village Clerk at least ten (10) days prior to the Village Board meeting at which approval is desired. The application shall contain the following information:

- (1) The name, address and type of organization;
- (2) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (3) The name, address, telephone number, social security number and date of birth of the organization's presiding officer, secretary, raffle manager(s) and any other members responsible for the conduct and operation of the raffle(s);

- (4) The aggregate value of all prizes to be awarded in the raffle;
- (5) The maximum value of each prize to be awarded in the raffle;
- (6) The maximum price charged for each raffle chance issued or sold;
- (7) The maximum number of raffle chances to be issued;
- (8) The areas in which the raffle chances will be sold or issued;
- (9) The dates raffle chances will be issued or sold;
- (10) The date(s) and locations at which winning chances will be determined;
- (11) A sworn statement attesting to the not-for-profit character of the applicant or organization, signed by its presiding officer and secretary; and,
- (12) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

Sec. 11-32. Application for Class D and E Licenses.

(A) Any organization seeking to conduct or operate a raffle described in Section 11-119, subsections D and E, shall file an application with the Village Clerk on forms provided by the Village Clerk. Applications must be submitted to the Village Clerk at least ten (10) days prior to the Village Board meeting at which approval is desired. The application shall contain the following information:

- (1) The name, address and type of the organization;
- (2) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (3) The name, address, telephone number, social security number and date of birth of the

organization's presiding officer, secretary, raffle manager(s) and any other members responsible for the conduct and operation of the raffle(s);

- (4) The location(s) at which the chances are to be sold and the drawing(s) held;
- (5) The dates the drawings are to be held;
- (6) A sworn statement, signed by the presiding officer of the organization, attesting to its not-for-profit status and length of existence;
- (7) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.
- (8) The number of drawings to be held during the twelve (12) month period.

DIVISION 4. OPERATION AND CONDUCT.

Sec. 11-33. Operation and Conduct.

The operation and conduct of raffles are subject to the following restrictions:

- (1) The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the licensee.
- (2) No person except a bona fide member of the licensee may participate in the management or operation of the raffle.
- (3) No person may receive remuneration or profit for participating in the management or operation of the raffle.
- (4) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Article.
- (5) Raffle chances may be sold, offered for sale, conveyed, issued or otherwise transferred for value only within the area determined on the

license; the winning chances may be determined only at the location specified on the license.

- (6) The maximum price which may be charged for each raffle chance sold, offered for sale, conveyed, issued or otherwise transferred for value shall not exceed \$250.00.
- (7) No cash prize in excess of \$150,000.00 may be awarded, and the value of all prizes to be awarded shall not exceed \$250,000.00.
- (8) Each raffle chance shall have printed thereon the cost of the chance, the aggregate retail value of all prizes to be awarded in the raffle, and the maximum number of raffle chances to be issued except as provided below:
 - a. When raffle chances are sold, conveyed, issued, or otherwise transferred only at the time and location at which winning chances will be determined and only to persons then in attendance;
 - b. When the raffle chance is also a ticket to an event and a portion of the cost of the ticket is designated for a dinner, golf, or other item of value to be consumed or used by the purchaser at the event.
- (9) No person under the age of 18 years may participate in the operation or conduct of raffles, except with the permission of a parent or guardian. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his parent or guardian.
- (10) Raffle drawings must be held on the date and at the location listed on the raffle license. If a raffle drawing is unable to be held due to an extreme emergency or a natural disaster, the licensee must seek approval of the Village Board before the drawing can be held on a different date. If a drawing is cancelled due to inadequate sale of raffle tickets or due to some reason other than an extreme emergency or a natural disaster, the licensee must notify all ticket purchasers, refund all monies and return

all prizes within thirty (30) days. Such cancellation will be reported to the Village Clerk with a full explanation.

Sec. 11-34. Manager, Fidelity Bond.

The operation and conduct of all raffles shall be under the supervision of a single raffle manager designated by the licensee. The manager shall give a fidelity bond equal in amount to the aggregate retail value of all prizes to be awarded in favor of the licensee conditioned upon his honesty in the performance of his duties. The terms of the bond shall provide that notice shall be given in writing to the Village not less than 30 days prior to its cancellation.

Sec. 11-35. Record Keeping of Gross Receipts; Expenses; Net Proceeds.

- (a) Each licensee shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.
- (b) Gross receipts from the operation of raffles shall be segregated from other revenues of the licensee including bingo gross receipts, if bingo games are also conducted by the same not-for-profit organization pursuant to the license therefore issued by the State Department of Revenue and placed in a separate account. Each licensee shall keep separate records of its raffles. The person who accounts for gross receipts, expenses, and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the licensee.
- (c) Each licensee shall reports to its membership and to the Village its gross receipts, expenses and net proceeds from the raffle, and the distribution of net proceeds itemized as required in this section. A report must be turned in within thirty (30) days of

each raffle drawing, with the exception of weekly raffles, which may be reported once a month.

- (d) Raffle records shall be preserved for three (3) years, and organizations shall make available their records relating to the operation of raffles for public inspection at reasonable times and places.
- (e) No new raffle licenses will be issued to an organization until all reports from the organization's previous raffles have been completed and submitted to the Village Clerk's Office.

DIVISION 5. ISSUANCE AND ENFORCEMENT.

Sec. 11-36. Issuance

- (a) Review of application; acceptance or rejection. Organizations shall submit applications to the Village Clerk's Office at least ten (10) days prior to the Village Board meeting at which approval is desired. The Village Clerk shall review all raffle license applications, recommend approval, or denial, and submit them to the Village Board. The Village Board shall, within thirty (30) days from the date of application, accept or reject a raffle license application. If an application is accepted, the Village Clerk shall forthwith issue a raffle license to the applicant. Chances for each raffle may be issued or sold for a period of thirty (30) days prior to and including the date winning chances are to be determined unless the Village Board has specifically authorized a longer period of time but in no event longer than three hundred and sixty-five (365) days prior to and including the date winning chances are to be drawn.
- (b) Contents of license. A raffle license shall show the following, with respect to each raffle:
 - (1) The area in which raffle chances may be sold or issued;
 - (2) The period of time during which raffle chances may be sold or issued; and,
 - (3) The date(s) and location at which winning chances will be determined.

- (c) Display. The license shall be prominently displayed at the time and location of the determination of the winning chances.
- (d) Validity. Each Class A or Class C license shall be valid for one (1) raffle. Each Class B license shall be valid for up to four (4) raffles. Each Class D or Class E license shall be valid for a specific number of raffles to be conducted during a specified period of time not to exceed one (1) year.

Sec. 11-37. Enforcement of Article.

- (a) Penalties. Failure to comply with any of the requirements of this Article shall constitute a violation, and any person, upon conviction thereof, shall be fined not more than \$500.00. Each day the violation continues, shall be considered a separate offense. In addition, the Village Board is authorized to revoke the license of any Class D licensee that fails to comply with the reporting requirements of Section 11-125(c) in a timely manner.
- (b) Abatement. The imposition of the penalties in this section prescribed shall not preclude the State's Attorney from instituting appropriate action to prevent unlawful raffles or to restrain, correct, or abate a violation of this Article of the conditions of a raffle license issued pursuant hereto.

**ARTICLE III. BRANDING, BODY CARVING,
BODY PIERCING AND TATTOOING**

DIVISION I. REGULATIONS

Sec. 11-50. DEFINITIONS. For the purpose of this Article the following work and phrases shall have the meanings respectively ascribed them by this section.

A. "Branding" means any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin by aid of heating instruments comprised of metal or other material(s).

B. "Body Carving" means any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with the use of, but not limited to, knives,

wires, scalpels or any other material used in surgical and anatomical operations and dissections.

C. "Body Piercing" means making a hole in a part of the human body, except for ears, for the purpose of inserting and affixing an artificial object but not for the purpose of providing health related care or treatment by a health provider duly licensed by the State of Illinois.

D. "Employee" means any and all persons, other than the tattoo artists, who render any service to the permittee, who receives compensation directly from the licensee, and who have no physical contact with the customers or clients.

E. "Licensee" means the operator of a tattoo establishment.

F. "Person" means any individual, co-partnership, firm, association, Joint Stock Company, corporation or combination of individuals of whatever form or character.

G. "Tattoo" means any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

H. "Tattoo Artist" means an individual who performs branding, body carvings, body piercing or applies tattoos.

I. "Tattoo Establishment" means any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on branding, body carving, body piercing or tattooing.

Sec. 11-51. LICENSE. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premise in the Village of New Milford, the operation of a tattoo establishment as herein defined, without first having obtained a license from the Village.

Sec. 11-52. FILING/FEE PROVISION. Every applicant for a license to maintain, operate or conduct a tattoo establishment shall file an application with the Village upon a form provided

by the Village and pay a filing fee of fifty dollars (\$50.00), which shall not be refundable.

Sec. 11-53. APPLICATION/TATTOO ESTABLISHMENT. The application for a license to operate a tattoo establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name and address of each applicant.

In addition to the foregoing, any applicant for a license shall furnish the following information:

A. The two (2) previous addresses immediately prior to the present address of the applicant.

B. Written proof that the applicant is at least eighteen (18) years of age.

C. Applicant's height, weight, color of eyes and hair.

D. Two (2) portrait photographs at least two inches by two inches (2"X2").

E. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.

F. The tattoo or similar business license history of the applicant; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

G. All criminal convictions except minor traffic violations.

H. Such other identification and information necessary to discover the truth of the matters herein before specified as required to be set forth in the application.

I. Nothing contained herein shall be construed to deny the Village Comptroller the right to require the fingerprints and additional photographs of the applicant, nor shall anything contained herein be construed to deny the right of the Village to confirm the height and weight of the applicant.

J. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its article of incorporation together with the names and residence addresses of each of the officers, directors and each stockholder holding stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provision of this section pertaining to a corporate applicant apply.

Sec. 11-54. CORPORATE APPLICANT/EXEMPTION. The provisions of Section 11-53 A, B, C, D, G entitled "Application for tattoo establishment" relating to requirements for corporate applicants shall not apply to any of the following:

A. A corporation, the stock of which is listed on a stock exchange in the State of Illinois or the City of New York, State of New York.

B. A bank, trust company, financial institution or title company to which Application is made or to whom a license is issued in a fiduciary capacity.

C. A corporation which is required by law to file periodic reports with the Securities and Exchange Commission.

Sec. 11-55. TATTOO ARTIST LICENSE. It shall be unlawful for any person to engage in the practice of branding, body carving, body piercing or tattooing as herein defined, in or upon any premise in the Village, without first having obtained a license from the Village of New Milford. Any person who engages in the practice of branding, body carving, body piercing or tattooing as herein defined, shall file an application with the Village upon a form provided by the Village and shall pay a filing fee of Twenty-five dollars (\$25.00), which shall not be refundable.

Sec. 11-56. APPLICATION FORM TATTOO ARTIST. The application for a tattoo artist license shall be completed by the applicant and shall contain the following:

A. Name and residence address.

B. Social Security number and driver's license number, if any.

C. Applicant's weight, height, color of eyes and hair.

D. Written evidence that the applicant is at least eighteen (18) years of age.

E. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.

F. Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If any person mentioned in this subsection had been so convicted, a statement must be made giving the place and court in which such conviction was obtained and the sentence imposed as a result of such conviction.

Sec. 11-57. ZONING REQUIRED. No license to conduct a tattoo establishment shall be issued unless complying with the Village Zoning Code and the following restrictions:

A. A tattoo establishment may not be operated within five hundred feet (500') of the following previously established uses:

1. A church, synagogue or regular place of worship.
2. A public or private elementary or secondary school.
3. Any residential property legally used or zoned for residential purposes.
4. A public park.
5. A day care facility.
6. Another tattoo establishment.

B. For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from nearest portion of the building or structure used as a part of the premises where a tattoo establishment is located, to the nearest property line of a church, school, park, residential use or other tattoo establishment, or the nearest boundary of a residential zoning district.

C. Nothing in this Section shall be interpreted to authorize or permit any activity or conduct prohibited by any local, State or Federal law.

Sec. 11-58. REQUIRED INSPECTIONS. No license to conduct a tattoo establishment shall be issued prior to the following inspections.

A. An inspection by the Winnebago County Building Inspector for the purpose of assuring that the establishment complies with the minimum requirements of the Building Codes for the County of Winnebago.

B. An inspection by the Winnebago County Health Department for the purpose of assuring that the premises comply with all the sanitation requirements set forth in this article and with the regulations of public health, safety and welfare.

Sec. 11-59. HEALTH AND SANITARY REQUIREMENTS. Any individual or establishment engaging in the practice of branding, body carving, body piercing or tattooing as herein defined shall comply with the following requirements.

A. The entire premises of the facility and all equipment shall be maintained in a good repair, clean, sanitary condition and shall be kept in full compliance with all applicable Village ordinances and State statutes including, but not limited to, the health codes, zoning codes and building codes.

B. Any individual or establishment desiring to engage in the practice of branding, body carving, body piercing or tattooing shall first inquire as to whether or not the potential recipient of the procedures is under the influence of intoxicating substances. Any individual who appears to be or admits to being under the influence of intoxicating substances shall not receive a branding, body carving, body piercing or tattoo.

C. Any individual or establishment desiring to engage in the practice of branding, body carving, body piercing or tattooing shall first inquire as to whether or not the potential recipient to the procedure has a history of any communicable disease. Any individual providing a history of a communicable disease shall not receive a branding, body carving, body piercing or tattoo.

D. Any individual or establishment desiring to engage in the practice of branding, body carving, body piercing or tattooing shall explain to each potential recipient before performing the branding, body carving, body piercing or tattooing procedure in written form or through a conspicuously posted sign the following:

1. The nature of the procedure to be conducted.
2. Possible tissue reactions following the procedures.
3. Importance of after procedure care.
4. The permanent nature of the application.

E. Any individual or establishment who performs a branding, body carving, body piercing or tattooing procedure shall maintain proper records of each client. The records shall include the following:

1. The date on which the procedure was performed.
2. The name, address, phone number and age of the client.
3. The name, address, phone number and age of the individual performing the procedure.
4. A description of the procedure.
5. The signature of the client.

F. The information required in subsection (E) shall be permanently recorded and made available for examination and shall be kept by the individual or establishment for at least two (2) years.

G. Used tattoo needles and other infectious waste shall be stored, treated and disposed of in accordance with the provisions of the State and Federal regulations concerning the management and disposal of infectious waste.

Sec. 11-60. VERIFICATION OF APPLICATION. Every application for a license under this Article shall be verified as provided in the Illinois Civil Practice Act for the verification of pleadings.

Sec. 11-61. ISSUANCE OF TATTOO ESTABLISHMENTS LICENSE. The Village shall issue a license within fourteen (14) days following the completed required inspections and completed application unless the Village finds:

A. That the operation as proposed by the applicant, if permitted, would not comply with the Zoning, Building, Health and Fire Codes of the Village and/or County.

B. That the applicant and any other person who will be directly engaged in the management and operation of a tattoo establishment has been convicted of any of the following offenses or convicted of an offense outside of the State of Illinois that would have constituted any of the following offenses if committed within the State of Illinois.

1. An offense involving the use of force and violation upon the person of another that amounts to a felony.

The Village may issue a permit to any person convicted of any of the crimes described in subsection (B)(1) of this Section if the Village finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.

Sec. 11-62. ISSUANCE OF TATTOO ARTIST LICENSE. The Village shall issue a license within fourteen (14) days following the completed application unless the Village finds:

A. That the applicant is not at least eighteen (18) years of age.

B. The holder of a Tattoo Establishment License shall be responsible for determining whether the persons employed by said Tattoo Establishment License holder have the proper character and fitness to be a Tattoo Artist. To the extent a Tattoo Artist has his/her Tattoo Artist License suspended or revoked by the Village, the Tattoo Establishment License holder employing said Tattoo Artist may, in the Village's sole discretion, also be subject to having its Tattoo Establishment License suspended or revoked and fines imposed.

Sec. 11-63. OPERATOR TO MAINTAIN REGISTER OF EMPLOYEES. The operator of a tattoo establishment must maintain a register of

all persons employed as tattoo artists and their license numbers. Such register shall be available for inspection at all times during regular business hours.

Sec. 11-64. REVOCATION OR SUSPENSION OF TATTOO ESTABLISHMENT LICENSE. In any case where any of the provisions of this Article are violated or where any employee of the licensee, including a tattoo artist, is engaged in any conduct which violates any State or local laws or ordinances at licensee's place of business and the licensee has actual or constructive knowledge of such violations or the licensee has actual or constructive knowledge by due diligence, or in any case, where the licensee, tattoo artist, or any other employee refuses to permit any duly authorized personnel of the Village to inspect the premises or the operations therein, the tattoo establishment license shall be suspended automatically by the Village.

The Village shall notify the licensee within seven (7) days in writing of said causes for automatic suspension. The Public Works, Public Safety, and Annexations Committee shall hold a public hearing within forty-five (45) days and, if not satisfied that the provisions of this Article are being complied with, may revoke, suspend or take such action as may be necessary to ensure compliance with this Article. The Village shall notice the licensee in writing of the time, date and place of said hearing at least seven (7) days prior to the date of said hearing.

Within five (5) days following the date of a decision of the Public Works, Public Safety, and Annexations Committee, the Village shall transmit to the Village Board written notice of the decision. The decision shall become final ten (10) days following the date on which the tattoo establishment license was revoked or on the day following the next meeting of the Village Board, whichever is later, unless an appeal has been taken to the Village Board or unless the Village Board shall elect to review the decision of the Public Works, Public Safety, and Annexations Committee.

Sec. 11-65. REVOCATION OR SUSPENSION OF TATTOO ARTIST LICENSE. A tattoo artist license issued by the Village of New Milford may be automatically suspended by the Village for violation of any of the provisions of the Article including any of the following:

A. Unfitness or incompetence by reason of negligence, habits or other causes regardless of whether actual damage to the public is established.

B. Habitual intemperance, addiction or dependency on alcohol or other habit forming substances.

C. Mental incompetence resulting in an inability to practice as a tattoo artist.

D. Submitting to or filing with the Village any application, notice, statement or other document containing false information when procuring or attempting to procure a tattoo artist license.

E. Using the title "licensed tattoo artist" or any designation tending to imply that the person is a licensed tattoo artist when the person is not licensed or the person's license has been suspended or revoked.

F. Violation conditions or limitations of a tattoo artist license.

G. Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm any individual of the public in the course of providing professional services or activities.

H. Having disciplinary action concerning the practice of a tattoo artist as defined in this article taken against the tattoo artist in another state.

I. Knowingly aiding or abetting an unlicensed person, conspiring with an unlicensed person, allowing one's license to be used by an unlicensed person, or acting as the agent or associate of an unlicensed person in order to enable the unlicensed person to evade the requirements of this Article.

J. Engaging in false or misleading advertising.

K. Engaging in sexual conduct in connection with professional services or activities.

The Village shall notify the tattoo artist within seven (7) days in writing of said causes for automatic suspension. The Public Works, Public Safety, and Annexations Committee shall hold a public hearing within forty-five (45) days and if not satisfied that the provisions of this Article is being complied with, may revoke, suspend or take such action as may be necessary to ensure compliance with this Article. The Village

shall notice the tattoo artist in writing of the time, date and place of said hearing at least seven (7) days prior to the date of said hearing.

Within five (5) days following the date of a decision of the Public Works, Public Safety, and Annexations Committee, the Village shall transmit to the Village Board written notice of the decision. The decision shall become final ten (10) days following the date on which the tattoo artist's license was revoked or on the next day following the next meeting of the Village Board of unless the Village Board shall elect to review the decision of the Public Works, Public Safety, and Annexations Committee.

Sec. 11-66. EMPLOYMENT UNDER EIGHTEEN (18) PROHIBITED. It shall be unlawful for any owner, proprietor, manager or other person in charge of any tattoo establishment to employ any person who is not at least eighteen (18) years of age.

Sec. 11-67. SALE OR TRANSFER. Upon sale, transfer or relocation of a tattoo establishment the license therefor shall be null and void; provided, however, that upon the death or incapacity of the licensee the tattoo establishment may continue in business for a reasonable period of time to allow for an orderly transfer of the permit.

Sec. 11-68. NAME AND PLACE OF BUSINESS/CHANGE OF LOCATION. No person granted a license pursuant to this Article shall operate under any name or conduct his business under any designation for any location not specified in his permit.

Sec. 11-69. DISPLAY OF LICENSE. Every person to whom or for whom a license shall have been granted pursuant to the provisions of this Article shall display said license in a conspicuous place within the tattoo establishment so that the same may be readily seen by persons entering the premises.

Sec. 11-70. INSPECTION. The Sheriff's Department of the County and/or any duly authorized personnel of the Village shall, upon probable cause to believe that a provision of this Article has been violated, make an inspection of any tattoo establishment in the Village of New Milford.

Sec. 11-71. TATTOO ESTABLISHMENT LICENSE FEES. Every licensee who conducts or assists in conducting or permitting any tattoo establishment as defined herein shall pay to the Village a

license fee of one hundred dollars (\$100.00) annually, payable in advance.

Sec. 11-72. TATTOO ARTIST LICENSE FEES. Every tattoo artist as defined herein shall pay to the Village a license fee of fifty dollars (\$50.00) annually, payable in advance.

The license fee prescribed in this Section is due and payable upon receipt of the license and on the anniversary date each year thereafter.

Sec. 11-73. EMPLOYMENT TATTOO ARTIST. It shall be the responsibility of the licensee for the tattoo establishment or the employer of any persons purporting to act as tattoo shall first have obtained a valid license pursuant to this Article.

Sec. 11-74. EXCEPTIONS. This Article shall not include hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts and under the laws of the State of Illinois, or persons working under the direction of any such persons or in any such establishment. This Article shall not apply to health care providers duly licensed by the State of Illinois providing health related care or treatment.

Sec. 11-75. VIOLATION/PENALTY.

A. Every person, except those persons who are specifically exempted by this Article, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator, or acting as a participant or worker in any way, or acting as a tattoo artist, who engages in the practice of branding, body carving, body piercing or tattooing or conducts a tattoo establishment or who in conjunction with the tattoo establishment engages in the practice of branding, body carving, body piercing or tattooing without first obtaining a license and paying a license fee to do so from the Village of New Milford, or shall violate any provisions of this Article, shall be subject to a fine of not less than five hundred dollars (\$500.00). Each day the violation continues shall be considered a separate offense.

B. Any owner, operator, manager or permittee in charge or in control of a tattoo establishment who knowingly employs a person as a tattoo artist, as defined in the Article, who is not in possession of a valid, unrevoked permit or who allows such

tattoo artist to practice within such a place of business shall be subject to a fine of not less than two hundred and fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). Each day the violation continues shall be considered a separate offense.

Sec. 11-76. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof.

Sec. 11-77 through Sec. 11-89 RESERVED.

ARTICLE IV. VIDEO GAMING TERMINALS

Sec. 11-90. Definitions. For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Video Gaming Terminal shall have the same definition as set forth in the Illinois Video Gaming Act and shall mean any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the Illinois Gaming Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

Distributor shall have the same definition as set forth in the Illinois Video Gaming Act and shall mean an individual, partnership, corporation, or limited liability company licensed under this Act to buy, sell, lease, or distribute video gaming terminals or major components or parts of video gaming terminals to or from terminal operators.

Terminal operator shall have the same definition as set forth in the Illinois Video Gaming Act and shall mean an individual, partnership, corporation, or limited liability company that is licensed under this Act and that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed

fraternal establishments, or licensed veterans establishments.

Licensed technician shall have the same definition as set forth in the Illinois Video Gaming Act and shall mean an individual who is licensed under this Act to repair, service, and maintain video gaming terminals.

Manufacturer shall have the same definition as set forth in the Illinois Video Gaming Act and shall mean an individual, partnership, corporation, or limited liability company that is licensed under this Act and that manufactures or assembles video gaming terminals.

Licensed Establishment shall have the same definition as set forth in the Illinois Video Gaming Act and shall mean any licensed retail establishment where alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises and includes any such establishment that has a contractual relationship with an inter-track wagering location licensee licensed under the Illinois Horse Racing Act of 1975 provided any contractual relationship shall not include any transfer or offer of revenue from the operation of video gaming under this Act to any licensee licensed under the Illinois Horse Racing Act of 1975. Provided, however, that the licensed establishment that has such a contractual relationship with an inter-track wagering location licensee may not, itself, be (i) an inter-track wagering location licensee, (ii) the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975, or (iii) the corporate subsidiary of a corporation that is also the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975. "Licensed establishment" does not include a facility operated by an organization licensee, an inter-track intertrack wagering licensee, or an inter-track intertrack wagering location licensee licensed under the Illinois Horse Racing Act of 1975 or a riverboat licensed under the Riverboat Gambling Act, except as provided in this paragraph.

Licensed Fraternal Establishment shall have the same definition as set forth in the Illinois Video Gaming Act and shall mean the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

Licensed Veterans Establishment shall have the same definition as set forth in the Illinois Gaming Act and shall mean the location where a qualified veterans' organization that

derives its charter from a national veterans' organization regularly meets.

Licensed Truck Stop Establishment shall have the same definition as set forth in the Illinois Gaming Act and shall mean a facility (i) that is at least a 3-acre facility with a convenience store, (ii) with separate diesel islands for fueling commercial motor vehicles, (iii) that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

Sec. 11-91. License Required. No person, partnership, company, corporation, limited liability company or business shall distribute, serve as a terminal operator, keep, hold, display, operate or cause to be operated in any place of public resort within the Village a Video Gaming Terminal without first having obtained a license from the Village. It shall be a prerequisite to any license being issued by the Village that the person, partnership, company, corporation, limited liability company or business applying for such Village license, meet all the following conditions and standards:

1. Comply with all applicable provisions of the Illinois Video Gaming Act and the rules and regulations implemented thereto; and
2. Hold the necessary and valid license(s) from the State of Illinois. The revocation, loss or suspension of any such license by the State of Illinois shall automatically result in the revocation, loss or suspension of any Village license issued hereunder, without refund of any license fee paid to the Village; and
3. Each licensed distributor, terminal operator and person with a substantial interest in a licensed distributor or terminal operator shall be an Illinois resident or duly authorized to conduct business within the State of Illinois. However, if an out-of-state distributor or terminal operator has performed its respective business within Illinois for at least 48 months prior to the effective date of the Illinois Video Gaming Act, the out-of-state person may be eligible for licensing from the Village; and

4. In all cases of application for a licensed location to operate a video gaming terminal, each licensed establishment, licensed fraternal establishment, or licensed veterans establishment shall possess a valid liquor license issued by the Illinois Liquor Control Commission and a valid liquor license issued by the Village of New Milford, in effect at the time of application and at all times thereafter during which a video gaming terminal is made available to the public for play at that location. Video gaming terminals in a licensed location shall be operated only during the same hours of operation generally permitted to holders of a license under the Liquor Control Act of 1934 within the Village. A licensed truck stop establishment that does not hold a liquor license may operate video gaming terminals on a continuous basis. A licensed fraternal establishment or licensed veterans establishment that does not hold a liquor license may operate video gaming terminals if (i) the establishment is located in a county with a population between 6,500 and 7,000, based on the 2000 U.S. Census, (ii) the county prohibits by ordinance the sale of alcohol, and (iii) the establishment is in a portion of the county where the sale of alcohol is prohibited. A licensed fraternal establishment or licensed veterans establishment that does not hold a liquor license may operate video gaming terminals if (i) the establishment is located in a municipality within a county with a population between 8,500 and 9,000 based on the 2000 U.S. Census and (ii) the municipality or county prohibits or limits the sale of alcohol by ordinance in a way that prohibits the establishment from selling alcohol; and
5. Every video gaming terminal offered for play shall first be tested and approved pursuant to the rules of the Illinois Gaming Board ("Board"), and each video gaming terminal offered in this State and Village for play shall conform to an approved model. The Board may utilize the services of an independent outside testing laboratory for the examination of video gaming machines and associated equipment as required by this Section. Every video gaming terminal offered in this State and Village for play must meet minimum standards set by an independent outside testing laboratory approved by the Board. Each approved model shall, at a minimum, meet the following criteria:
 - (A) It must conform to all requirements of federal law and

regulations, including FCC Class A Emissions Standards.

(B) It must theoretically pay out a mathematically demonstrable percentage during the expected lifetime of the machine of all amounts played, which must not be less than 80%. The Board shall establish a maximum payout percentage for approved models by rule. Video gaming terminals that may be affected by skill must meet this standard when using a method of play that will provide the greatest return to the player over a period of continuous play.

(C) It must use a random selection process to determine the outcome of each play of a game. The random selection process must meet 99% confidence limits using a standard chi-squared test for (randomness) goodness of fit.

(D) It must display an accurate representation of the game outcome.

(E) It must not automatically alter pay tables or any function of the video gaming terminal based on internal computation of hold percentage or have any means of manipulation that affects the random selection process or probabilities of winning a game.

(F) It must not be adversely affected by static discharge or other electromagnetic interference.

(G) It must be capable of detecting and displaying the following conditions during idle states or on demand: power reset; door open; and door just closed.

(H) It must have the capacity to display complete play history (outcome, intermediate play steps, credits available, bets placed, credits paid, and credits cashed out) for the most recent game played and 10 games prior thereto.

(I) The theoretical payback percentage of a video gaming terminal must not be capable of being changed without making a hardware or software change in the video gaming terminal, either on site or via the central communications system.

(J) Video gaming terminals must be designed so that replacement of parts or modules required for normal maintenance does not necessitate replacement of the

electromechanical meters.

(K) It must have nonresettable meters housed in a locked area of the terminal that keep a permanent record of all cash inserted into the machine, all winnings made by the terminal printer, credits played in for video gaming terminals, and credits won by video gaming players. The video gaming terminal must provide the means for on-demand display of stored information as determined by the Board.

(L) Electronically stored meter information required by this Section must be preserved for a minimum of 180 days after a power loss to the service.

(M) It must have one or more mechanisms that accept cash in the form of bills. The mechanisms shall be designed to prevent obtaining credits without paying by stringing, slamming, drilling, or other means. If such attempts at physical tampering are made, the video gaming terminal shall suspend itself from operating until reset.

(N) It shall have accounting software that keeps an electronic record which includes, but is not limited to, the following: total cash inserted into the video gaming terminal; the value of winning tickets claimed by players; the total credits played; the total credits awarded by a video gaming terminal; and pay back percentage credited to players of each video game.

(O) It shall be linked by a central communications system to provide auditing program information as approved by the Board. The central communications system shall use a standard industry protocol, as defined by the Gaming Standards Association, and shall have the functionality to enable the Board or its designee to activate or deactivate individual gaming devices from the central communications system. In no event may the communications system approved by the Board limit participation to only one manufacturer of video gaming terminals by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central communications system.

(P) The Board, in its discretion, may require video gaming terminals to display Amber Alert messages if the Board makes a finding that it would be economically and technically feasible and pose no risk to the integrity and

security of the central communications system and video gaming terminals.

Sec. 11-92. Issuance. An application for a Video Gaming Terminal License may be obtained from the Village Clerk. Upon submittal of a fully completed application and payment of the annual license fee (as set forth below), the Village Clerk shall forward such application to the Village Board for consideration. No license shall be issued except upon approval by the Village Board. To the extent a license application is not approved, any license fee paid by the applicant shall be refunded to the applicant within 30 days of the denial of the license.

Sec. 11-93. License Fee. There shall be an annual license fee of Twenty-Five Dollars (\$25.00) per terminal payable to the Village. Licenses shall expire on March 31st of each year. License holders must renew their licenses prior to the March 31st expiration date or they shall not be permitted to operate or cause to be operated any Video Gaming Terminal until such time as their license(s) is renewed." (Ordinance 2016-2)

Sec. 11-94. Display. Upon approval of an application/renewal, the Village shall issue a stamp bearing the notation, "Village of New Milford VGT License No. _____ for year _____". One stamp shall be issued for each Video Gaming Terminal and it shall be placed in a conspicuous place on the terminal and affixed in such a manner that it cannot be transferred from one terminal to another.

Sec. 11-95. Replacement Stamps. Whenever a licensed Video Game Terminal is replaced during the license year, a replacement stamp must be purchased from the Village. The replacement stamp shall cost Two Dollars (\$2.00).

Sec. 11-96. Placement of Video Gaming Terminals. All such Video Gaming Terminals shall, at all times, be kept and placed in plain view of any person or persons who may frequent the establishment at which the Video Gaming Terminal is located.

Sec. 11-97. Violations, Penalties and Suspension/Revocation. The Village Board may suspend or revoke any license issued hereunder for any violation by the license holder of any provision of this Article any provision of the Illinois Video Gaming Act and the rules and regulations implemented thereto, or any other violation of federal, state, or local laws applicable to the business where the Video Gaming Terminals are located.

The Village shall be entitled to impose fines pursuant to Sec. 1-8 of the Village Code of Ordinances for any violation of this Article.

CHAPTER 12

MISCELLANEOUS OFFENSES AND PROVISIONS

Sec. 12-1. DISORDERLY CONDUCT.

A person commits disorderly conduct when he knowingly:

(a) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(b) Transmits in any manner to the fire department of any city, town, village, or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(c) Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place; or

(d) Transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place; or

(e) Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(f) While acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(g) Transmits a false report to the Department of Children and Family Services under Section 4 of the "Abused and Neglected Child Reporting Act"; or

(h) Transmits a false report to the Department of Public Health under the Nursing Home Care Act; or

(i) Transmits in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required.

Sec. 12-2. A person found to be in violation of Section 12-1 of the Code of Ordinances for the Village of New Millford, shall be fined not less than Fifty Dollars (\$50.00) and not more than Five Hundred Dollars (\$500.00) for each offense.

Sec. 12-3. CURFEW

It is unlawful for a person less than eighteen (18) years of age to be present at or upon any public assembly, building, place, street, or highway at the following times unless accompanied and supervised by a parent, legal guardian or other responsible companion at least twenty-one (21) years of age approved by parent or legal guardian or unless engaged in a business or occupation which the laws of this state authorize a person less than eighteen (18) years of age to perform:

- (a) Between 12:01 A.M. and 6:00 A.M. Saturday;
- (b) Between 12:01 A.M. and 6:00 A.M. Sunday;
- (c) Between 11:00 P.M. on Sunday to Thursday, inclusive, and 6:00 A.M. on the following day.

Sec. 12-4. PARENTAL RESPONSIBILITY.

It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate this Ordinance.

Sec. 12-5. Any person violating any provision of Section 12-3 or 12-4 of the Code of Ordinances for the Village of New Millford, shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00) for each offense.

Sec. 12-6. NOISE.

A. Purpose of Section.

It is found and declared that:

- i. The making and creation of loud, unnecessary or unusual noises within the limits of the Village is a

condition which has existed for some time and the extent and volume of such noises is increasing.

- ii. The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the Village.
- iii. The necessity in the public interest for the provisions and prohibitions contained in this Section, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained and enacted in this Section are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Village and its inhabitants.

B. Penalty for Violation of Section. Any person who violates any provision of this article shall be deemed guilty of a misdemeanor and/or subject to the penalties set for in Section 1-8 of the Village Code of Ordinances. This Section maybe enforced by the Winnebago County Sheriff's Department and/or the Village.

C. Disturbing, Endangering Health, Peace or Safety of Others. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the Village.

D. Acts Specifically Declared to be Violations of this Section. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Section, but such enumeration shall not be deemed to be exclusive, namely:

- i. *Radios; phonographs; sound-producing or reproducing machines and devices.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb

the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, chamber or area in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. on Sunday through Thursday; and between the hours of midnight through 7:00 a.m. on Friday and Saturday, in such a manner as to be plainly audible at a distance of _____ feet from the building, structure or area in which it is located shall be prima facie evidence of a violation of this section.

- ii. *Loudspeakers; amplifiers for advertising.* The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure except with permission of the Village.
- iii. *Yelling, shouting, hooting, whistling or singing.* Yelling, shouting, hooting, whistling, or singing on the public streets or public property, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- iv. *Animals; birds.* The keeping of any animal or bird which by causing frequent or long continued noise, including, but not limited to, barking, howling, crying, squawking, chirping, or hissing, which shall disturb the comfort or repose of any persons in the vicinity.

- v. *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- vi. *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration or repair of any building or structure between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, and 6:00 p.m. and 8:00 a.m. on weekends, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Village.
- vii. *Schools; courts; churches.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use.
- viii. *Piledrivers; hammers; other power tools or devices.* The operation between the hours of 9:00 p.m. and 6:00 a.m. of any piledriver, power mower, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other power tool, saw or device, the use of which is attended by loud or unusual noise.
- ix. *Blowers.* The operation of any noise creating blower or power fan unless the noise from such blower or fan is muffled sufficient to deaden such noise."

E. Noise Permit. Notwithstanding the foregoing provisions, the Village Board, may issue a noise permit for special community events, including, but not limited to, parades, carnivals, fairs, festivals, concerts and fundraisers wherein the noise regulations set forth in this Section may be varied from with respects to such special community events. The Village Board may impose such conditions and regulations as it deems reasonably appropriate on the issuance of a noise permit. Applications for such noise permit may be obtained from the Village Clerk. The fee for such noise permit shall be \$_____.

Sec.12-7. POSSESSION OR SALE OF DRUG PARAPHERNALIA UNLAWFUL.

(a) *Definitions.*

1. The term "drug paraphernalia" means all equipment, products and materials of any kind, other than methamphetamine manufacturing materials as defined in Section 10 of the Methamphetamine Control and Community Protection Act, which are intended to be used unlawfully in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body cannabis or a controlled substance in violation of the Cannabis Control Act (720 ILCS 550/1 et seq.), the Illinois Controlled Substances Act (720 ILCS 570/100 et seq.), or the Methamphetamine Control and Community Protection Act (720 ILCS 646/1 et seq.). It includes, but is not limited to:

a. Kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;

b. Isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is cannabis or a controlled substance;

c. Testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;

d. Diluents and adulterants intended to be used unlawfully for cutting cannabis or a controlled substance by private persons;

e. Objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:

- i. Water pipes;
- ii. Carburetion tubes and devices;

- iii. Smoking and carburetion masks;
- iv. Miniature cocaine spoons, and cocaine vials;
- v. Carburetor pipes;
- vi. Electric pipes;
- vii. Air-driven pipes;
- viii. Chillums;
- ix. Bonges;
- x. Ice pipes or chillers.

f. Any item whose purpose, as announced or described by the seller, is for use in violation of this Act.

2. In determining whether an object is Drug Paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

a. Statements by an owner or by anyone in control of the object concerning its use;

b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

c. The proximity of the object, in time and space, to a direct violation of the Controlled Substances Act;

d. The proximity of the object to controlled substances;

e. The existence of any residue of controlled substances on the object;

f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of the Controlled Substances Act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of the Controlled Substances Act shall not prevent a finding that

the object is intended for use, or designed for use as Drug Paraphernalia;

g. Instructions, oral or written, provided with the object concerning its use;

h. Descriptive materials accompanying the object which explain or depict its use;

i. National and local advertising concerning its use;

j. The manner in which the object is displayed for sale;

k. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

l. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

m. The existence and scope of legitimate uses for the object in the community;

n. Expert testimony concerning its use.

(b) *Possession and/or sale of Drug Paraphernalia.* It is unlawful for any person or business to use, or to possess with intent to use or sell, Drug Paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act. Any person who violates this section upon conviction shall be fined not less than \$250.00 nor more than \$750.00 per day that said violation occurs with each day such violation occurs constituting a separate offense.

(c) *Manufacture or delivery of Drug Paraphernalia.* It is unlawful for any person or business to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, Drug Paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be

used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act as amended. Any person who violates this section upon conviction shall be fined not less than \$250.00 nor more than \$750.00 per day that said violation occurs with each day such violations occurs constituting a separate offense.

(d) *Advertisement of Drug Paraphernalia.* It is unlawful for any person or business to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as Drug Paraphernalia. Any person or business who violates this section upon conviction shall be fined not less than \$250.00 nor more than \$750.00 per day that said violation occurs with each day such violations occurs constituting a separate offense.
(Ordinance No. 2013-6)

Sec. 12-8 through 12-24. RESERVED.

Sec. 12-25. Sexually-Oriented Businesses

A. A "sexually-oriented" business may not be operated within one thousand (1000) feet of the following previously established uses: a church, synagogue or a regular place of worship, a public or private elementary or secondary school, any property legally used or zoned for residential purposes, a public park, a daycare facility or another "sexually-oriented" business.

B. For the purposes of this Section, the term "sexually-oriented" business shall include: "sexually-oriented" arcades, "sexually-oriented" bookstores, "sexually-oriented" video stores, massage parlors, escort agencies, nude model studios or "sexually-oriented" clubs, taverns or bars.

1. A "sexually-oriented" arcade shall be defined as any place to which the public is permitted or invited wherein coin or slug-operated, electronically or mechanically controlled, still or motion picture machines, projectors or other image producing devices which are maintained to show images to five or fewer persons, per machine at any one time, and where the images so displayed

are distinguished or characterized by the depicting or describing of special sexual activities or specified anatomical areas.

2. A "sexually-oriented" bookstore or "sexually-oriented" video store shall be defined as a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

a. Books, magazines, periodicals or other printed materials or photographs, films, motion pictures, video cassettes or video reproductions, slides, digital video disks or other visual representations which depict or describe special sexual activities or specified anatomical areas, or

b. Instruments, devices or paraphernalia which are designed for use in connection with special sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or special anatomical areas, and still be categorized as a "sexually-oriented" bookstore or "sexually-oriented" video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as a "sexually-oriented" bookstore or "sexually-oriented" video store, as long as one of its principal business purposes is offering for sale or rental or for consideration, the specific materials that depict or describe special sexual activities or specified anatomical areas.

3. An escort agency shall be defined as association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration. An escort shall be defined as a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

4. A massage parlor shall be defined as any establishment where any person engages in massage, excluding, however, hospitals, nursing homes, sanitarium, persons owning an unrevoked certificate to practice healing

arts in the State of Illinois, or persons working under the direction of any such persons, in any such establishments, and also excluding barbers and cosmetologists lawfully carrying out their particular profession and holding a valid, unrevoked license, or certificate of registration, issued by the State of Illinois, and also excluding any person holding a valid license issued by a state that licenses massage therapists or any person who is a member in good standing of the American Massage Therapy or the American Oriental Body Work Therapy Association.

5. A nude model studio shall be defined as a place where a person who appears in a state of nudity or displays specified anatomical areas specified to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

6. A "sexually-oriented" club, tavern or bar shall include any commercial establishment where alcoholic beverages, food or snacks may or may not be served and where the principal activity therein is for entertainment, wherein the public is permitted or invited and wherein individuals in a nude or semi-nude state perform in a "sexually-oriented" nature special sexual activities or where specific anatomical areas are displayed.

C. "Nudity" means the appearance of human bare buttocks, anus, male genitals, female genitals or full female breasts. "Specified anatomical areas" means the male genitals in a state of sexual arousal and/or the vulva or more intimate part of the female genitals.

D. For the purposes of this Subsection, "specified sexual activities" means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

2. Sex acts, normal or perverse, actual or simulated, including intercourse, oral, copulation or sodomy.

3. Masturbation, actual or simulated.

4. Excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.

E. For the purposes of this Section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure where a "sexually-oriented" business is conducted to the nearest property line of a church, school, park, residential use or other "sexually-oriented" business, or to the nearest boundary of a residential zoning district.

F. Nothing in this Section shall be interpreted to authorize or permit any activity or conduct prohibited by any local, state or federal law, including but not limited to obscenity and prostitution.

G. Violation of any provision of this Ordinance shall result in a fine being issued of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Seven Hundred Fifty Dollars (\$750.00) per day that said violation shall occur.

CHAPTER 13

MOBILE HOMES AND MOBILE HOME PARKS

RESERVED

CHAPTER 14

MOTOR VEHICLES AND TRAFFIC

ARTICLE I. INOPERABLE MOTOR VEHICLES

Sec. 14-1. DEFINITIONS.

The term "inoperable motor vehicle" as used in this Article shall mean any motor vehicle from which, for a period of at least seven (7) days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own power. The term "inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily, for a period not exceeding seven (7) days, incapable of being driven under its own power in order to perform ordinary service or repair operations.

Sec. 14-2. PUBLIC NUISANCE DECLARED.

It is hereby declared that all inoperable motor vehicles, whether on public or private property and in view of the general public, are a public nuisance. Any motor vehicle or part thereof which is inoperable or deteriorated or in need of repair which is located for seven (7) days or more upon public or private property within the Village of New Millford, Illinois, outside any enclosure which encloses the vehicle completely from lateral view on all sides, is hereby declared to be a public nuisance.

Sec. 14-3. REPAIRS/TIME LIMIT.

Any inoperable motor vehicle which has been rendered temporarily, for a period of seven (7) days or more, incapable of being driven under its own power in order to perform ordinary service or repair operations is hereby declared to be public nuisance. Said inoperative motor vehicle which has been rendered temporarily, for a period of seven (7) days or more, incapable of being driven under its own power in order to perform ordinary service or repair operations shall be placed within a building, which building encloses the vehicle completely from lateral view on all sides so that it is not in view of the general public.

Sec. 14-4. EXCEPTION.

Nothing in this Article shall apply to any motor vehicle that is kept within a building or an enclosure which encloses the vehicle on the lawfully zoned premises of a place of

business engaged in the repair, wrecking or junking of motor vehicles.

Sec. 14-5. PENALTY.

Any owner or lessee or any other person in control of the premises and the owner or lessee or any public nuisance as declared in this Article, to exist or who maintains such public nuisance shall, upon conviction, be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), and each day's failure to comply with the provisions of this Article shall constitute a separate offense. Each motor vehicle which is permitted to exist as a public nuisance shall constitute the subject of a separate offense.

Sec. 14-6. ENFORCEMENT.

This Article shall be enforced by the Police Department of the Village of New Millford, Illinois, or by such agencies of the County of Winnebago, Illinois, as may from time to time be designated to enforce this Article by the Village of New Millford.

Sec. 14-7. REMOVAL, AFTER NOTICE.

A. Winnebago County deputy sheriffs representing the Village of New Millford under terms of an intergovernmental agreement between Winnebago County and the Village are hereby authorized to remove, after seven (7) days from the issuance of the municipal notice, any inoperable motor vehicle or parts thereof.

B. Prior to removing any inoperable motor vehicle or parts thereof, said law enforcement agency shall send a municipal notice to the owner or occupier of the public or private property involved where said offending inoperable motor vehicle or parts thereof are located, stating in substance, that said inoperable motor vehicle, or parts thereof, after reasonable notice describing the same in said notice, are to be removed by said owner or occupier of the public or private property involved within seven (7) days after the date of service of said notice. Said municipal notice may be served by deposit in the U.S. Mail with sufficient postage for delivery of same, or by personal service of said notice by said law enforcement agency of the Village, or by deposit in the U.S. Mail by certified mail, return receipt requested or registered mail with the proper postage prepaid addressed to said owner or occupier of the premises involved.

C. After seven (7) days from the issuance of said municipal notice, said inoperable motor vehicle or parts thereof which have not been removed shall be removed by said law enforcement agency of the Village to a suitable storage area. The owner or occupier of the land involved or the owner of said inoperable motor vehicle or the part thereof, shall be liable for the payment of reasonable charges for towing and storage of such inoperable motor vehicle or parts thereof as a condition to regaining possession.

Sec. 14-8 through 14-20. RESERVED.

ARTICLE II. DRIVING LICENSES, PERMITS, AND REGISTRATIONS

Sec. 14-21. LICENSE OR PERMIT REQUIRED.

No person shall drive any motor vehicle upon the streets in the Village unless such person has a valid license or permit, or a restricted driving permit, issued by the Secretary of State of the State of Illinois.

Sec. 14-22. UNLAWFUL USE OF LICENSE OR PERMIT.

A. No person shall display or cause or permit to be displayed or have in his possession any cancelled, revoked, suspended, fictitious or fraudulently altered license or permit to drive a motor vehicle.

B. No person shall lend his license or permit to any other person or knowingly allow the use thereof by another.

C. No person shall display or represent as his own any license or permit not issued to him.

D. No person shall display any unlawful use of a license or permit to drive a motor vehicle issued to him.

E. No person shall display, or cause or permit to be displayed or represent or cause to represent any document which purports to be an official drivers license or permit which is not issued by the Secretary of State of Illinois.

F. No person shall duplicate, manufacture or sell any document which purports be an official drivers license or permit which is not issued by the Secretary of State of the State of Illinois.

G. No person shall cause, authorize or knowingly permit a motor vehicle owned by him or under his control to be driven

upon any street in the Village by any person who is not authorized to drive said motor vehicle by the Secretary of State of the State of Illinois or in violation of any of the provisions of the Illinois Vehicle Code.

H. No person shall rent a motor vehicle to any other person unless the lessee is then duly licensed pursuant to the Illinois Vehicle Code or in the case of a non-resident, then duly licensed under the laws of the state or country of his residence.

Sec. 14-23. NO VALID REGISTRATION.

No person shall operate, nor shall an owner knowingly permit to be operated, upon any highway unless there shall be attached thereto and displayed thereon when and as required by law, proper evidence of registration in Illinois, as follows:

A. A vehicle required to be registered in Illinois. A current and valid Illinois registration sticker or stickers and plate or plates, or an Illinois temporary registration permit, or a driveway decal or in-transit permit, issued therefore by the Secretary of State.

Sec. 14-24. OPERATION OF VEHICLE WHEN REGISTRATION CANCELLED, SUSPENDED OR REVOKED.

No person shall operate, nor shall an owner knowingly permit to be operated, upon any highway:

A. A vehicle the registration of which has been cancelled, suspended or revoked.

Sec. 14-25 through 14-35. RESERVED.

ARTICLE III. TRAFFIC SIGNS, SIGNALS, AND MARKINGS

Sec. 14-36. OBEYING OF TRAFFIC CONTROL DEVICES.

A. Every person operating a motor vehicle in the Village shall obey the instructions of any official traffic control device applicable thereto placed in accordance with this Ordinance unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle defined in the Village Vehicle Code.

B. It is unlawful for any person to leave the roadway and travel across private property to avoid an official traffic control device.

C. No provision of this Ordinance for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

D. A driver of a vehicle approaching a traffic control signal on which no signal light facing such vehicle is illuminated shall stop before entering the intersection in accordance with rules applicable in making a stop at a stop sign.

Sec. 14-37. AUTHORITY FOR TRAFFIC SIGNALS.

The Village of New Millford through its designated officers with reference to the streets and highways within the Village may designate through streets and highways, and place and maintain traffic control devices upon streets and highways within the Village including but not limited to the erection of stop signs or yield signs for the designation of any intersection as a stop intersection or as a yield intersection.

Sec. 14-38. INTERFERENCE WITH OFFICIAL TRAFFIC CONTROL DEVICES.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device, or any part thereof.

Sec. 14-39. UNLAWFUL USE OR DAMAGE TO HIGHWAYS, APPURTENANCES AND STRUCTURES.

It shall be unlawful for any person to willfully insure or damage any public street or highway or any bridge, culvert, sign, sign post, or structure upon or used or constructed in connection with any public street or highway within the Village for the protection thereof or for protection or regulation of traffic thereon by any willfully unusual, improper or unreasonable use thereof, or by willfully and careless driving or use of any vehicle thereon or by willful mutilation, defacing or destruction thereof.

Sec. 14-40. UNLAWFUL POSSESSION OF HIGHWAY SIGN OR MARKER.

The Village of New Millford, with reference to traffic control signs, signals, or markers owned by the Village, except for employees of the Village, police officers, contractors and their employees engaged in street or highway construction work approved by the Village, it is unlawful for any person to possess such sign, signal, traffic control device or marker so identified.

Sec. 14-41. OBSTRUCTION TRAFFIC.

No person shall park or place any vehicle or other property of any kind within the streets or highways of the Village of New Millford so as to obstruct or interfere with traffic or travel of other vehicles or pedestrians or endanger the public safety.

Sec. 14-42 through 14-50. RESERVED.

ARTICLE IV. SPEED RESTRICTIONS

Sec. 14-51. SPEED LIMITS.

Except as otherwise provided in this Ordinance, it shall be unlawful for any person to drive any motor vehicle on any street not under the jurisdiction of the state or the county in an urban district within the Village at a speed in excess of twenty (20) miles per hour. Except that Rydberg Road and Rotary Road within the Village limits shall be thirty-five (35) miles per hour.

Sec. 14-52. Speed Limits (Cherokee Hills Subdivision).

It shall be unlawful for any person to drive any motor vehicle on the following roadways located in Cherokee Hills Subdivision in excess of 30 miles per hour: See "Exhibit A".

Sec. 14-53 through 14-55. RESERVED.

ARTICLE V. TRANSPORTATION OF ALCOHOLIC LIQUOR

Sec. 14-56. TRANSPORTATION OF ALCOHOLIC LIQUOR.

A. Except as provided in paragraph (B) of this Section, no person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle except in the original container and with the seal unbroken.

B. This Section shall not apply to the passengers of a chartered bus designated for carrying more than ten persons when it is being used for the transportation of said persons. However, this provision of paragraph (B) shall not extend to buses chartered for school purposes. The driver of any such vehicle is prohibited from consuming or having any alcoholic liquor in or about the driving area of any such vehicle.

C. Evidence of alcoholic consumption alone shall be prima facie evidence of the driver's failure to obey paragraph (B) of this Section.

Sec. 14-57 through 14-60. RESERVED.

ARTICLE VI. RULES OF THE ROAD

Sec. 14-61. OBSTRUCTION OF TRAFFIC.

No vehicle shall be operated or allowed to remain upon any street in such a manner as to form an unreasonable obstruction to the traffic thereon.

Sec. 14-62. STOP STREET.

The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected at one or more entrances thereto, and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection of approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a Police Officer on duty, in which event the directions from the Police Officer shall be complied with.

Sec. 14-63. VEHICLES APPROACHING OR ENTERING INTERSECTION.

Except as otherwise provided by law or ordinance, the driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different street or roadway.

Sec. 14-64. MUFFLERS, PREVENTION OF NOISE.

Every motor vehicle driven or operated upon the highways of this State shall at all times be equipped with an adequate muffler or exhaust system in constant operation and properly maintained to prevent any excessive or unusual noise. No such muffler or exhaust system shall be equipped with a cutout, bypass or similar device, no person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise of such vehicle above that emitted by the muffler originally installed on the vehicle, and such original muffler shall comply with all the requirements of this Section.

Sec. 14-65. RECKLESS DRIVING.

Any person who drives any vehicle with a willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

Sec. 14-66. DRAG RACING.

No person as an operator of a motor vehicle shall be a participant in drag racing upon any street or highway within the Village. "Drag Racing" means the act of two or more individuals competing or racing on any street or highway in this Village in

a situation in which one of the motor vehicles is beside or to the rear of a motor vehicle operated by a competing driver from passing or overtaking him, either by acceleration or maneuver, or one or more individuals competing in a race against time on any street or highway within this Village.

Sec. 14-67. DRIVE ON RIGHT SIDE OF ROADWAY.

A. Upon all streets or roadways within the Village a vehicle shall be driven upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movements;

2. When an obstruction exists making it necessary to drive to the left of the center of the roadway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in a proper direction upon the unobstructed portion of the street or highway within such distance as to constitute an immediate hazard;

3. Upon a roadway or street divided into three marked lanes for traffic under the rules applicable thereon;

4. Upon a roadway restricted to one-way traffic;

5. Whenever there is a single tract paved road on one side of the public highway and two vehicles meet thereon, the driver on whose side is the wider shoulder shall give the right-of-way on such pavement to the other vehicle.

B. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

C. Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use

such lanes, or except as permitted under Section A.2. herein. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

Sec. 14-68. PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTIONS.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

Sec. 14-69. OVERTAKING A VEHICLE ON THE LEFT.

The following rules govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, excepting and special rules otherwise stated in the Illinois Vehicle Code:

A. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway unless safely clear of the overtaken vehicle. In no event shall such movement to be made by driving off the pavement or the main-traveled portion of the roadway.

B. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

C. The driver of a two-wheeled vehicle may not, in passing upon the left of any vehicle proceeding in the same direction, pass on the right of any vehicle proceeding in the same direction unless there is an unobstructed lane of traffic available to permit such passing maneuver safely.

Sec. 14-70. LIMITATIONS ON OVERTAKING ON THE LEFT.

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of the Illinois Vehicle Code and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle

must return to an authorized lane of travel as soon as practicable in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any vehicle approaching from the opposite direction.

Sec. 14-71. FOLLOWING TOO CLOSELY.

A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and traffic upon and the conditions of the highway.

B. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

C. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

Sec. 14-72. REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTIONS.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

A. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

B. The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction or travel of such vehicle, and after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable the left turn shall be made in that portion of the

intersection to the left of the center of the intersection.

C. The Village of New Millford may cause official traffic control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this Section be traveled by vehicles turning at an intersection, and where such devices are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such device.

D. When a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic control devices, allowing for exceptions which are normal traffic engineering standards:

1. A left turn shall not be made from any other lane;

2. A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into roadway or when preparing for or making a U-turn when otherwise permitted by law.

Sec. 14-73. LIMITATIONS ON U-TURNS.

A. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other on streets within the Village where there is not traffic control devices limiting U-turns.

B. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.

C. No driver of any motor vehicle upon the streets or highways within the Village of New Millford shall make a U-turn where "No U-turns" or similar traffic control devices are placed prohibiting the same.

Sec. 14-74. STARTING A PARKED VEHICLE.

No person shall start a vehicle which is stopped, standing or parked until such movement can be made with reasonable safety.

Sec. 14-75. WHEN SIGNAL REQUIRED.

A. No person shall turn a vehicle at an intersection

unless the vehicle is in proper position upon the roadway as required by this ordinance or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person may so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

B. A signal of intention to turn right or left when required must be given continuously during not less than the last 100 feet traveled by the vehicle before turning within a business or residence district, and such signal must be given continuously during not less than the last 200 feet traveled by the vehicle before turning outside a business or residence district.

C. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in the Illinois Vehicle Code to the driver of any vehicle immediately to the rear when there is opportunity to give such a signal.

D. The electric turn signal device required in Section 12-108 of the Illinois Vehicle Code must be used to indicate an intention to turn, change lanes or start from a parallel park position but must not be flashed on one side only on a parked or disabled vehicle or flashed as a courtesy or "do not pass" signal to operators of other vehicles approaching from the rear. However, such signal devices may be flashed simultaneously on both sides of a motor vehicle to indicate the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking and passing.

Sec. 14-76. SIGNAL BY HAND OR ARM OR SIGNAL DEVICE.

Any stop or turn when required herein shall be given either by means of the hand and arm or by an electric turn signal device conforming to the requirements of Section 12-208 of the Illinois Vehicle Code.

Sec. 14-77. METHOD OF GIVING HAND AND ARM SIGNALS.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- A. Left turn -- Hand and arm extended horizontally;
- B. Right turn -- Hand and arm extended upward;

- C. Stop or decrease of speed - Hand and arm extended downward.

Sec. 14-78. RIGHT-OF-WAY RULES.

The following right-of-way rules shall apply to any person driving a vehicle within the Village of New Millford.

A. When two vehicles approach or enter an intersection from different roadways at approximately the same time, the driver of the vehicle on the left must yield the right-of-way to the vehicle on the right.

B. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is so close as to constitute an immediate hazard, but said driver, having so yielded may proceed at such time as a safe interval occurs.

C. Except when directed to proceed by a police officer or traffic control signal every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line, but if not before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another roadway or which is approaching so closely on the roadway as to constitute an immediate hazard during the time when the driver is moving across or within the intersections, but said driver having so yielded may proceed at such time as a safe interval occurs.

D. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down in a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop sign, but if not, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection.

E. If a driver is involved in a collision at an intersection or interferes with the movement of other vehicles after driving past a yield right-of-way sign, such collision or interference shall be deemed prima facie evidence of the drivers failure to yield right-of-way.

Sec. 14-79. VEHICLE ENTERING HIGHWAY FROM PRIVATE ROAD OR DRIVEWAY.

The driver of a vehicle about to enter or cross a highway from an alley, building, private road or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered.

Sec. 14-80. EMERGING FROM ALLEY, BUILDING, PRIVATE ROAD OR DRIVEWAY.

The driver of a vehicle emerging from an alley, building, private road or driveway, within an urban area shall stop such vehicle immediately prior to driving into the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on such roadway.

Sec. 14-81. WHEN LIGHTED LAMPS ARE REQUIRED.

A. When upon any street or highway within the Village of New Millford, during the period from sunrise to sunset, every motorcycle shall at all times exhibit at least one lighted lamp, showing a white light visible for at lease 500 feet in the direction the motorcycle is proceeding.

B. All motor vehicles shall, during the period from sunset to sunrise, or at any other time when visibility is so limited as to required the use of lights for safety, exhibit two lighted driving lamps, except that a motorcycle need exhibit only one such driving lamp, showing white lights, or lights or a yellow or amber tint, visible for at least 500 feet in the direction the motor vehicle is proceeding. Parking lamps may be used in addition to but not in lieu of any such driving lamps. Every motor vehicle, trailer or semi-trailer shall also exhibit at least two lighted lamps, commonly known as tail lamps, which shall be mounted on the left rear and right rear of the vehicle so as to throw a red light visible for at least 500 feet in the reverse direction, except that a motorcycle or a truck tractor

or road tractor manufactured before January 1, 1968, need be equipped with only one such lamp.

C. Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light a rear registration place when required and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with a separate lamp or lamps for illuminating a rear registration plate, shall be so wired as to be lighted whenever the driving lamps or auxiliary driving lamps are lighted.

Sec. 14-82. DRIVING UPON SIDEWALKS.

No person shall drive any motor vehicles within the Village of New Millford upon a sidewalk or sidewalk area except upon permanent or duly authorized temporary driveway or except for special delivery or pickup involving goods or customer services.

Sec. 14-83. NEGLIGENT DRIVING.

It shall be unlawful for any person to operate a motor vehicle upon the public streets or highways within the corporate limits of the Village of New Millford, Illinois, in such a manner as to endanger or be likely to endanger any persons or property.

Sec. 14-84. TRUCK TRAFFIC RESTRICTIONS.

A. No vehicle or combination of vehicles, unladen or with load, shall be driven on a posted "No Truck" street when said vehicle carries an Illinois license designation greater than a "Class B" or its equivalent out of state license. Nothing in this Ordinance shall prohibit safety vehicles from driving on roads posted "No Trucks".

B. Subject to the restrictions set forth above in paragraph A, trucks as defined above shall be prohibited from driving on the following highways located within the Village:

1. Rydberg Road between Rotary Road and Baxter Road.

Sec. 14-85. REGULATION OF OFF-ROAD TRACKS.

No off-road track or path for use by motorized vehicles shall be allowed in the Village except for the following:

- A. Commercially and Industrially zoned areas.

- B. Agriculturally zoned areas, except that no portion of the off-road track or path may be within 2640 feet of residentially zoned properties.

Sec. 14-86 through 14-110. RESERVED.

ARTICLE VII. EQUIPMENT

Sec. 14-111. DEFINITIONS.

A. "Bumper". Every device or system of devices protruding from and attached to the front or rear of a motor vehicle which has been designed to be used to absorb the impact of a collision.

B. "Suspension system". The system of devices consisting of but not limited to: springs, spring shackles, shock absorbers, torsion bars, frame or any other supporting members used to attach the body of a motor vehicle to its axles.

C. "Motor vehicle". Every vehicle which is self-propelled, but. not operated upon rails.

D. "Motorcycle". Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

E. "Chassis". Every frame or supportive element of a vehicle whether or not a manufacturer's identification number, serial number, or other identifying numbers are present on said part.

Sec. 14-112. REGULATIONS.

It shall be unlawful to operate a motor vehicle on any highway of the Village when the suspension system has been modified from the original manufactured design by lifting the body line from the front to the rear bumper to vary over three inches in height when measured from a level surface of the highway to the lower edge of the bumper. Nothing in this Section shall prevent the installation of manufactured heavy-duty equipment to include shock absorbers and overload springs, nor shall anything contained in this Section prevent a person from operating a motor vehicle on any highway of this Village with normal wear of the suspension system if normal wear does not effect the control or safe operation of the vehicle. This Section shall not apply to motor vehicles designed or modified

primarily for off-highway racing purposes while such vehicle are in tow or to motorcycles or motor-driven cycles.

Sec. 14-113. BUMPER REQUIREMENTS.

It shall be unlawful to operate any motor vehicle with a gross vehicle weight rating of 9,000 pounds or less or any motor vehicle registered as a recreational vehicle under this Article on any highway of this Village unless such motor vehicle is equipped with both a front and rear bumper.

Except as indicated below, maximum bumper heights of such •motor vehicles shall be determined by weight category of gross vehicle weight rating (GVWR) measured from a level surface at the highest point of the bottom of the bumper when the vehicle is unloaded and the tires are inflated to the manufacturer's recommended pressure.

Maximum bumper heights are as follows:

	MAXIMUM FRONT BUMPER HEIGHT	MAXIMUM REAR BUMPER HEIGHT
All motor vehicles of the first division	22 inches	22 inches
4,500 lbs. and under GVWR	24 inches	26 inches
4,501 lbs. - 7,500 lbs. GVWR	27 inches	29 inches
7,501 lbs. - 9,000 lbs. GVW	28 inches	30 inches

However, nothing in this Section shall prevent the installation of bumper guards.

This Section shall not apply to motor vehicles designed or modified primarily for off-highway purposes while such vehicles are in tow or to motorcycles or motor driven cycles, nor to motor vehicles registered as antique vehicles when the original design of such vehicles did not include bumpers.

Sec. 14-114. PENALTY.

Any person found guilty of violating any Section of this Article shall be punished by fine of not less than Fifty Dollars (\$50.00) but not more than Five Hundred Dollars (\$500.00).

Sec. 14-115. LIGHTS.

It shall be unlawful to operate or park on any street any vehicle not equipped with adequate lights conforming to the requirements of state law.

Sec. 14-116. BRAKES.

It shall be unlawful to drive any vehicle upon any street in the Village unless such motor vehicle is equipped with good and sufficient brakes in good working order, as required by the state traffic law, or to operate any vehicle which is so loaded that the operator does not have ready access to the mechanism operating the brakes of such vehicle.

Sec. 14-117. TIRES.

It shall be unlawful to operate on any street any motor vehicle which is not equipped with tires conforming to the requirements of the state traffic law.

Sec. 14-118. PERSONS REQUIRED TO WEAR SAFETY BELTS.

Each driver and front seat passenger of a motor vehicle operated on a street or highway in the Village shall wear a properly adjusted and fastened seat safety belt.

Every parent or legal guardian of a child under the age of four (4) years residing in this State shall be responsible, when transporting his or her child in a motor vehicle or recreational vehicle, of which that parent or guardian is the owner, on the roadway, streets or highways of this State, for providing for the protection of such child by properly securing him or her in a child restraint system.

For purposes of this Section, "child restraint system" means any device which meets the standards of the United States Department of Transportation designed to restrain, seat or position children.

For purposes of this Section, "legal guardian" means a person appointed guardian, or given custody, of a minor by a circuit court of this State, but does not include a person appointed guardian, or given custody of a minor under the Juvenile Court Act.

The provisions of this Ordinance shall not apply to a child passenger with a physical handicap of such a nature as to prevent appropriate restraint in such a seat, provided that such handicap is duly certified by a physician who shall state the nature of the handicap, as well as the reason the restraint is inappropriate.

EXCEPTIONS. Section 14-118 shall not apply to any of the following:

A. A driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle, if the

speed of the vehicle between stops does not exceed 15 miles per hour.

B. A driver or passenger possessing a written statement from a physician that such person is unable, for medical or physical reasons, to wear a seat safety belt.

C. A driver or passenger possessing an official certificate or license endorsement issued by the appropriate agency in another state or country indicating that the driver is unable for medical, physical, or other valid reasons to wear a seat safety belt.

D. A driver operating a motor vehicle in reverse.

E. A motor vehicle with a model year prior to 1965.

F. A motorcycle or motor driven cycle.

G. A motorized pedalcycle.

H. A motor vehicle which is not required to be equipped with seat safety belts under federal law.

I. A motor vehicle operated by a rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier.

FAILURE TO COMPLY. Failure to wear a seat safety belt in violation of this Article shall not be considered evidence of negligence, shall not limit the liability of insurer, and shall not diminish any recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle.

Sec. 14-119. A violation of Section 14-118 is a petty offense as it is applicable to the child restraint laws, is a petty offense punishable by a fine of not more than Twenty-five Dollars (\$25.00) waived upon proof of possession of an improved child restraint system as defined under this Section. A subsequent violation of Section 14-118 or similar ordinances is a petty offense punishable by a fine of not more than Fifty Dollars (\$50.00).

Sec. 14-120. SQUEALING TIRES.

No person shall squeal or make unusual noise with the tires of any vehicle.

Sec. 14-121 through 14-125. RESERVED.

ARTICLE VIII. SNOW REMOVAL - EMERGENCIES

Sec. 14-126. There is hereby declared an emergency within the Village of New Millford at any time snow shall accumulate to a depth of two (2) inches and shall continue until the snow has been plowed and removed from the streets within the Village.

Sec. 14-127. During the period that a snow emergency shall be in effect as defined in Section 14-126, it shall be unlawful for any person to stop, stand or park any motor vehicle on any street in the Village until said street is cleared of snow by the Village authorities.

Sec. 14-128. Any vehicle parked in compliance with this Ordinance on the applicable calendar date may remain so parked until 7:00 A.M. on the day following.

Sec. 14-129. Every person who violates or fails to comply with the provision of this Ordinance shall be fined in a sum not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) for each offense and in addition to said fine shall be required to pay the reasonable and necessary cost or charge of removing said vehicle from such street.

Sec. 14-130. The police officer of the Village of New Millford, Illinois is hereby authorized to cause the removal from the street of any vehicle parked in violation of the provisions of this Ordinance.

Sec. 14-131 through 14-135. RESERVED.

ARTICLE IX. STANDING, STOPPING AND PARKING

Sec. 14-136. The Village of New Millford does designate no parking areas and prohibited places upon Village streets, alleys, highways and upon Village owned property.

Sec. 14-137. AREAS POSTED "NO PARKING" IN THE VILLAGE.
The owner and/or operator of a vehicle shall be prohibited from parking vehicles in areas posted "Parking This Side Only" or "No Parking" in the Village except as provided in Section 14-127.

<u>STREET NAME</u>	<u>AREA POSTED</u>	<u>TYPE OF SIGN</u>
Meeker	East Side	Parking this side only
Mead	East Side	Parking this side only
Menard	East Side	Parking this side only
Murray	East Side	Parking this side only
Mitchell	East Side	Parking this side only
Montgomery	East Side	Parking this side only
Macon	South Side	Parking this side only
Morris	South Side	Parking this side only
Mercer	South Side	Parking this side only
Monterey	South Side	Parking this side only
Manderia	South Side	Parking this side only
Midland	West Side	Parking this side only
Miami	ALL AREAS	No Parking
Leonard Road	North Side	Resident parking only
Rotary Road	South Side from Rydberg to Meeker	No Parking
Will James Rd	North Side opposite New Milford Fire Station	No Parking

Sec. 14-138. PROHIBITED PLACES OF PARKING:

A. On the roadway side of any vehicle stopped or parked at the edge or curb of a roadway.

B. On a sidewalk.

C. Within three feet of the nearest edge of a public or private driveway or opposite such driveway so as to obstruct ingress or egress.

D. Within an intersection.

E. Within fifteen feet of a fire hydrant.

F. On a crosswalk.

G. Within twenty feet of a crosswalk.

H. Within thirty feet of any flashing signal, stop sign, yield sign, or traffic control signal located at the side of the roadway.

I. Upon any bridge or other elevated structure.

J. RESERVED.

K. In any area which is designated by the posting of signage pursuant to State statute which designates said area as a tow away zone;

L. In any alley;

M. In any fire lane which is properly designated by the posting of signs as required by State statute;

N. Any loading zone properly posted with appropriate signage.

Sec. 14-139. No person shall, without the permission of the owner or lessee of any private property, leave or park any vehicle thereon if there is plain view on such property a "no parking" sign or a "parking this side only" sign.

Sec. 14-140. Every vehicle stopped or parked upon a two way or one way roadway shall be so stopped or parked with its right hand wheels parallel to and within twelve inches of the right hand curb or as close as practicable to the right edge of the right hand shoulder.

Sec. 14-141. Except for violations of Section 14-138(K), (L), (M) and (N) any person violating or disobeying any parking signs shall be issued a citation which will result in a fine. A separate offense shall be deemed committed upon each day during or on which violations occur or continue.

Any person or entity violating Section 14-138 (K), (L), (M) and (N) shall be fined the minimum amount stated below if paid within ten (10) days from the issuance of said citation, and the maximum amount indicated below in the event that said citation is not paid within ten (10) days from the date of issuance:

14-138(K) -	\$25-100
14-138(L) -	\$50-100
14-138(M) -	\$50-100
14-138(N) -	\$50-100

Sec. 14-142. LIMITATION ON PARKING OF TRUCKS IN RESIDENTIAL AREAS.

A. It shall be unlawful for the operator or owner of any motor vehicle except a passenger vehicle, public utility truck and truck licensed by the State under the classification of "A" or "B" license, the park such a vehicle within residential areas in the Village of New Millford for a period of longer than one

(1) hour. For the purposes of this paragraph, recreational vehicles classified as "RV" shall not be considered above as an "A" or "B" license.

B. Further, it shall be unlawful to park any vehicle weighing in excess of eight thousand (8,000) pounds gross weight, including vehicle and maximum load, within residential areas of the Village of New Millford for a period of longer than one (1) hour.

C. The requirements of this Section shall not apply to commercial vehicles parked within the Village limits for the purpose of delivering or collecting persons, materials or merchandise or performing some service to the residents on whose property or adjacent to whose property the vehicle is being parked.

Sec. 14-143 through 14-173. RESERVED.

Sec. 14-174. RESTRICTED ROADWAYS.

A. It shall be unlawful to drive and/or park any motor vehicle having a license classification of "D" or higher on the following roads or highways located within the Village of New Millford: Meeker, Mead, Menard, Murray, Mitchell, Montgomery, Macon, Morris, Mercer, Monterey, Manderia, Midland and Miami. This Section shall not apply to any pick-up truck having a "D" plate.

B. The restriction set forth in (a) above shall not apply to garbage refuge vehicles, emergency vehicles, delivery vehicles, or service vehicles.

Sec. 14-175. WEIGHT OF VEHICLES LIMITED BECAUSE OF DETERIORATION DUE TO CLIMATIC CONDITIONS; SIGNS.

A. Whenever by reason of deterioration, rain, snow, freezing and thawing, or other climatic conditions, highways under the control, supervision and jurisdiction of the Village of New Millford may be damaged or destroyed, the maximum weights permitted to be transmitted to the surface of any vehicle shall be limited to conform with the following limitations:

2 axles, single rear tires	7,000 lbs.
*2 axles, dual rear tires	18,000 lbs.
*3 or more axles, dual rear tires	30,000 lbs.
*Gross axle load	11,000 lbs.

The above limitation shall be in effect for a period not to exceed ninety (90) days in any one calendar year, and a notice of the above prohibitions and restrictions shall be posted at each end of that portion of any such highway on signs with black printing on a white background and minimum measurements of thirteen inches by nine inches (13" X 9").

B. The Village Engineer is hereby authorized and directed to cause signs to be erected and maintained at each end of any such highway, which signs shall designate the maximum weight restrictions here adopted and shall read as follows:

NOTICE
VEHICLE RESTRICTED TO THE
FOLLOWING GROSS WEIGHTS

2 axles, single rear tires	7,000 lbs.
*2 axles, dual rear tires	18,000 lbs.
*3 or more axles, dual rear tires	30,000 lbs.
*Gross axle load	11,000 lbs.

Sec. 14-176. PENALTIES.

Whenever any vehicle is operated in violation of Section 14-175 of this Chapter, the owner or driver of such vehicle shall be deemed guilty of such violation and either the owner or the driver of such vehicle may be prosecuted for such violation. Any person, firm or corporation convicted of any violation of Section 14-175 hereof shall be fined according to the following schedule:

Up to and including 2000 pounds overweight	\$50.00 unless the overweight can be shifted or removed to conform to all legal weights
From 2001 pounds through 2500 pounds overweight	The fine is \$135.00
From 2501 pounds through 3000 pounds overweight	The fine is \$165.00
From 3001 pounds through 3500 pounds overweight	The fine is \$260.00
From 3501 pounds through 4000 pounds overweight	The fine is \$300.00

From 4001 pounds through 4500 pounds overweight	The fine is \$425.00
From 4501 pounds through 5000 pounds overweight	The fine is \$475.00
From 5001 or more pounds overweight	The fine is \$500.00

Section 14-177. PROHIBITION OF THE OPERATION OF SNOWMOBILES ON
MUNICIPALLY OWNED PROPERTY

A. It shall be unlawful for any person to drive or operate any snowmobile on any municipally owned real estate other than provided for under 625 ILCS 40/2.

B. Any person found to be in violation of this Ordinance shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

Section 14-178. HANDICAP PARKING AREAS

A. HANDICAPPED SIGNS. The Village shall install proper signs indicating such areas are reserved for handicapped persons only; and,

B. DECAL REQUIRED. It shall be unlawful to park any motor vehicle which is not bearing a registration plate issued to a handicapped person as defined in 625 ILCS 5/1-159.1, pursuant to 625 ILCS 5/3-616, or to a disabled veteran pursuant to 625 ILCS 5/3-609, or a special decal or device issued pursuant to 625 ILCS 5/3-616, or pursuant to 65 ILCS 5/11-1301.2, or a motor vehicle registered in another jurisdiction upon which is displayed a registration plate, special decal or device issued by the other jurisdiction designating the vehicle is operated by or for a handicapped person, or issued under the authority of the Village Board of Trustees of the Village of New Millford as evidence that the vehicle is operated by or for a handicapped person or disabled veteran, in any parking space specifically reserved by the posting of the proper sign to the effect that said parking place is for handicapped persons or motor vehicles bearing such registration plates or decals.

C. PENALTY. Violation of this Section shall be punishable, upon conviction, by a mandatory fine of One Hundred Dollars (\$100.00) for each offense in addition to any cost or

charges connected with the removal or storage of any motor vehicle pursuant to 625 ILCS 5/11-1301.3(b).

Sec. 14-179 through 14-199. RESERVED.

ARTICLE X.
SNOWMOBILE ORDINANCES, SNOWMOBILES, SNOWMOBILE REGULATIONS

Sec. 14-200.

It shall be unlawful for any person to drive or operate any snowmobile within the Village of New Millford, Illinois, except under the following rules and regulations.

A. Time of Operation. Any person may drive or operate a snowmobile between 10:00 a.m. and 10:00 p.m. on any day with the exception that on Saturdays, the hours of operation are extended until 12:00 a.m. midnight.

B. Snowmobiles will not be permitted on any public street or road other than specified by proper signage, and may not be operated on any private property without the prior written permission of the owner of the property. However, the driver or operator of the snowmobile may cross a street, road or highway on a 90o angle to said roadway for the purpose of driving the snowmobile from one (1) authorized area to another.

C. Snowmobiles driven or operated traveling North or South along Illinois Route 251 shall be subject to the rules and regulations of the State of Illinois and not the Village of New Millford.

D. It shall be unlawful for any driver or operator of a snowmobile to operate the snowmobile within the Village of New Millford boundaries without displaying a current State of Illinois registration.

E. The driver or operator of the snowmobile may operate the vehicle along the following roads or highways located within the Village of New Millford and no others:

1. The South right of way of Rotary Road from the Village limits on the East to Illinois Route 251 on the West.
2. The West right of way of Rydberg Road from the Village limits on the North to Baxter Road on the South.

F. It shall be unlawful to generate a snowmobile at speeds in excess of thirty miles per hour (30 mph) along the roadways designated in Paragraphs (e) (1) and (e) (2) above.

G. Any person found to be in violation of rules and regulations set forth above shall be subject to a fine of not less than \$50.00 and not more than \$500.00

ARTICLE XI.

OPERATION OF OFF-HIGHWAY VEHICLES PROHIBITED ADJACENT TO RESIDENCES.

Sec. 14-201.

A. "Off-highway vehicle" means a motor-driven recreational vehicle capable of cross-country travel on natural terrain without benefit of a road or trail, including an all-terrain vehicle and off-highway motorcycle as defined in the Illinois Vehicle Code [Chapter 625, Illinois Compiled Statutes]. "Off-highway vehicle" does not include a snowmobile; a motorcycle; a watercraft; a farm vehicle being used for farming; a vehicle used for military, fire, emergency, or law enforcement purposes; a construction or logging vehicle used in the performance of its common function; a motor vehicle owned by or operated under contract with a utility, whether publicly or privately owned, when used for work on utilities; a commercial vehicle being used for its intended purpose; or an aircraft.

B. The operation of an off-highway vehicle within one hundred (100) feet of any residence is hereby declared a public nuisance and is prohibited, excluding however any residence on the property upon which the vehicle is being operated if such operation is lawful.

C. Time of operation. Any person may drive or operate an off-highway vehicle between 10:00 a.m. and 10:00 p.m. on any day with the exception that on Saturdays, the hours of operation are extended until 12:00 a.m. midnight.

D. Penalty. Any person found to be in violation of the rules and regulations set forth above shall be subject to a fine of not less than \$50 and not more than \$500 for any one (1) offense.

E. Exception for Village Authorized Non-Highway Vehicles. Notwithstanding the provisions of subparagraphs A through D above, Village Authorized Non-Highway Vehicles shall be permitted to operate on streets, highways and roadways which are

under Village jurisdiction. "Village Authorized Non-Highway Vehicles" shall mean those non-highway vehicles identified in 625 ILCS 5/11-1426.1 (i.e. all-terrain vehicles, golf carts, off-highway motorcycles and recreational off-highway vehicles) which are owned and/or operated by the Village or which are utilized by contractors of the Village in connection with the services performed by the contractor for the Village. Such Village Authorized Non-Highway Vehicles shall be subject to conforming to the applicable provisions of the Illinois Vehicle Code and 625 ILCS 5/11-1426.1, including, but not limited to the following:

1. Village Authorized Non-Highway Vehicles may only be operated on streets and roadways where the posted speed limit is 35 miles per hour or less. Village Authorized Non-Highway Vehicles may cross a roadway or street at an intersection where the roadway or street has a posted speed limit of more than 35 miles per hour.
2. Any person operating a Village Authorized Non-Highway Vehicle must have a valid driver's license.
3. The Village Authorized Non-Highway Vehicle must, at a minimum, have the following: brakes, a steering apparatus, tires, a rearview mirror, red reflectorized warning devices in the front and rear, a slow moving emblem on the rear of the Village Authorized Non-Highway Vehicle (as required of other vehicles pursuant to 625 ILCS 5/12-709), a headlight that emits a white light visible from a distance of 500 feet to the front, a tail lamp that emits a red light visible from at least 100 feet from the rear, brake lights, and turn signals. When operated on a roadway, a Village Authorized Non-Highway Vehicle shall have its headlight and tail lamps lighted.
4. Any person operating a Village Authorized Non-Highway Vehicle is subject to the mandatory insurance requirements of 625 ILCS 5/7-601 *et seq.* (Ordinance No. 2013-4)

Sec. 14-202 through 14-249 RESERVED.

Sec. 14-250. Definitions.

The following terms, as used in this Article, shall have the meanings set forth below:

- A. *Vehicle*, shall have the same definition as set forth in the Illinois Motor Vehicle Code, including, but not limited to, cars, trucks, vans, pick-up trucks and motorcycles.
- B. *Recreational Vehicle*, includes, but is not limited to, motor homes, campers, cargo trailers, travel trailers, boats, snowmobiles, all-terrain vehicles and any other vehicle which may be licensed by the State of Illinois as a recreational vehicle.
- C. *Non-Motorized Vehicle*, shall mean any licensed or unlicensed trailer including, but not limited to, camping trailers, travel trailers, boat trailers, snowmobile trailers, bike trailers, all-terrain vehicle trailers, flat bed trailers or any other trailer used for any type of hauling or towing.

Sec. 14-251. Regulations.

The following regulations shall apply to the parking, storage and location of Vehicles, Recreational Vehicles and Non-Motorized Vehicles on residentially zoned properties:

- A. All Vehicles on residentially zoned property shall be parked, stored or located on a bituminous material, concrete, cement or gravel surface. It shall be unlawful for any person, party or entity to cause or permit any Vehicle to be parked, located or stored on a non-hard surface or on the lawn of the property.
- B. It shall be unlawful for any person, party or entity to cause or allow a Recreational Vehicle or Non-Motorized Vehicle to be parked, located or stored outside in the front yard of a property for a period exceeding seven (7) continuous days per month. During such seven (7) day period, any such Recreational Vehicle or Non-Motorized Vehicle parked, located or stored outside in the front yard must be on bituminous material, concrete, cement or gravel and shall not be parked, located, or stored on any lawn or non-hard surface of the property and shall not be permitted to

be parked or stored in such a manner that creates a traffic hazard.

- C. Except during the seven (7) day period provided for above in subparagraph (B) above, Recreational Vehicle or Non-Motorized Vehicle, shall be parked, stored or located in the side yard or rear yard of a property so long as it is parked, stored or located in accordance with the following:
 - i. Must be parked, located or stored on a bituminous material, concrete, cement or gravel pad. Placing an individual brick, paver or patch/bag of gravel under each wheel of a Recreational Vehicle or Non-Motorized Vehicle shall not be permitted.
 - ii. Any Recreational Vehicle or Non-Motorized Vehicle parked, located or stored in a side or rear yard of a property shall not be located within any and all applicable setbacks and not be less than five (5) feet from any side or rear lot line.
- D. No Recreational Vehicle or Non-Motorized Vehicle shall be permitted to be parked, located or stored on any residentially zoned property in excess of seven (7) days."

Sec. 14-252. Penalties.

Any person found to be in violation of any provision of this Article shall be subject to a fine of not less than \$50.00 and not more than \$750.00 per violation with each day a violation exists constituting a separate offense. (Ordinance No. 2015-3)

CHAPTER 15

POLICE

RESERVED

CHAPTER 16

SEWERS

RESERVED

CHAPTER 17

STREETS AND SIDEWALKS

Sec. 17-1. PROHIBITION ON REMOVAL OF SNOW AND ICE FROM PRIVATE PROPERTY TO PUBLIC PROPERTY

A. It shall be unlawful for the occupant of any private property to allow a person or entity while removing snow and ice from their private property to throw, blow, plow, deposit or remove the snow and ice from the private property to a public roadway.

B. Any party found to be in violation of this Ordinance shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each violation. Each day that said violation occurs shall be considered a separate violation under this Ordinance.

Sec. 17-2. **Permit required.**

No person shall hereafter construct, build, establish or maintain a driveway over, across or upon any portion of the public walk or public parkway without first having obtained a written permit to do so from the Village Attorney. No permit shall be issued for construction or establishment of any such driveway except in accordance with the provisions contained in this section. Property owners are entitled to a driveway permit only if:

- (1) The driveway will not create any undue safety hazard.
- (2) It will not impede safe and efficient flow traffic.
- (3) All provisions of this section shall be read in conjunction with and considered a part of all the rules, regulations, and requirements as set forth in the subdivision ordinance, chapter 18 of this Code of Ordinances.

Sec. 17-3. **Application for permit.**

Application for permit must be made in writing upon forms furnished by the village. Such application shall contain the name and address of the person making the application, the name

of the contractor or person who is to construct such driveway, and the proposed location and dimensions of such driveway. Complete plans and specifications shall be submitted to the Village Attorney for approval at least 48 hours before the permit shall be issued.

Sec. 17-4. Specifications.

All plans and specifications must conform to the minimum requirements of this division before a permit for construction or reconstruction shall be permitted.

Sec. 17-5. Thickness, material and grade.

(a) Driveways for residential or dwelling house use shall be constructed in a manner and of a material equal at least to the existing for the paving or public street adjacent thereto, except that where concrete pavement exists in the public street, a bituminous surface will be permitted.

(b) All residential driveways shall be at least four inches thick if concrete, with a four- inch gravel base. If bituminous material is used, two inches compact depth with six inches of gravel base. All driveway approaches in the village right-of-way shall be constructed of concrete six inches in thickness.

(c) Driveways for other than residential or dwelling house use shall be constructed of concrete at least six inches in thickness or equal, and subject to the approval of the village engineer.

(d) Where a driveway of any kind is constructed across an existing sidewalk, such sidewalk shall be removed and replaced with no less than six inches of concrete for the full width of the driveway.

Sec. 17-6. Driveway widths.

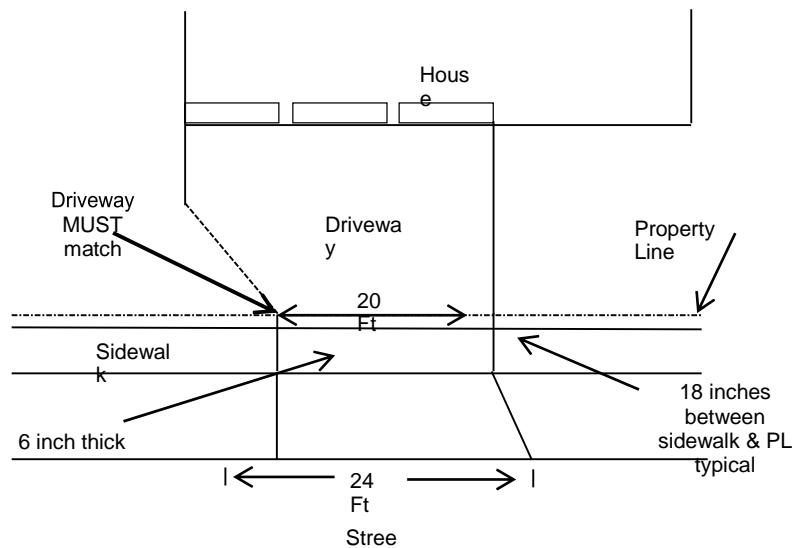
(a) All property zoned R-1, single-family residence, pursuant to the Code of Ordinances for the village, shall be allowed to construct driveways not less than nine feet nor more than 20 feet in width at the property line parallel to the public street. For the purpose of this subsection, the owner of a single-family residence shall be allowed one driveway. All residential property zoned for

multi-family use shall be allowed to construct the maximum of two driveways per lot. Each driveway for multi-family lots shall not be less than nine feet nor more than 20 feet in width at the property line which is adjacent to the public street.

(b) The width of the driveway for other than residential or dwelling house shall not exceed 30 feet at the outer or street edge of the sidewalk. Where two or more adjoining driveways are provided for the same property, a safety island of not less than 20 feet at the outer or street side of the sidewalk shall be provided. Not more than one such driveway shall be allowed to any one property for each 100 feet of continuous frontage. The width of the driveway opening at the curbline shall not exceed the width of the driveway at the property line plus 20 feet, nor be less than the width at the property line plus ten feet. The flared radius at the curbline shall not be less than three feet nor more than ten feet.

(c) The centerline of all driveways must intersect the street at right angles and extend perpendicular to the street for at least ten feet from the curb.

(d) All driveways constructed in R-1 single-family residential districts shall have driveways in conformity to the following drawing unless a variance has been granted.



Sec. 17-7. Driveway culverts.

(a) Where driveways cross upon ditches in the parkway, culverts shall be installed at the owner's expense. Such culverts shall be of such size and shall be constructed of such material as determined by the director of public works. In no instance shall the size of the culvert be less than 12 inches in diameter.

(b) The length of the culvert shall be determined as follows: For a ditch of two feet or less, the culvert shall extend at least five feet on each side of the driveway. For each additional foot depth of the ditch add two feet to the length of the culvert. No culvert shall be less than 20 feet, and if headwalls are to be used, the length shall be as directed by the Village Engineer.

Sec. 17-8. Curb cuts.

The width of the curb cut at the top of the curb shall be the width indicated on the driveway permit plus one foot. This dimension includes the 45-degree transitions in the curb from the bottom of the curb cut to the top of the curb, at both ends of the curb cut. The curb cut shall be achieved by saw cutting. At no time is cracking or breaking of the concrete curb and/or gutter acceptable. At both ends of the curb cut, the curb shall be cut at a 45-degree angle from the ground with the bottom of the angle at the curb cut elevation and the top of the angle at the top of the curb. The curb shall be cut horizontally so that about one-half-inch depth remains between the curb cut elevation and the flow line of the curb and gutter. The horizontal cut shall pitch down toward the road side of the curb so that water will flow from the driveway to the road.

Sec. 17-9. Maintenance.

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

Sec. 17-10 through Sec. 17-40 - Reserved.

CHAPTER 18

SUBDIVISIONS

Sec. 18-1. DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

a) Plans. The term "plans of the Board of Trustees", "the comprehensive plan", "adopted segments of the comprehensive plan", "adopted plans" and "Plan" and all such terms as used herein mean plans adopted into law by the Village Board under Illinois Revised Statutes, Chapter 24.

b) "Subdivision" means the initial division of a parcel of land into two or more parts, any of which parts is less than five acres, for the purpose of ownership, transfer or building development; or, if a new street is involved, any division of a parcel of land. The term includes any division of land that attempts to avoid the requirements of this regulation. Where appropriate to the context, the term shall relate to the process of subdividing or to the land subdivided. The term subdivision as used herein shall also apply to all mobile home parks proposed for future development.

c) "Village of New Millford Board of Trustees" shall be referred to as the Village Board.

Sec. 18-2. INTERPRETATION, PURPOSE AND EFFECT OF REGULATION.

a) The provisions of this regulation shall be held to be minimum requirements, adopted to promote the health, safety and the convenience of the public and to lessen congestion and further the orderly layout and the use of land and to facilitate adequate provision for transportation, water, sewage, schools, parks, playgrounds and other public requirements.

b) It is not intended by this regulation to repeal or impair any existing easement, covenant or agreement between parties, or permits previously adopted or issued pursuant to the resolutions of the Village and statutes of the state; provided, however, that where this regulation imposes a greater restriction upon the development of the land than required by other rules, regulations or permits, the provisions of this regulation shall govern.

c) Where this regulation imposes a greater restriction than imposed or required by the provisions of existing ordinances, resolutions, rules and other regulations, this regulation shall control. Where provisions of existing ordinances, resolutions, rules or other regulations impose greater restrictions than imposed or required by this regulation, such provisions shall control. All provisions in existing resolutions, rules or regulations in conflict with this regulation are hereby repealed.

Sec. 18-3. OFFICE OF PLAT OFFICER CREATED: POWERS AND DUTIES:

a) The office of Plat Officer is hereby created. The Village Engineer shall serve as the Plat Officer of the Village or any individual appointed by the Village President with approval of the Village Board.

b) Every proposed final subdivision of land within the platting jurisdiction of the Village shall be submitted to the Village Board for its approval prior to final recording of a map or plat of such subdivision; no such map or plat of subdivision shall be recorded unless it has been so approved.

c) The Plat Officer shall approve the final plat and execute the certificate required by Section 10 (f) of this regulation only upon approval of the plat by the Village Board.

Sec. 18-4. BOARD OF TRUSTEES REVIEW.

The Board of Trustees pursuant to Chapter 24 of the Illinois Revised Statutes and the Code of Ordinances for New Millford, shall review and make recommendation on all tentative plats.

Sec. 18-5. APPROVAL PRIOR TO RECORDING.

Subdivisions. Every intended subdivision of land within the platting jurisdiction of the Village shall be submitted to the Plat Officer of the Village of New Millford for approval according to the provisions of this regulation prior to final recording of a map or plat of such subdivision, except where otherwise permitted by this regulation. No such map or plat of subdivision shall be entitled to record or have validity until it has been so approved, except when otherwise permitted by this regulation.

Sec. 18-6. VARIATIONS.

In order to promote the best possible development and use of land, the Plat Officer and the Village Board shall interpret the standard, provisions and specifications contained in this

regulation liberally and in favor of the community interest. Variations from these standards, provisions and specifications shall be recommended and granted when it is demonstrated to the satisfaction of the Plat Officer and Village Board that such variation will bring about a logical and desirable result, than obtained by strict compliance.

a) A request for variation shall be filed by the owner or developer of proposed subdivision with the Plat Officer. The Plat Officer shall refer request, together with his recommendation, to the Village Board for decision. The request shall be in writing, shall state specifically what variation bough and the community's interest in granting the variation.

b) Upon application of the owner or developer, a tentative plat which has been disapproved by the Plat Officer, or a tentative plat upon which no action has been taken for ninety (90) days by the Plat Officer, shall be submitted to the Village Board for its tentative decision. The Village Board shall approve or disapprove the tentative plat as submitted, approve it with conditions, or disapprove it.

Sec. 18-7. PROHIBITION OF SUBDIVISION.

Any person, firm, or corporation shall subdivide or resubdivide any parcel of land within the corporate limits of the Village or within one and one-half (1 1/2) miles of said corporate limits but not within the corporate limits of any other municipality or within the jurisdiction of another municipality acting pursuant to the Illinois Revised Statutes, unless a subdivision plat has been reviewed by the Board of Trustees, with recommendation for approval by the Plat Officer and approved by the President and Board of Trustees of the Village as stated by this regulation. Exemptions to this established procedure are as stated in Section 18-8.

Sec. 18-8. EXEMPTIONS.

EXEMPTION A

The following shall be exempt from the platting and procedural requirements of this regulation:

a) The division of land into parcels each greater than five (5) acres in size and which does not involve any new streets or easements of access.

b) The sale or exchange of parcels of land between owners of contiguous and adjoining land.

c) The conveyance of parcels of land or interests therein for use as a right of way for railways or other public utility facilities which does not involve any new streets or easements of access.

d) The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with public use.

e) Conveyances made to correct descriptions in prior conveyances.

EXEMPTION B

The following shall be exempt from the platting and procedural requirements of this regulation except that a Boundary Map and pertinent standards of this subsection shall apply.

a) The division of land into two (2) parcels, either of which is less than five (5) acres and which does not involve any new streets or easements of access.

b) The division of a lot of less than one acre in a recorded subdivision which does not involve any new street or easement of access, provided that the division complies with the regulations of the Zoning Ordinance.

c) The sale or exchange of portions of a lot of less than one acre in a recorded subdivision which does not involve any new street or easement of access, provided that the portion of a lot to be sold or exchanged complies with the regulations of the Zoning Ordinance.

d) The sale or exchange of portions of parcels of land less than five (5) acres between owners of contiguous and adjoining land.

BOUNDARY MAP. The boundary map shall be prepared by a registered Illinois Land Surveyor.

a) Such boundary map shall be drawn with waterproof nonfading black ink on tracing cloth or good quality tracing paper. Acceptable boundary map dimensions are eight and one-half (8 1/2") inches wide by eleven (11") inches long, eight and one-half (8 1/2") inches wide by fourteen (14") inches long or a

size acceptable to the Winnebago County Recorder. No such boundary map shall be entitled to record or have validity until it has been signed by the Plat Officer. The Plat Officer shall keep a copy of such boundary map. After two such boundary maps dividing a tract of land in one ownership at the time of passage of this regulation have been signed by the Plat Officer, he shall not sign another boundary map dividing such land. Further division of such land shall be recorded only by means of a map or plat of subdivision as provided in this regulation which map or plat of subdivision shall include all parcels previously divided off by such boundary map.

b) Where possible all street right-of-way widths shall be a minimum of sixty-six (66) feet.

A boundary map of property adjacent to a street with insufficient right-of-way shall show on the face thereof additional right-of-way. Additional right-of-way shall be determined by the Plat Officer. A deed and a title policy guaranteeing Village ownership of said property shall be transmitted with the boundary map to the Plat Officer. The Plat Officer shall retain the title policy and record the deed.

Exceptions to this requirement shall be determined by the Village Board based on evidence presented by the property owner that the community interest would not benefit.

c) The boundary map shall be endorsed by the Winnebago County Health Department of Health Office with respect to all sewer and water facilities certifying that same comply with all rules, regulations and requirements of local government, regional, state and national authorities.

d) Prior to approval, at the discretion of the Plat Officer the boundary map may be referred to any utility or other agency involved.

e) A copy of the recorded boundary map shall be made available to the Plat Officer by the property owner, Registered Land Surveyor or representative of same.

f) The following certificates and affidavits shall appear on the boundary map:

(1) CERTIFICATION BY SURVEYOR

(Legal Description)

"I hereby certify that I have surveyed the above described property for the purpose of locating the boundaries and corners thereof and that the attached plat is a true and correct representation of said survey. Dimensions are given in feet and decimals of a foot unless otherwise specified."

Given under my hand and seal this _____, day of _____, A.D. 20____

Registered Land Surveyor No. _____

(2) CERTIFICATION BY COUNTY CLERK

"I _____, County Clerk of Winnebago County in the State of Illinois, DO HEREBY CERTIFY that I find no delinquent general taxes, delinquent special assessment or unpaid current special assessment against the land described in this boundary map."

"In witness whereof, I have hereunto set my hand and the seal of the County of Winnebago this _____ day of _____, A.D. 20____."

COUNTY CLERK

(3) CERTIFICATION BY VILLAGE ENGINEER

"Approved by the Village of New Millford Plat Officer, this _____ day of _____, A.D. 20____."

Village Engineer
PLAT OFFICER

(4) CERTIFICATION BY COUNTY RECORDER

"Filed for record this _____ day of _____, 20____
A.D. at _____ o'clock ____ .M., Recorded in Book
_____ of Plats, Page _____ and examined."

Document Number _____
_____ COUNTY RECORDER

The Village Engineer shall review and examine all plat and site plans within the jurisdictional limits of the Village of New Millford to insure the conformity with the principals, standards and requirements set forth in the Subdivision Control Ordinance and Codes of the Village of New Millford, Illinois. Review and examination shall include, but not be limited to, preliminary subdivision plats, commercial site plans, industrial site plans and apartment site plans. The cost incurred by the Village of New Millford from the Village Engineer, shall upon the Engineer's completion, be reimbursed to the Village by the developer, project owner or site owner.

Sec. 18-9. VACATION OF RECORDED PLATS OR PARTS OF RECORDED PLATS.

a) PROCEDURE. The vacation of plats or parts of plats shall follow the procedure required for final plats of subdivisions. Final approval of an instrument of vacation shall, however, be automatically referred to the Village Board.

The Plat Officer shall transmit to the Village Board, along with its recommendation on the instrument of vacation; (1) A statement of fact explaining the grounds for its recommendation and, (2) a recommendation respecting the monetary remuneration to be paid to the Village Treasurer in the consideration of any public property involved in the vacation.

Instruments of vacation not approved by the Plat Officer shall, upon the request of the petitioner, be submitted to the Village Board with the reasons for disapproval. After reviewing the evidence, the Village Board may determine the monetary remuneration to be paid in consideration of public property, if any involved in the vacation, and direct the Plat Officer to certify approval of the instrument of vacation.

b) STANDARDS. A vacation shall not be approved that creates conditions that would not be permitted under the requirements of this regulation in newly created subdivisions, unless such vacation would at the same time correct other and more serious conditions detrimental to the public health,

safety, comfort, morals and the general welfare. No vacation shall be approved unless it provides easements for existing public utilities within the confines of the vacated area.

c) FORM. The instrument of vacation shall consist of:

1. A written description, referring to an attached copy of the recorded plat, of the plat or part thereof to be vacated, and a written statement declaring same to be vacated.

2. An attached copy of the recorded plat, all or a part of which is to be vacated. If only part of the plat is to be vacated, such part shall be shaded and outlined with a heavy line.

3. The following certificates duly executed:

(a) CERTIFICATION BY OWNER:

Certification by the owners shall include all of the owners of land in and adjacent and contiguous to the part of the plat to be vacated.

"As owner to the following described property, to-wit (description by reference to attached plat I (we) hereby petition the Village Board of Trustees of the Village of New Millford, Illinois, to approve the above described vacation."

(Owner) (Parcel) (Date)

(b) CERTIFICATION BY NOTARY PUBLIC:

"I, _____, a Notary Public in and for the County of Winnebago, in the State of Illinois do hereby certify that _____ personally known to me to be the same person(s) whose name(s) is (are) subscribed to the foregoing instrument, appeared before me this day in person and delivered said instrument and (severally) acknowledged that he (they) signed, sealed as his (their) free and voluntary act for the uses and purposes herein set forth."

"Given under my hand and Notarial Seal this _____ day of _____, A.D. 20____."

NOTARY PUBLIC

(c) CERTIFICATION BY THE VILLAGE ENGINEER:

"I hereby certify that this vacation is approved."

VILLAGE ENGINEER Date

(d) CERTIFICATION BY VILLAGE CLERK:

"This is to certify that the Board of Trustees of the Village of New Millford did, at its meeting of the _____ day of _____, 20____, approve the annexed vacation and direct the Village Plat Officer to certify final approval for and in the name of the Village of New Millford in the State of Illinois, upon evidence of a receipt of the Village Treasurer in the amount of \$ _____."

VILLAGE CLERK

(e) CERTIFICATION BY THE VILLAGE PLAT OFFICER:

"The annexed vacation is hereby approved this _____ day of _____, 20____."

PLAT OFFICER

(f) CERTIFICATION BY THE COUNTY SUPERINTENDENT OF HIGHWAYS

"The annexed vacation is hereby approved this _____ day of _____, 20____."

COUNTY SUPERINTENDENT OF HIGHWAYS

(g) CERTIFICATION BY THE DISTRICT ENGINEER OF ILLINOIS DEPARTMENT OF TRANSPORTATION:

"The annexed vacation is hereby approved this _____ day of _____, 20____."

DISTRICT ENGINEER OF THE ILLINOIS DEPARTMENT OF TRANSPORTATION

(h) CERTIFICATION BY PUBLIC UTILITY INVOLVED:

"I, _____ (office) _____, of (Name of Public Utility) _____, hereby approve the annexed vacation this _____ day of _____, 20____."

(State capacity with the public utility)

(i) FORM FOR CERTIFICATION OF RECORDING OFFICIAL:

"Filed for record this _____ day of _____, 20____, at _____ o'clock ____M. Recorded in Book _____ of Plats. Page _____ and examined."

COUNTY RECORDER

Document Number _____

d) FEES. A fee for vacation of streets or alleys shall be paid by the petitioner, such fee to be paid for each square foot of land sought to be vacated, multiplied by the average of the full fair cash market value per square foot of the premises adjacent thereto. Such full fair cash market value shall be that currently used for tax assessment purposes. A fee of one dollar (\$1.00) per lot or sub-lot shall be paid by the petitioner seeking vacation of lots or sub-lots. All such vacation fees shall be paid to the Village Treasurer before final approval is certified by the Plat Officer.

e) RESUBDIVISION IN LIEU OF VACATION. It shall not be necessary to vacate a plat or part thereof in order to proceed with a resubdivision of such plat or part thereof. Resubdivision according to the procedure and standards for subdivision required by this regulation shall automatically constitute vacation of a prior plat or part thereof; provided, that monetary remuneration shall be paid to the Village Treasurer in consideration of the excess of public property vacated over that rededicated in the replat, and provided further that any such resubdivision shall not vacate any prior public utility easement arising from a prior plat or separate grant of easement.

f) CANCELLATION OF BONDED CONTRACTS. Bonded contracts for the improvement of platted streets or alleys shall be automatically cancelled upon vacation of such platted streets or alleys.

Sec. 18-10. PROCEDURE.

Except as outlined in Section 18, the procedure detailed in this section shall be followed by subdividers in order to gain official approval for, and recording of, subdivision layout.

a) ZONING. Final approval shall not be granted to a subdivision unless it complies with all requirements of the Winnebago County Zoning Ordinance with consent of the Board of Trustees for the Village of New Millford.

b) PRELIMINARY CONFERENCE. The subdivider shall contact the Plat Officer in order to schedule preliminary conference about his particular intentions and problems. A sketch map showing the following information shall be brought to such conferences:

1. The boundaries of the property to be subdivided, existing easements and covenants affecting the property, land characteristics, such as natural drainage, swamp areas, wooded areas, and development characteristics such as surrounding streets, existing buildings, available community sewer, water and other utilities.

c) TENTATIVE PLAT APPROVAL. Within six (6) months following the Plats Officer conference or such greater time as the Plat Officer designate, the subdivider may submit a tentative plat or map of subdivision and fifteen (15) reproductions thereof to the Plat Officer for conditional approval. The Plat Officer shall refer reproductions of the plat to any or all of the following review agencies as appropriate:

Winnebago County Soil & Water Conservation District	Winnebago County Dept. of Public Health
Village Attorney	Village Engineer
Northern Illinois Gas Co.	Rock River Water Reclamation District
Commonwealth Edison Company	Rockford Board of Education

Winnebago Co. Highway Dept.

IL Dept. of Transportation

U.S. Post Office,
Address Information

New Millford Fire
Protection District

General Electric & Telephone

Rockford Township
Highway Commissioner

Upon receipt of the above review agency comments, the Plat Officer shall schedule the tentative plat on the next available Board of Trustees for the Village of New Millford agenda for review and comment. In addition to review agency concerns and Plats Officer recommendations, conditional approval of a tentative plat shall be granted by the Plat Officer upon conformity with all pertinent laws, rules, regulations, and particularly with the technical requirements of Section 12. Conditional approval shall be construed to be an expression of approval of the general layout submitted on the tentative plat as a guide to the preparation of the final plat and to be assurance to the subdivider that his final plat will be approved if it conforms to the terms and conditions of the approved tentative plat.

d) TENTATIVE PLAT FORM & CONTENT. The tentative plat shall show the proposed layout for the whole tract of land owned or controlled by the subdivider and for any adjacent land, the design of which is dependent upon such tract. The tentative plat shall be drawn or printed on paper twenty-four (24) inches wide by thirty-six (36) inches long at a minimum scale of one hundred (100) feet to one inch, unless otherwise approved by the Plat Officer. The tentative plat shall show or be accompanied by the following information:

1. TITLE AND CERTIFICATES. Name under which proposed subdivision is to be recorded, location and position by quarter-quarter section, section, township, range, county and state; names and addresses of the subdivider; notation slating scale, north arrow, and the following certificate:

"State of Illinois
Village of New Millford
Approved by _____ Village
Plat Officer this _____ day of
_____, 20____ A.D."

2. TOPOGRAPHIC DATA AND DESCRIPTIONS OF EXISTING CONDITIONS.

a. Boundary lines. Approximate angles and distances with reference to a United States land survey corner.

b. Easements. Location, width and purpose of easements and other existing restrictions, reservations or covenants.

c. Streets on and adjacent to or extending from the tract. Name and right-of-way widths and locations; walks, curbs, gutters, culverts, building setback lines.

d. Utilities existing on and adjacent to the tract. Location and size of sanitary and storm sewers; location and size of water mains; location of gas lines, fire hydrants and electric and telephone lines. If water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to, and size of nearest ones.

e. Ground elevations on the tract. Based on the U.S.G.S. datum plane bench mark, or based on-a located concrete monument from which the datum plane is taken. For land that slopes less than approximately two percent show spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points not more than one hundred feet apart in all directions. For land that slopes more than approximately two percent, show two foot contour intervals.

f. Other conditions on the tract. Watercourses, marshes, areas subject to inundation, rock outcrop, wooded areas, isolated preservable trees (one foot or more in diameter), houses, barns, shacks, and other significant features.

g. Other conditions on adjacent land. The approximate direction and gradient of ground slope, including any embankments or retaining walls (this can be shown on a small map at convenient scale or on the location map); character and location of buildings, railroads, power lines, towers, and other nearby non-residential land uses or adverse influences.

h. Proposed public improvements. Highways or other major improvements planned by public authorities for future construction on or near the tract according to the information received from the Village Engineer at the preliminary conference.

i. Location map. A small scale drawing of the section in which the subdivision is situated, and showing the location of the subdivision. This map shall show any lake or stream or the portion thereof to which access is provided from the subdivision, indicating the relation of the subdivision thereto.

j. Subsurface conditions on the tract. Location and results of tests made to ascertain subsurface soil, rock and ground water conditions.

3. ALL PROPOSALS OF THE SUBDIVIDER, including;

a. Streets. Names; right-of-way and roadway widths; similar data for alleys, if any.

b. Rights-of-way of easements. Location, width and purpose.

c. Lot lines and approximate dimensions.

d. Sites, if any, for the following: Multi-family dwellings, shopping centers, churches, industry, other uses exclusive of single family dwellings.

e. Minimum building setback lines.

f. Site data. Tabulation of gross area, street area, not subdivided area, total number of lots, average lot size, typical lot dimensions, lineal feet of streets.

g. Sites to be reserved or dedicated for parks, playgrounds or other public uses.

h. A draft of any protective covenants by which the subdivider may propose to regulate land use in the subdivision and otherwise to protect the proposed development.

4. OTHER TENTATIVE PLANS. When required by the Village Board, the tentative plat should be accompanied by profiles showing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision, typical cross sections of the proposed grading, roadway and sidewalk, and tentative plan of proposed water mains, sanitary and storm sewers with approximate grades and sizes indicated. All elevations shall be based on the U.S.G.S. datum.

a. The Village Engineer shall review all construction plans and specifications within the jurisdiction limits of the Village of New Millford, Illinois, for conformity to the preliminary plat, site plan and Village Codes. Principals and provisions set for the in the Subdivision Control Ordinance will be reviewed for compliance. The cost incurred by the Village of New Millford from the Village Engineer shall upon the Engineer's Completion, be reimbursed to the Village by the developer, project owner or site owner.

e) FINAL PLAT APPROVAL. Within one year of conditional approval, or such greater time as the Village Board may designate, the subdivider may submit an intended final plat or map of subdivision and ten (10) reproductions thereof to the Plat Officer. The final plat, which may constitute only that portion of the tentative plat which the subdivider proposes to record and develop at the time, shall be accompanied by a fee of one dollar (\$1.00) for each lot, sublet or tract of land shown upon final plat, but in no event shall the total fee be less than ten dollars (\$10.00).

Final approval of a final plat shall be granted by the Village Board on the basis of its conformity with the tentative plat as approved, with all pertinent laws, rules, regulations and particularly with the technical requirements of Section 12.

f) RECORDING FILING. A final plat approved by the Village Board and signed by the Plat Officer shall be filed with the County Recorder within five (5) working days of such approval.

Two paper prints of the recorded plat shall be provided by the developer to the Plat Officer within thirty (30) days of the time of recording.

g) FINAL PLAT FORM AND CONTENT. The final plat shall be drawn with waterproof non-fading black ink on tracing cloth measuring twenty-four (24) inches by thirty-six (36) inches or twenty-four (24) inches by twenty-one and one quarter (21 1/4) inches at a scale of one hundred (100) feet to one (1) inch or larger. Variation in scale may be allowed when permitted by the County Recorder and where necessary for a proper exhibit of a subdivision. When more than one sheet is used for any one plat, they shall be numbered consecutively and each sheet shall contain a notation showing the whole number of sheets in the plat, and its relation to other sheets. Linear dimensions shall

be given in feet and decimals of a foot. The final plat shall show on the face thereof:

1. The name of the plat, such name not duplicating the name of any plat previously recorded in Winnebago County.

2. The location and position of the subdivision indicated in each of the following ways:

a) By quarter-quarter section, section, township, range, county and state.

b) By distances and bearings from true north or angles with reference to a corner or corners established in the United Status Public Land Survey.

c) By a written legal description of the exterior boundaries of the land as surveyed and divided.

3. An arrow indicating north; a graphic scale; date of preparation.

4. Notations in their proper places of all monuments erected, corners and other points established in the field and the materials of which such monuments, corners and other points are composed.

5. Sufficient surveying data to close the survey and to reproduce any line on the ground. The error of linear closure shall be not more than one (1) in five thousand (5000).

6. A graphic presentation of all streets, alleys, blocks, lots, parcels and public grounds into which the land is divided, and of all easements and rights-of-way.

7. The length of boundary lines of all streets, alleys, blocks, lots, parcels, public grounds, easements and rights-of-way or enough information so that the length of these lines can be derived by simple calculation. Where a boundary line is an arc of a circle, the length of the chord shall be shown.

8. The widths of all streets, alleys, easements and rights-of-way.

9. A graphic presentation of the minimum building setback lines on all lots and parcels, and a notation of the distance between such lines and the street right-of-way line.

10. The area of each lot or parcel containing an area of one (1) acre or more.

11. Consecutive numbers on all lots throughout plat.

12. The name of each street, printed on the graphic representation of each street, and an appropriate label designating all other easements, rights-of-way, setback lines and dedications.

13. Abutting street lines of adjoining subdivisions, shown in their correct locations by dashed lines.

14. The water elevation of adjoining lakes or streams at the date of survey and a graphic presentation, as well as a notation of, the high water marks of such lakes or streams; all elevations referring to the Rockford datum plan when within one (1) mile of a Rockford or U.S.G.S. datum plane bench mark, or to a located concrete monument from which the datum plane is taken. Include lines and elevation indicating the 100 year flood plain boundary as designated by the Federal Emergency Management Agency.

h) CERTIFICATES, ETC., ON FINAL PLAT.

The following certificates and affidavits shall appear on the final plat. They must be duly signed by the appropriate person before the plat is entitled to record.

1) CERTIFICATION BY THE SURVEYOR:

"I hereby certify that, at the request of the owners, I have surveyed and subdivided according to the annexed plat _____ of _____ subdivision; a part of the _____ quarter of the _____ quarter of section _____ township _____ north, range _____ East of the _____ principal Meridian, bounded and described as follows:"

(Legal Description)

"Dimensions are given in feet and decimals of a foot iron pins 3/4 inch in diameter and 4 feet long have been found or set at all points marked on the plat with a _____, and iron pins 5/8 inch in diameter and 3 feet long have been found or set at all other lot corners. Dimensions along curved lines represent a chord measurement."

"I further certify that the land above described is situated within the incorporate Village of New Millford, Illinois."

"I further certify that (no) part of this plat to be recorded is situated within 500 feet of any surface drain or watercourse serving a tributary area of 640 acres or more.

"Given under my hand and seal this _____ day of _____, A.D. 20____."

Illinois Land Surveyor

Registered Land Surveyor No. _____

2) CERTIFICATION OF DEDICATION BY PROPERTY OWNER:

"As owner(s), I (we) hereby certify that I (we) have caused the land described in the foregoing affidavit of the surveyor, to be surveyed, divided, and mapped as presented on this plat. All streets, alleys, walkways, parks, playgrounds and school sites shown on this plat are hereby dedicated to the public purposes, and all easements shown are subject to the easements provisions hereon."

Owner(s)

3) CERTIFICATION BY NOTARY PUBLIC:

"I, _____, a Notary Public in and for the County of Winnebago, in the State of Illinois do hereby certify that _____ personally known to me to be the same person(s) whose name(s) is (are) subscribed to the foregoing instrument, appeared before me this day in person and delivered said instrument and (severally) acknowledged that he (they) signed, sealed as

his (their) free and voluntary act for the uses and purposes herein set forth."

"Given under my hand and Notarial Seal this _____ day of _____, A.D. 20_____.

NOTARY PUBLIC

4) CERTIFICATION BY VILLAGE CLERK:

"This is to certify that the Board of Trustees of the Village of New Millford did, at its meeting of the _____ day of _____, 20_____, approve the annexed vacation and direct the Village Plat Officer to certify final approval for and in the name of the Village of New Millford in the State of Illinois, upon evidence of a receipt of the Village Treasurer in the amount of \$_____."

VILLAGE CLERK

5) EASEMENT PROVISION:

"An easement, is hereby reserved for and granted to the designated governmental bodies and public utilities or cable television companies with the necessary authorizations and/or franchises and their respective successors and assigns within the area as shown by dotted lines on the plat and marked "Easement", to install, lay, construct, renew, operate and maintain storm and sanitary sewers, pipes, conduits, cables, poles, and wires, overhead and underground, with all necessary braces, guys, anchors and other equipment for the purpose of serving the subdivision and other properties with telephone, electric, gas, and other utility service or cable television service; also they are hereby granted, subject to pertinent Village Ordinances, the right to use the streets for said purposes, the right to install required service connections over or under the surface of each lot to enter upon the subdivided properties for all such purposes, and the right to enter upon the lots at all times to install, lay, construct, renew, operate, and maintain within said easement area said storm and sanitary sewers, pipes, conduits, cables, poles, wires, braces, guys, anchors and other equipment and finally the right is hereby granted to cut down and remove

or trim and keep trimmed any trees, shrubs or saplings that interfere with any of the said public utility equipment or cable television equipment installed on said easement. No permanent buildings or trees shall be placed on said easement, but same may be used for gardens, shrubs, landscaping and other purposes that will not then or later interfere with the aforesaid uses or rights herein granted."

6) CERTIFICATION BY PLAT OFFICER:

"All streets shown herein have been graded, drained and surfaced and all drainage structures have been built, as required, or have been provided for by bond contract or escrow agreement approved by the Board of Trustees.

"Dated this _____ day of _____, A.D. 20_____"

VILLAGE PLAT OFFICER

7) CERTIFICATION BY PRESIDENT OF THE BOARD OF TRUSTEES:

"This is to certify that the Board of Trustees of the Village of New Millford, Illinois has reviewed and approved the annexed plat of _____ and hereby authorizes it to be recorded."

"In witness whereof, I have hereunto set my hand this _____ day of _____ A.D. 20_____"

PRESIDENT OF THE BOARD OF
TRUSTES

8) CERTIFICATION BY COUNTY RECORDER

"Filed for record this _____ day of _____, 20_____, at _____ o'clock __M. Recorded in Book _____ of Plats, Page _____ and examined."

COUNTY RECORDER

Document Number _____

9) CERTIFICATION BY LIEN HOLDER:

"As lien holder(s) of record, I (we), upon behalf of myself (ourselves), successors and assigns, hereby join in the dedication to the public for public purposes of all streets, alleys, walkways, parks, playgrounds, and school sites shown on this plat, and further join in the dedication of all easements shown on this plat subject to the easement provisions hereon."

LIEN HOLDER

10) CERTIFICATION BY VILLAGE ENGINEER:

"Facilities and structures for the orderly runoff or detention of rain and melting snow have been designed in accordance with the "Storm Water Detention Regulation" of the Village for this subdivision and have been approved by the Village Engineer."

NAME

Illinois Registered Professional Engineer No. _____

Sec. 18-11. REQUIRED IMPROVEMENTS:

After conditional approval has been granted, but before the final plat is submitted for final approval, the subdivider shall either: (1) install all improvements specified in this section; or, (2) deliver to the Village Board in duplicate a signed contract covering all such improvements and an acceptable surety bond guaranteeing the completion of such improvements contracted for within three years from the date of such contract; or, (3) an escrow agreement placing 115% of the estimated cost of labor and materials for the improvement (as approved by the Village Engineer) in a bank account whereby the improvement is guaranteed to be installed within a given time limit or else the Village may use said funds in escrow to contract for the installation of said improvements; or, (4) an undertaking in Lieu of a Completion Bond to be executed by the developer to establish the relationship and obligations between the Village and Irrevocable Letter of Credit in a form to be approved by the Village Attorney, whereby the Undertaking in Lieu of a Completion Bond and Irrevocable Letter of Credit will cover 115% of the estimated cost of the labor and materials for the

improvement (as approved by the Village Engineer). Vacation of a plat or of a portion of a plat will dissolve the corresponding bond obligation, escrow, Undertaking in Lieu of Completion Bond Providing for an Irrevocable Letter of Credit, or portion thereof, or any surety approved by the Village Board.

SUBDIVIDER'S UNDERTAKING IN LIEU OF COMPLETION BOND
WITH THE VILLAGE OF New Millford, ILLINOIS

KNOW ALL MEN BY THESE PRESENTS, that _____,
(Subdivider or
Corporate name)

whose address is: _____
is hereinafter referred to as "SUBDIVIDER" is hereby bounded to the Village of New Millford, hereinafter referred to as "VILLAGE" in the penal sum of _____
(\$ _____) lawful money of the United States of America, for payment of which it does here bind itself and its successors and assigns firmly by these presents.

WHEREAS, Subdivider, has agreed to construct all public improvements located in Plat _____ of _____
(Number) (Title)
in accordance with the Village Subdivision Ordinance and specifications as approved by the Village of New Millford, and as set forth on the Cost Estimate prepared by _____
(Project Engineer)
as Job No. _____, a copy of which is attached hereto and made a part hereof.

NOW, THEREFORE, the condition of his obligation is such, that if Subdivider, shall construct all public improvements located in Plat _____ of _____ in accordance
(Number) (Title)
with the Village Subdivision Ordinance and the plans and specifications as approved by the Village, and as set forth on the attached Cost Estimate prepared by _____,
(Project Engineer)
dated _____, 20____, Job No. _____, and shall save the Village harmless from any loss, cost or damage by reason of its failure to complete said work, then this obligation shall be null and void; otherwise, it shall remain in full force and effect, and it shall be secured, as surety, by an Irrevocable Commercial Letter of Credit in the amount of _____ (\$ _____), No. _____, dated: _____, 19____, from _____,
(Name of Financial Institution)

a copy of which is also attached hereto, and the conditions of which are hereby incorporated herein and made a part hereof.

The principal of this Bond, _____
(Subdivider or Corporate Name)
further agrees as follows:

1. An Irrevocable Letter of Credit in the amount of 115 percent of the cost estimate as set forth in the attached Exhibit "A", prepared by _____,
(Project Engineer)
by the Village Engineer, shall be furnished by the Subdivider to complete all the work as hereinabove guaranteed.

Subdivider guarantees the workmanship and materials of said above-listed improvements to be installed upon the site for a period of one year after official acceptance by the Village. The Irrevocable Letter of Credit shall terminate upon acceptance by the Village.

The Subdivider agrees to make the necessary repairs to said improvements due to defects of workmanship or materials caused by the Subdivider, or subcontractors or material supplies, but not for repairs caused or necessitate by Acts of God, or any acts of omissions beyond the control of the Subdivider during the one year period.

2. The Irrevocable Letter of Credit shall be retained for the percentage estimated in writing from time to time, by the Village Engineer as needed to protect the Village in conjunction with the Cost Estimate attached marked Exhibit "A" and made a part hereof until acceptance of said improvements by the Village; at which time said improvements shall meet the Village Subdivision Ordinance of the Village in effect on _____, 20____, and approved by the Village Engineer in writing. The Irrevocable Letter of Credit shall be released as to any further obligations.

Dated this _____ day of _____, 20____.

BY: _____
President/Owner

VILLAGE OF NEW MILLFORD, ILLINOIS

BY: _____
President of the Board of Trustees

BY: _____
Plat Officer

ATTEST:

Village Clerk

(Letter Head)

IRREVOCABLE COMMERCIAL LETTER OF CREDIT

Amount: _____

No: _____

Date: _____

Village Board of New Millford
7354 Rydberg Road
New Millford. IL 61109

Gentlemen:

WE HEREBY OPEN our Irrevocable Commercial Letter of Credit
Number _____ in your favor, available to you
on behalf of _____

(Subdivider or Corporate Name)

whose address is: _____,
hereinafter referred to as "SUBDIVIDER", for a total sum of
_____ (\$ _____), to be accepted
by your signed statement that drawing of funds by you upon this
Letter of Credit is due to the default or failure to perform by
the Subdivider the following improvements on or before
(day/month/year).

The construction of (list public improvements) located in
Plat No. _____ in (name of subdivision) as set forth in
the attached cost estimate prepared by (project engineer)

dated: _____, set forth as Job No. _____, a copy of which is attached hereto, marked "Exhibit A" and made a part hereof.

The New Millford Village Engineer will notify the bank in writing, when either:

1. The improvements have been timely and satisfactorily completed and the credit may be released; or
2. The Subdivider has failed to perform or is in default.

All drafts drawn under this Letter of Credit must be marked: "Drawn under (name of financial institution), N.A., Letter of Credit Number _____."

This credit is valid until (day/month/year) and drafts drawn hereunder, is accompanied by documents as specified above, will be honored if presented to the main office of (name of financial institution), N.A. whose address is: _____ on or before that date.

This Letter of Credit sets forth, in full, the terms of our undertakings, and such undertaking shall not in any way be modified, amended, or amplified by reference to any document, instrument, or agreement referred to herein or in which this Letter of Credit is referred to or to which this Letter of Credit relates and any such reference shall not be deemed or incorporate herein by reference any document, instrument or agreement.

We hereby engage with drawers that drafts drawn and negotiated in conformity with the terms of this Letter of Credit will be honored on presentation.

This credit is subject to the Uniform Customs and Practices of Documentary Credits (1984 Revision) International Chamber of Commerce Brochure No. 400.

Neither this letter nor the credit hereby established is negotiable, or otherwise transferable without the written consent of (name of financial institution).

Sincerely,

(name, title)

(a) MONUMENTS. Iron pins three-fourths of an inch in diameter and four feet long shall be placed at all block corners, angle points of streets and of exterior boundaries, points of tangency of curbed lines, points at which street lines intersect the exterior lines of the subdivision, and at such intermediate points as are required by the Village Engineer.

Iron pins five-eighths of an inch in diameter and three feet long shall be placed at all lot corners and at such intermediate points as are required by the Village Engineer.

Monuments shall be placed at all lake or stream ends of lot lines. Such monuments shall be placed flush with the ground at the point of intersection of such lake or stream lot line with a line which is established along the shore not less than twenty feet (20') back from the ordinary high watermark of such lake or banks of such stream.

(b) TOPSOIL PROTECTION. Topsoil moved during the course of construction should be redistributed evenly, and shall be a depth of not less than two inches.

(c) STREET AND UTILITY IMPROVEMENTS. All street and utility improvements shall conform to the specifications and requirements of the Village Engineer. These improvements shall not be accepted for public maintenance until approved by the Village Engineer. Cross sections and profiles of streets showing grades acceptable to the Village Engineer and plans and profiles of storm and sanitary sewers, dry wells, storm water detention facilities and water mains, where the installation of these improvements is contemplated, generally will be requested.

Street and utility improvements shall be provided in each new subdivision in accordance with the standards and requirements described in the following schedule for the type of development indicated:

DEVELOPMENT TYPE:

1. For all residential lots where public sanitary sewers and water is available, STANDARD A.

2. For residential lots where public sanitary sewers and/or water is not available, STANDARD B.

3. The Village Engineer shall periodically during the course of construction within the customary and good practice of

engineering inspect all facets of construction to insure compliance with the plans and specifications within the jurisdictional limits of New Millford. The Village Engineer shall not be responsible for staking, grades, laboratory test or mix designs. However, the Engineer shall be provided with copies of all test reports and mix design certificates. The Village Engineer shall attend project conferences at any reasonable time when requested by the project owner. Recommendation for final acceptance shall be given only when the Village Engineer has made final inspection and received all test reports. The cost incurred by the Village of New Millford from the Village Engineer shall upon the Engineer's completion be reimbursed to the Village by the developer, project owner or site owner.

STANDARD A & B

1. RESIDENTIAL STREETS.

All streets shall be graded to the full width of the right-of-way and the adjacent side slopes shall be graded to blend with the natural lay of the land and to provide reasonable access for vehicular traffic to each lot of the subdivision, to the satisfaction of the Village Engineer.

STANDARD A

(a) CURB, GUTTER AND SIDEWALKS. Curb, gutter and sidewalks shall be provided. They shall be built of integral concrete construction, according to standard design, and shall be laid to the proper grade as approved by the Village Engineer.

(b) Minimum street widths shall be thirty feet (30') back to back of curb and ten inches (10") of gravel or crushed stone and a three inch (3") (two lifts) bituminous surfaces.

(c) SIDEWALKS. Sidewalks shall be laid along both sides of the roadway within the public right-of-way one and one-half feet from the property line. Except under unusual conditions, sidewalks and interior block walkways shall be made of concrete four feet (4') wide and not less than four and one-half inches (4 ½") thick. At crossings of driveways, installed at the time of sidewalk installation, sidewalks shall be six inches (6") thick. Where the right-of-way is sixty-six feet (66') wide and Standard A is installed the sidewalk may be located four feet (4') from the property line. Sidewalks shall be installed prior to occupancy and installation of the driveways.

STANDARD B

(a) PAVEMENT. The center twenty-six feet (26') or more of the roadway shall consist of a layer of gravel or crushed stone base course ten inches (10") thick after thorough compaction and a three inch (3") (two lifts) bituminous surfaces. Detailed standards of construction shall be prescribed by the Village Engineer. Frost free bank run sand and gravel or comparable granular material shall be used for all trench backfill, or all backfill shall be allowed to settle a minimum of one winter, or such greater time as may be specified by the Village Engineer before an impervious surface is laid.

(b) DITCHES. Ditches shall be provided on each side of the roadbed for drainage of surface water. Side ditches shall be at least twelve inches (12") deep below the shoulder edge. Side slopes on each side of the drainage ditch along the roadway shall be sloped at the rate of no more than one foot (1') rise to three feet (3') horizontal. Paved ditches may be substituted, at the discretion and to the standards of the Village Engineer.

(c) SIDEWALKS. Sidewalks are not required.

2. DRAINAGE:

(a) STORM GENERALLY. Storm drainage improvements consisting of storm sewers and/or open channels shall adequately drain the area being developed and also all of the area which naturally drains through the area being developed. The design of drainage improvements shall be coordinated with present and probable future improvements so as to form part of an integrated system. Storm water detention facilities shall be designed in accordance with the "Storm Water Detention Regulation" of Winnebago County. Appropriate grading may be required.

(b) STORM SEWERS. Storm sewers of adequate design shall be installed, as prescribed by the Village Engineer. No storm sewer over thirty-six inches (36") in diameter shall be required. Appropriate grading of open channels of capacity to carry run-off from a rain of ten (10) year frequency may be required in lieu thereof. In general, storm sewer capacity shall be sufficient to provide for the run-off from a storm of five (5) year frequency and a rainfall intensity curve of one and three-tenths (1.3) inches per hour as computed by the rational method of design.

(c) STORM WATER INLETS. Storm water inlets of a standard design shall be installed. They shall be suitable as to type and capacity for the locations where installed and shall be installed in the curb and not in the street.

(d) MANHOLES. Manholes of standard design shall be installed to provide access to storm sewers and meet all safety standards.

(e) SLOPE. Any storm sewer installed shall have a slope which shall provide a minimum velocity of three feet per second when flowing full.

3. SAFETY BARRICADES:

The Subdivider shall place barricades, as required by the Village Engineer, at the end of streets to be later extended.

4. FREEWAYS, ARTERIAL HIGHWAYS, SECONDARY HIGHWAYS, SECTION LINE ROADS.

Where an arterial highway, secondary highway or section line road is to be improved at greater than minor residential streets standards, the subdivider's share in the costs of improvement shall be equal to the cost of a minor residential street in the same location. Standard A shall be utilized for determining the cost of improvements.

5. DEFERRED CONSTRUCTION:

In the case of sidewalks and whenever else it is deemed necessary by the Village Board to defer the construction of any improvement required herein, the subdivider shall entrust his share of the cost of the future improvement with the Village Board.

6. STREET SIGNS:

Street signs shall be erected at each intersection. Such signs shall conform to specifications established by the Public Works Director.

Sec. 18-12. TECHNICAL REQUIREMENTS:

The following standard requirements shall apply to all new subdivisions of land. These standards shall be interpreted,

however, to encourage new and improved design techniques with the object of promoting better subdivisions.

(a) CONFORMITY TO COMMUNITY PLANS:

All subdivisions shall conform to the general and detailed specifications of plans or segments thereof, adopted pursuant to the authority contained in Chapter 34 of the Illinois Revised Statutes, to the Winnebago County Zoning Ordinance, setback regulation, the limited-access road regulation, and to any other adopted ordinances, resolutions, regulations and plans.

(b) STREETS:

1. GENERAL DESIGN.

All streets shall be designed in substantial relation to:

- i. Topographic conditions and drainage;
- ii. Public convenience and safety;
- iii. The proposed uses of the land to be served by such streets.

2. PUBLICLY PLANNED STREETS:

Streets shall be laid out in conformity to street or highway plans officially adopted by the Village Board. Wherever such a planned street or highway runs through a proposed subdivision, it shall be provided for in the place and with the width indicated on such plan. However, no more than one hundred twenty feet (120') width of right-of-way dedication shall be required for any street. Any additional right-of-way specified on the plan shall be reserved for circulation purposes by easement provisions.

3. SECTION LINE ROADS.

One hundred foot (100') wide streets shall be laid out on section and half-section lines, where possible. Where physical obstructions occur, or where a more appropriate location can be found, such roads may deviate from section and half-section lines; provided, that the required width of one hundred feet (100') is carried through to a suitable connection. Such deviations shall be made only with the consent and approval of the Plat Officer and the Village Engineer.

4. ALIGNMENT AND CONTINUATION.

Where streets are not a part of the comprehensive plan or officially adopted street or highway plans, the arrangement of the streets in a subdivision shall either provide for the alignment and continuation or appropriate projection of existing principal streets in surrounding areas, or conform to an approved plan for the neighborhood which meets a particular situation where topographic or other conditions make continuance of or conformance to existing streets impracticable.

5. RESIDENTIAL STREETS.

Minor residential streets shall be laid out so that their use by through traffic will be discouraged.

6. MARGINAL ACCESS STREETS.

Where a subdivision borders on or contains a railroad right-of-way or limited-access road right-of-way, a street shall be located approximately parallel to and at least one lot depth distance from each side of such right-of-way, or at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential district, or for commercial or industrial purposes in appropriate districts, except where it is deemed necessary that a through street be continued without deflection, or that marginal access streets parallel and adjacent to such right-of-way be provided. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

7. NATURAL FEATURES.

Streets paralleling streams, rivers, ravines, bluffs, or other similar natural features shall be located approximately one lot depth away from such natural feature in order that the intervening land may be developed into private lots meeting the requirement of this regulation. The Forest Preserve District, or other local governmental bodies shall have been given a sixty (60) day opportunity to acquire such intervening land prior to final plat approval; provided that approval of the final plat shall not be delayed more than sixty (60) days after the date notice has been given to such local governmental bodies for reason of their failure to take action.

Streets paralleling such natural features and so close to them as to leave an intervening strip of land that cannot be

developed into lots meeting the requirements of this regulation may be permitted, provided that the intervening land is dedicated to and accepted by the Forest Preserve District, or other governmental bodies.

Lake and stream shore subdivision shall provide one or more streets or rights-of-way, running to the low water mark at one mile intervals as measured along the lake or stream shore, except where streets or rights-of-way already exist at not more than one mile intervals. The subdivider may place use restrictions on these stub streets to control until such time as a bridge is extended.

8. RESERVE STRIPS.

Reserve or "spite" strips controlling access to perimeter streets shall not be permitted on the perimeter of a development. Streets shall be located on the edge of or one lot depth away from the edge of the tract with due consideration being given to adjacent development.

9. STREET WIDTHS.

Where not otherwise specified, street right-of-way widths shall be not less than sixty-six feet (66') except that sixty foot (60') wide streets may be permitted when such streets are improved with curb and gutter to meet the curb and gutter standards of the Village of New Millford. Where unusual conditions warrant, short streets and courts serving ten (10) lots or less may be platted with a width of sixty feet (60').

10. HALF STREETS.

Half streets shall not be permitted.

11. DEAD-END STREETS.

Dead-end streets, as such, shall not be permitted, cul-de-sacs designed to be permanent shall not be longer than five hundred feet (500') and shall be provided with a turn-around not less than one hundred twenty feet (120') in diameter at the closed end.

12. STREET NAME.

Streets that are extensions of, or obviously in alignment with existing streets, shall bear the names of the existing streets; however, no other street shall bear names with duplicate, or so nearly duplicate as to be confused with the names of existing streets. In all cases, street names shall have a suffix.

(c) ALLEYS: Alleys, service courts, and other similar ways shall not be permitted in residential areas.

(d) BLOCKS: Block lengths shall not exceed nineteen hundred feet (1900'). Excessively short blocks will be discouraged.

(e) LOTS: All lots shall meet the minimum width, depth, and area requirements of the Subdivision Ordinance unless otherwise specified.

Where utility sewer and utility water are not provided, the minimum area of any residential lot shall be twenty-five thousand square feet (25,000'). The Village Board may reduce the required minimum area for any subdivision when the developer establishes to the Village Board's satisfaction, based upon the report of a registered professional engineer and the opinion of the County Health Officer, that the public health will be in no way endangered and that the interest of the public will be preserved. However, in no case shall the lot area be less than twenty thousand square feet (20,000') unless stated elsewhere in this Ordinance.

Mobile Home Park Lots: All subdivisions developed for the purpose of creating a mobile home park must have sewer, water and utilities provided to each lot. Each lot properly zoned for mobile home use must have a minimum of 6,000 square feet in area in order to place a single-wide or double-wide mobile home on said lot.

All mobile home park subdivisions must provide for a minimum setback line from the front of each lot of 15 feet.

In single family residence lots and mobile home park lots, when the Village Board has reason to believe that a particular area should not be subdivided for reasons of poor drainage and the possibility of creating health problems, it may require that additional soil tests be performed. If the tests do not meet the minimum requirements, the area in question shall not be subdivided until utility sewer or utility water is provided.

(1) BUSINESS AND INDUSTRIAL LOTS. Business and industrial areas shall be subdivided into lots of such size and shape as to meet business or industrial needs. Properties reserved or laid out for commercial and industrial purposes shall be large enough to provide for the off-street loading and parking facilities required by the type of use and development contemplated.

(2) REMNANTS. Subdivisions shall contain no left over pieces, corners, or remnants of land.

(3) CORNER LOTS. Corner lots shall be wide enough so that buildings conform with building setback lines on both streets.

(4) STREET ACCESS. Each lot shall be provided with satisfactory access to a public street by means of frontage on such street. No lot shall front on a street that has been designated by the Village Board as a "limited-access road".

(5) BUILDING LINES. Residential building setback lines shall be established at a distance back from each street right-of-way line equal to no less than one-half (1/2) the width of the street right-of-way and not closer to such line than those established on the same street in adjoining subdivisions.

(f) EASEMENTS: Utility easements not less than five feet (5') wide shall be provided on each side of all rear lot lines and where required by the utility along side lot lines. Where abutting unsubdivided land, or natural features such as a detention pond, easements shall be ten feet (10').

Easements not less than five feet (5') wide shall be provided along abutting side lot lines where deemed necessary by the Department of Public Works for the purpose of street lighting.

The subdivider shall install electrical power lines underground to and through the easement to the proposed locations of said street lights.

Where the character or topography of the land in a subdivision is such that it is impossible or impractical to place streets so that they carry off the surface water, the appropriate easements along lot liens shall be provided and improved, where necessary, to carry off surface water in open channels or storm sewers.

Where a subdivision is traversed by a watercourse, drainage way, channel or stream, appropriate dedication or easement provisions, with adequate width or construction to accommodate storm water and drainage through and from the subdivision shall be made. Where a drainage-way carries water from one hundred (100) or more acres of land, such easement of dedication shall conform to the natural drainage channel. A preserved area no more than three hundred feet (300') wide may be required where the drainage way carries water from five hundred (500) or more acres of land.

Minimum vertical elevations for structures, in the form of vertical building lines, may be required in areas which are or may become subject to flooding by surface water. Areas of the subdivision which are subject to inundation from a 100 year storm shall have delineated on the face of the plat dashed lines to indicate same.

Sec. 18-13. ENFORCEMENT OF REGULATION.

Whenever it shall come to the attention of any officer or employee of the Village that any of the provisions of this regulation have been violated, it shall be his duty to notify the Village Attorney of the fact, and the Village Attorney shall immediately institute suit, and prosecute same to final judgment against the person offending.

The Winnebago County Building Department shall defer granting building permits for improvements on property until such time as the plat for such property has been approved and recorded in the manner provided by this regulation. No building permit shall be granted except for improvements on land for which a plat has been approved and recorded according to the requirements of this regulation or on those parcels of property platted or recorded as separate parcels of property prior to the effective date of this regulation.

In the event any requirement of this regulation has not been complied with, the Village Plat Officer shall not approve or certify any subdivision plat. However, the Plat Officer may, with Village Board approval, accept a bond to indemnify the Village for construction or completion of any required item, including but not limited to: streets, curbs, gutters and water or sewer pipes. The bond shall be in an amount of 115% of the estimated cost of labor and materials for the item (as approved by the Village Engineer) and the surety on the bond shall be a corporation licensed and authorized to do business in Illinois as a surety company, unless the Board of Trustees by majority vote of those holding office, accepts a personal surety. Also, the Plat Officer may, with Village Board approval, accept a cash escrow for construction or completion of any required item, including but not limited to: streets, curbs, gutters and water or sewer pipes, in an amount equal to 115% of the estimated cost of labor and materials for the item (as approved by the Village Engineer). An escrow agreement shall be entered into whereby said sum is placed in escrow with a financial institution pursuant to an agreement on a form approved by the Village Board of Trustees, whereby the item shall be installed by the subdivider or owner within a certain time limit to be set by the Village Board and in the event that said improvement item is not so installed, the Village shall be allowed to obtain said funds and to obtain a contractor to install said items with said funds. Also, the Plat Officer may, with Village Board approval, accept an Undertaking in Lieu of Completion Bond establishing the relationship and obligations between the Village and a developer which will provide that the developer will submit to the Village an Irrevocable Letter of Credit from a financial institution for 115% of the estimated cost of labor and materials for the improvement (as approved by the Village Engineer) and which Irrevocable Letter of Credit shall be in a form approved by the Village Attorney, or any surety approved by the Village Board.

Sec. 18-14. PENALTIES.

Whoever sells, offers for sale, improves by construction of buildings, or leases for any time exceeding five (5) years, any lot, block, parcel, part of division of land in the Village before all the requirements of this regulation have been complied with, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each lot, block, parcel, division or part thereof so disposed of, offered for sale, improved or leased.

Whoever shall lay out, locate, open, widen or extend or alter the location of any highway, road, street, ally, public ground, toll road, railroad or canal and refuses or neglects to cause a plat thereof, showing the width, courses and extent thereof, and making such reference to known and established corners or monuments that the location thereof may be ascertained, to be made, and recorded in the office of the Recorder of Deeds within six (6) months after such highway, road, street, alley, public ground, toll road, railroad or canal is laid out, located, opened, widened or extended or the location thereof altered shall be fined not less than One Hundred Dollars (\$100.00) and no more than Five Hundred Dollars (\$500.00) and a like sum for every month he shall continue in such refusal or neglect after conviction therefore, to be recovered in the Circuit Court of the 17th Judicial Circuit, Winnebago County, in the name of the Village.

Sec. 18-15. TAXES AND SPECIAL ASSESSMENTS TO BE PAID PRIOR TO VACATING SUBDIVISION.

A petition to vacate a subdivision shall submit evidence of the payment of all taxes and special assessments levied against the property.

CHAPTER 19
TAXATION

Article I.
Retailers' Occupation Tax

Sec. 19-1. A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this Village at the rate of one percent of the gross receipts from such sales made in the course of such business while this Ordinance is in effect, in accordance with the provisions of Section 8-11-1 of the Illinois Municipal Code.

Sec. 19-2. Every such person engaged in such business in the Village shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Section Three of "An Act in Relation to a Tax upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption" approved June 28, 1933, as amended.

Sec. 19-3. At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding month.

Sec. 19-4 through 19-9. Reserved.

ARTICLE II.
MUNICIPAL UTILITY TAX

Sec. 19-10. MUNICIPAL UTILITY TAX.

A. TAX IMPOSED.

(a) A tax is imposed on all persons engaged in the following occupations or privileges:

The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:

(i) For the first 2,000 kilowatt-hours used or consumed in a month; .335 cents per kilowatt-hour;

(ii) For the next 48,000 kilowatt-hours used or consumed in a month; .220 cents per kilowatt-hour;

(iii) For the next 50,000 kilowatt-hours used or consumed in a month; .198 cents per kilowatt-hour;

(iv) For the next 400,000 kilowatt-hours used or consumed in a month; .192 cents per kilowatt-hour;

(v) For the next 500,000 kilowatt-hours used or consumed in a month; .187 cents per kilowatt-hour;

(vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; .176 cents per kilowatt-hour;

(vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; .173 cents per kilowatt-hour;

(viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; .170 cents per kilowatt-hour;

(ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; .167 cents per kilowatt-hour; and

(x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; .165 cents per kilowatt-hour.

The tax rates set forth in the preceding table will be used at least through December 31, 2008, are proportional to the rates enumerated in 65 ILCS § 5/8-11-2 (as modified by Public Act 90-561).

(b) Pursuant to 65 ILCS § 5/8-11-2, the rates set forth in subsection (a) above shall be effective: (A) on August 1, 1999, for residential customers; and (B) on the earlier of (1) the first bill issued on or after January 1, 2001, or (2) the date of the first bill issued pursuant to 220 ILCS § 5/16-104, for nonresidential customers.

(c) The provisions of Section 3.1 shall not be effective until August 1, 1998.

B. EXCEPTIONS. None of the taxes authorized by this Ordinance may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political sub-division thereof; nor shall any persons engaged in business of distributing, supplying, furnishing, or selling or transmitting gas, water or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Ordinance for those transactions that are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1; nor shall any tax authorized by this Ordinance be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the municipality, whether privately or municipally owned or operated, or exercising the same privilege within the municipality.

(C) ADDITIONAL TAXES. Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

(D) COLLECTION. The tax authorized by this Ordinance shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Ordinance and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to 3% of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality in the manner prescribed by the municipality. Persons delivering electricity who file returns pursuant to this Section (C) shall, at the time of filing such return, pay the municipality the amount of the tax

collected pursuant to this Ordinance, provided that the person delivering electricity shall be allowed a credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax.

(E) REPORTS TO MUNICIPALITY. On or before the last day of each month, each taxpayer shall make a return to the City for the preceding month stating:

- (1) His name.
- (2) His principal place of business.
- (3) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (4) Amount of tax.
- (5) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village of New Millford, Illinois, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

(F) CREDIT FOR OVER-PAYMENT. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under the Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefore shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than three (3) years after the due date of such amount.

(G) PENALTY. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) in addition, shall be liable in a civil action for the amount of tax due. (See 65 ILCS 5/8-11-2)

Sec. 19-11 through 19-19. Reserved.

Sec. 19-20. DEFINITIONS.

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

(a) "Amount paid" means the amount charged to the taxpayer's service address in this municipality regardless of where such amount is billed or paid.

(b) "Department" means the Illinois Department of Revenue.

(c) "Gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in this municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel termination point within a municipality that has imposed a tax under this Chapter and charges for the portion of the inter-office channels provided within that municipality. Charges for that portion of the inter-office channel connecting two or more channel termination points, one or more of which is located within the jurisdictional boundary of such municipality, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the municipality and the denominator of which is the total number of channel termination points connected by the inter-office channel. However, "gross charge" shall not include any of the following:

(1) Any amounts added to purchaser's bill because of a charge made pursuant to: (i) the tax imposed by this Ordinance, (ii) the tax imposed by the Telecommunications Excise Tax Act, (iii) the tax imposed by Section 4251 of the Internal Revenue Code, (iv) 911 surcharges, or (v) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.

(2) Charges for a sent collect telecommunication received outside of such municipality.

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

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

(5) Charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs.

(6) Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Ordinance has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.

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

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

(9) Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.

(10) Charges for nontaxable services or telecommunications if (i) those charges are aggregated with other charges for telecommunications that are taxable, (ii) those charges are not separately stated on the customer bill or invoice, and (iii) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services or telecommunications billed on a combined basis shall be attributed to the taxable services or telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

(d) "Interstate telecommunications" means all telecommunications that either originate or terminate outside this State.

(e) "Intrastate telecommunications" means all telecommunications that originate and terminate within this State.

(f) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee guardian, or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, county, or other political subdivision of this State.

(g) "Purchase at retail" means the acquisition, consumption or use of telecommunications through a sale at retail.

(h) "Retailer" means and includes every person engaged in the business of making sales at retail as defined in this Section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. The permit may be revoked by the Department at its discretion.

(i) "Retailer maintaining a place of business in this State", or any like term, means and includes any retailer having or maintaining within this State, 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.

(j) "Sale at retail" means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

(k) "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

(l) "Taxpayer" means a person who individually or through his or her agents, employees, or permittees engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Ordinance.

(m) "Telecommunications", in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this Ordinance, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Ordinance. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailer's Occupation Tax Act.

19-21. SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX
IMPOSED.

A tax is hereby imposed upon any and all the following acts or privileges:

(a) The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of six percent (6.0%) of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax property due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

(b) The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of six percent (6.0%) of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality on this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state or local tax in this State.

(c) The tax imposed by this Ordinance is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the municipality.

19-22. COLLECTION OF TAX BY RETAILERS.

(a) The tax authorized by this Ordinance shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Ordinance shall

constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(b) Whenever possible, the tax authorized by this Ordinance shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

19-23. RETURNS TO DEPARTMENT.

On or before the last day of August, 2005, and on or before the last day of every month thereafter, the tax imposed under this Ordinance on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement the Act.

19-24. RESELLERS.

(a) if a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

(b) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

(c) Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in

connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

19-25. SEVERABILITY.

If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

19-26. EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all bills issued on or after the first day of July, 2005. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to March 20, 2005.

**ARTICLE III.
MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX**

Sec. 19-27. **Tax imposed; Rate.**

(a) A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the City/Village at the rate of 3.00% of the gross receipts from these sales made in the course of that business.

(b) The imposition of this tax is in accordance with the provisions of Sections 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22).

Sec. 19-28. **Collection of tax by retailers.**

(a) The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a

debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

(b) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

**ARTICLE IV.
SERVICE OCCUPATION TAX
RESERVED**

**ARTICLE V.
RESERVED**

(Ordinance No. 2019-5)

CHAPTER 20

VEGETATION

Sec. 20-1. CERTAIN WEEDS DECLARED A NUISANCE AND PROHIBITED.

Any weeds such as jimson, burdock, ragweed, thistle, cocklebur or other similar noxious weeds found growing in any lot or tract of land in the Village are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain in any such place.

Sec. 20-2. HEIGHT LIMITATION FOR CERTAIN PLANTS AND WEEDS;
THOSE EXCEEDING LIMITATION DECLARED A NUISANCE.

It shall be unlawful for anyone to permit any weeds, grass or plants other than trees, bushes, flowers or other ornamental plants to grow to a height exceeding eight (8) inches anywhere in the Village. Any such plants or weeds exceeding such height are hereby declared to be a nuisance.

Sec. 20-3. NOTICE TO ABATE.

It shall be the duty of the Village to serve a notice upon the owner or occupant of any premises on which weeds or plants are permitted to grow in violation of the provisions of this article and to demand the abatement of the nuisance within ten (10) days.

Sec. 20-4. ABATEMENT BY VILLAGE; COSTS.

If the person served a notice to abate does not abate the nuisance within ten (10) days after receiving a notice from the Village, the board of health may proceed to abate such nuisance, keeping an account of the expense of such abatement. Such expense shall be charged to and paid by the owner or occupant and shall be collected by the Village by suit or otherwise which shall be in addition to the fine or penalty.

CHAPTER 21

ZONING

ARTICLE I. GENERAL PROVISIONS

Sec. 21-1.TITLE.

This chapter shall be known, cited, and referred to as "The Zoning Ordinance of the Village of New Milford".

Sec. 21-2.PURPOSE OF CHAPTER.

This chapter is adopted for the following purposes:

(1) To provide for the citizens of the Village adequate light, pure air and safety from fire and other dangers, to conserve the value of land and buildings, to lessen or avoid congestion of traffic on the public roads and to promote the public health, safety, comfort, convenience, morals and general welfare.

(2) To protect the character and the stability of the residential, business, and industrial areas within the village and to promote the orderly and beneficial development of such areas in a harmonious manner.

(3) To establish restrictions in order to attain these objectives by adopting a zoning ordinance which will revise the districts into which the village is divided, the restrictions upon the uses to which land and buildings may be devoted, the restrictions upon the location and height of buildings, the restrictions upon the intensity of the use of land and buildings, the requirements for yards, the requirements for off-street parking facilities, the provisions for administration and enforcement of this chapter, the penalties for violation of this chapter, and the procedure, powers and duties of the board of appeals.

(4) Upon the approval, passage, and publication in pamphlet form of this ordinance, the previous ordinance in effect for the Village of New Milford to regulate the zoning shall become null and void. Upon the effective date of this ordinance, all zoning within the jurisdiction of the Village of New Milford, shall be regulated by this ordinance. To the extent that the previous ordinance is in conflict with this ordinance, said conflicts will be classified as a pre-existing nonconforming use and the owners of said premises shall be entitled to the legal heights as set forth by this ordinance and state law. Upon the effective date of this ordinance, all zoning chapters shall be regulated by this ordinance.

Sec. 21-3. DEFINITIONS-CLARITY OF INTERPRETATION.

In the construction of this chapter, the definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise. The following words use shall apply in order to provide clarity to interpretation:

(a) Words used in the present tense shall include the future, and words used in the singular number shall include the plural number, and the plural the singular.

(b) The word "shall" is mandatory and not discretionary.

(c) The word "may" is permissive.

(d) The word "lot" shall include the words "plot" and "parcel".

(e) The word "building" includes all structures of every kind, regardless of similarity to buildings.

(f) The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

(g) Words not defined shall be interpreted in accordance with definitions contained in Webster's Dictionary.

Sec. 21-4. DEFINITION-ENUMERATION.

The following words and terms, whenever they occur in this chapter, shall be interpreted as herein defined:

ABANDONMENT. A voluntary action to give up one's rights or interests in property.

ACCESSORY BUILDING. An accessory building is one which:

(a) Is subordinate to and serves a principal building or principal use;

(b) Is subordinate in area, extent or purpose to the principal building or principal use served;

(c) Contributes to the comfort, convenience, or necessity or occupants of the principal building or principal use served; and,

(d) Is located on the same zoning lot as the principal building or principal use served with the single exception of such accessory off-street parking facilities as are permitted to locate

elsewhere than on the same zoning lot with the building or use served.

(e) Drop boxes as defined above in the recital paragraphs.

ACCESSORY USE. An "accessory use" includes, but is not limited to the following:

(a) A children's playhouse, garden house and private greenhouse;

(b) A garage, carport, shed or building for domestic storage;

(c) Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless such storage is excluded by the district regulations;

(d) Storage of goods used in or produced by manufacturing activities, unless such storage is excluded by the district regulations;

(e) A nonpaying guest house or rooms for guests within an "accessory building," provided such facilities are used for the occasional housing of guests of the occupant of the principal building and not for permanent occupancy;

(f) Quarters comprising part of an accessory garage and solely for occupancy by a household employee (and his or her family) of the occupants of the principal dwelling;

(g) Swimming pool, private, for use by the occupant and his guests;

(h) Off-street automobile parking uses, and loading and unloading facilities;

(i) Signs (other than advertising signs) as permitted and regulated in each district incorporated in this chapter;

(j) Public utilities, facilities, telephone, electric, gas, water and sewer lines, their supports and incidental equipment.

ADVERTISING DEVICE. An advertising sign, billboard or poster panel which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such "advertising device" is located or to which is affixed, but does not include those advertising signs, billboards or poster panels which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is

specifically identified and which is sold on the premises.

ALLEY. A public-way, used as a secondary means for vehicular access to the rear or side of properties otherwise abutting on a street.

APARTMENT. A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

ARCADE, SEXUALLY-ORIENTED. "Sexually-Oriented" Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically-controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "special sexual activities" or "specified anatomical areas." (See "Bookstore or Video Store, Sexually-Oriented")

AUTOMOBILE REPAIR, MAJOR. Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender straightening or repair, and painting of vehicles.

AUTOMOBILE REPAIR, MINOR. Incidental repairs, replacement of minor parts and motor service to automobiles, but not including any operation specified under "Automobile repair, major."

AUTOMOBILE SERVICE STATION. A place where gasoline, stored only in underground tanks kerosene, lubrication, oil or grease for the operation of automobiles are offered for sale directly to the public on the premises, and including minor accessories and the servicing of automobiles; but not including major automobile repairs; and including washing of automobiles where no chain conveyor, blower or steam cleaning device is employed. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of an automobile service station, the premises shall be classified as a public garage. Automobile service stations shall not include sale or storage of automobiles or trailers (new or used).

AUTOMOBILE AND TRAILER SALES AREA. An open area, other than a street, used for the display or sale of new or used automobiles or trailers, and where no repair work is done except for minor incidental repair of automobiles or trailers to be displayed and sold on the premises.

BABYSITTING SERVICES. A building or portion thereof used for the care of from one (1) to seven (7) children excluding the children of the occupant of the building residing in said building

and subject to the Home Occupation permit requirements.

BASEMENTS. A portion of a building with a floor located below the grade level. A basement shall be counted as a story for the purpose of height regulations if one-half (1/2) or more of its height is above grade level.

BLOCK. A tract of land bounded by streets or, in lieu of a street or streets, by public parks, cemeteries, railroad rights-of-way, bulkhead lines or shore lines of waterways, or corporate boundary lines of municipalities.

BOOKSTORE OR VIDEO STORE, SEXUALLY-ORIENTED. "Sexually-Oriented" Bookstore or "Sexually-Oriented" Video Store means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

(b) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities". A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "Sexually-Oriented" Bookstore or "Sexually-Oriented" Video Store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as a "Sexually-Oriented" Bookstore or "Sexually-Oriented" Video Store as long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas".

(c) "Specified Sexual Activities" means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
2. Sex acts, normal or perverts, actual or simulated, including intercourse, oral copulation or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in A through C above.

BUILDABLE AREA. The space remaining on a lot after the minimum open space, yards and setbacks requirements of this chapter

have been complied with.

BUILDING. Any structure having a roof supported by columns or walls for the sheltering or enclosure of persons, animals, chattels or property of any kind.

BUILDING, DETACHED. A free-standing building surrounded by open space on the same zoning lot.

BUILDING SETBACK LINE. A line parallel to the street line at a distance from it, regulated by the setback requirements established in this chapter.

BULK. The term used to indicate the size and setbacks of buildings or structures and location of same with respect to one another and includes the following:

- (a) Size and height of buildings;
- (b) Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings;
- (c) Gross floor area of buildings in relation to lot area (floor area ratio);
- (d) All open spaces allocated to the building;
- (e) Amount of lot area per dwelling unit; and,
- (f) Required parking areas.

CAMPING APPARATUS. Included but not limited to tents, and all other temporary structures used for overnight camping.

CAMPING TRAILER. A canvas, material, or other metal folding structure, mounted on wheels, and designed for travel, recreational or vacation uses.

CELLAR. A portion of a building or structure more than one-half (1/2) underground and not used or intended to be used for human occupancy.

CLINIC, MEDICAL OR DENTAL. A building or complex in which an organization of physicians or dentists, or both, work cooperatively and have their offices in a common building. A clinic shall not include in-patient care.

CLUB OR LODGE, PRIVATE. A nonprofit association of persons, who are bona fide members paying annual dues, which owns, hires, or leases a building or portion thereof, the use of such premises being restricted to members and their guests. All private clubs or lodges as defined above shall be permitted to rent or lease their premises which are not inconsistent with the permitted uses of said facility of the private club or lodge.

COMMERCIAL TRUCK. A truck used primarily for commercial purposes. Commercial trucks with a license over a B designation are not permitted to be parked on residentially zoned lots. Semi-trailers, full trailers and diesel cabs are considered to be commercial trucks.

CONTRACTOR EQUIPMENT. Any and all equipment, machinery and other physical property used by a contractor in the performance of his business.

DAY NURSERY SCHOOL. A building or portion thereof used for the care of eight (8) or more children excluding the children of the occupant of the building residing in said building.

DILIGENTLY PURSUED TO COMPLETION. An active building permit indicating periodic inspection by the Winnebago County Building department or other designated officers of the village.

DISTRICT. An area or section of the village within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this chapter.

DRIVE-IN RESTAURANT. Any establishment where food and/or beverages are sold to customers for consumption primarily in an automobile parked upon the premises.

DWELLING. A building designed, constructed or intended for human habitation, complying with all of the requirements in Section 21-7 through Section 21-20 herein.

DWELLING, ATTACHED. A dwelling which is jointed to another dwelling at one or more sides by a party wall or walls.

DWELLING, ONE-FAMILY. A dwelling unit designed exclusively for use and occupancy by one family.

DWELLING, TWO-FAMILY. A building designed or altered to provide dwelling units for occupancy by two (2) families living independently of each other with separate kitchen facilities.

EDUCATIONAL INSTITUTION. A public, parochial, charitable, or non-profit elementary, junior high, high school, junior college, college or university, trade or business school, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

FENCE, SITE, TIGHT. A fence including a solid entrance and exit gates which effectively conceals from viewers in or on adjoining properties and streets, materials stored and operations conducted behind it.

FIREWOOD PROCESSING. The method by which logs are converted into firewood by splitting, either by hand or by machine.

FLOOR AREA, GROSS. For the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for purposes of measurements for off-street parking spaces, shall not include: Floor area devoted primarily to storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

GRADE. The average level of the ground adjacent to the exterior walls of the buildings.

GUEST HOUSE. Living quarters within a detached accessory building located on the same lot with the principal building for use by temporary guests of the occupant of the premises. Such quarters shall not be rented or otherwise used as a separate dwelling.

HEIGHT, BUILDING. The peak or top part of the ridge line on a structure shall be the point of measurement.

HOSPITAL OR SANITARIUM. An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four hours in any week or three (3) or more non-related individuals suffering from illness, disease, injury or other abnormal physical conditions. The term "hospital" as used in this chapter, does not apply to institutions operating solely for the treatment of mentally ill persons, drug addicts, liquor addicts or other types of cases necessitating restraint of patients, and the term "hospital" shall not be used for convalescent, nursing, shelter or boarding homes.

HOTEL, MOTEL, OR INN. An establishment containing lodging

accommodations designed for use by transients, travelers or temporary guests. Facilities provided may include maid service, laundering of linen used on the premises, telephone and secretarial or desk service.

INDEPENDENT TRAVEL TRAILER PARK. A parcel of land upon which two (2) or more occupied independent travel trailers are parked.

JUNK YARD. An open area where waste, scrap metal, paper, rags or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including auto and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.

LEGAL OBJECTOR. An owner of record of property located such that said owner is among those to be notified of a public hearing for a proposed Special Use Permit, Variation, or Zoning Map Amendment for property located adjacent to or across the street or alley from the property of such owner of record.

LIMITED ACCESS HIGHWAY. A traffic-way, including toll roads, for through-traffic, in respect to which owners or occupants of abutting property or land and other persons have no legal right of access to or from the same, except at such points and only in such manner as may be determined by the public authority having jurisdiction over such roadway.

LOADING AND UNLOADING SPACE OR BERTH, OFF-STREET. An obstructed, hard-surfaced area of land other than a street or a public-way, the principal use of which is for the standing, loading, and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys. Such space shall not be less than ten (10') feet in width, thirty-five (35') feet in length and fourteen (14') feet in height, exclusive of access aisles and maneuvering space.

LOT AREA. The area of horizontal plains bounded by vertical plains containing the front, side and rear lot lines.

LOT CORNER. A lot situated at the junction of and abutting on two (2) or more intersecting streets.

LOT COVERAGE. The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

LOT DEPTH. The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

LOT FRONTAGE. The lot frontage shall be that part of the lot extending across the front of the lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or projections thereof other than the projection of unusual steps, entrance ways, unenclosed balconies, or open porch. For a corner lot, the owner may elect either street

line as the front lot line.

LOT INTERIOR. A lot other than a corner lot, with frontage on only one street.

LOT REAR. The rear of the lot is that part of the property extending across the rear of the lot, measured between side lot lines, and being the minimum horizontal distance between the rear lot lines, and the rear of the main building, or any projections other than steps, unenclosed balconies, or un-enclosed porches. On corner lots, the rear of the lot shall be considered as parallel to the street upon which the lot has the least dimensions. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

LOT OF RECORD. An area of land designated as a lot on a plat of subdivision recorded, pursuant to law.

LOT REVERSED CORNER. A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

LOT SIDE. The side of the lot shall be that part of the property between the main building and the side line of the lot and extending from the front lot line to the rear lot line.

LOT THROUGH. A lot having frontage on two (2) parallel or approximately parallel streets, and which is not a corner lot. On a through lot, both street lines shall be deemed to have front lot lines.

MARQUEE OR CANOPY. A roof-like structure of a permanent nature which projects from the wall of a building and over-hangs the public way, and is designed and intended to protect pedestrians from adverse weather conditions.

MASSAGE PARLOR. Any establishment where any person engages in massage excluding, however, hospitals, nursing homes, sanitarium, persons holding an unrevoked certificate to practice healing arts in the State of Illinois, or persons working under the direction of any such persons in any such establishments, and also excluding barbers or cosmetologists lawfully carrying out their particular profession and holding a valid unrevoked license or certificate of registration issued by the State of Illinois, and also excluding any person holding a valid license issued by a state that licenses massage therapists or any person who is a member in good standing of the American Massage Therapy or the American Oriental Bodywork Therapy Association.

MODULAR HOME. Manufactured housing constructed with standardized units or dimensions that meet all building code requirements.

MOTOR HOME. A portable, temporary dwelling to be used for travel, recreational, or vacation uses, constructed as an integral

part of a self-propelled vehicle.

NONCONFORMING LOT. A lot of record existing at the date of the passage of this chapter which does not have the minimum width or contain the minimum area for the zone in which it is located.

NONCONFORMING STRUCTURE. A lawful structure which exists upon the adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure, or its location on the lot.

NONCONFORMING USE. The use of any structure or land lawfully occupied and maintained, but which does not conform with the use regulations or required conditions for the district in which it is located, by reason of adoption of this chapter of amendments thereto.

NUDE MODEL STUDIO. Nude Model Studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. "Nudity" or a "State of Nudity" means the appearance of human bare buttock, anus, male genitals, female genitals, or full female breasts. "Specified Anatomical Areas" means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

NURSING HOME, REST HOME, CONVALESCENT HOME. A private facility for the care of children or the aged or infirmed, or a place of rest for those suffering bodily disorders, but not including facilities used primarily for the treatment of sickness, injuries or surgical care.

OBSTRUCTION. Any man-made object other than a structure.

OPEN SALES LOT. Any land used or occupied for the purpose of buying, storing and selling new or secondhand passenger cars or trucks, motor scooters, motorcycles, boats, trailers, aircraft and monuments and for the storing of same.

PARKING AREA, PRIVATE. Any open, hard-surfaced area, other than a street or public way, designed, arranged and made available for the storage of private passenger automobiles and pickup trucks, but not including trailers, mobile homes or boats, or occupant of buildings for which parking is developed and is accessory.

PARKING AREA, PUBLIC. An open, hard-surfaced area, other than a street or public way, intended to be used for the storage of passenger automobiles and commercial vehicles under one and one-half (1-1/2) tons capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers.

PARKING SPACE, OFF-STREET. A useable off-street area with independent access, not included within the established front yard set backs, at least nine (9') feet by twenty (20') feet for diagonal and perpendicular vehicle parking or at least eight (8') feet by twenty-two (22') feet for parallel vehicular parking.

PICK-UP COACH. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreational or vacation uses.

PLANNED COMMUNITY DEVELOPMENT. A development occupying not less than ten (10) acres which shall include all land within the project boundaries plus all of the adjacent public right-of-way involving a related group of associated uses, planned as an entity and, therefore, acceptable for development and regulation as one complex land use unit.

PORCH, COVERED. A roofed structure, projecting out from the wall or walls of a main structure.

PRINCIPAL USE. The main use of land or buildings are distinguished from a subordinate or accessory use.

PUBLIC OPEN SPACE. Any publicly-owned open area, including but not limited to the following: parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

PUBLIC UTILITY. Any person, firm, corporation or municipal department duly authorized to furnish, under public regulations, to the public, electricity, gas, steam, telephone, communications, transportation, water or sewer.

RECREATIONAL CAMPGROUND. A tract of land upon which recreational vehicles and/or tents are located and occupied for travel, recreational or vacation purposes.

RECREATIONAL VEHICLE. A travel trailer, pick-up coach, motor home, or camping trailer.

SEXUALLY-ORIENTED BUSINESS. A "sexually-oriented" arcade, a "sexually-oriented" bookstore, or "sexually-oriented" video store, massage parlor, an escort agency or a nude model studio. (Each of these terms is defined within the "Definitions" section of this Ordinance).

STREET. A right-of-way other than an alley, which affords a primary means of access to abutting property.

STRUCTURAL ALTERATIONS. Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams and girders.

STRUCTURE. Structure means anything that is constructed or erected with a fixed location to the ground, or attached to something having a fixed location to the ground. Among other things, structures include walls, buildings, fences, mobile homes and swimming pools. Further included are "drop boxes" whose purpose is to collect clothes and donations from the public, whether said "drop box" is a permanent or temporary structure. The term "structure" includes the term "building".

TRAVEL TRAILER, DEPENDENT. A Travel Trailer, as defined herein, which is not equipped with a self-contained kitchen, toilet, bath and shower facilities.

TRAVEL TRAILER, INDEPENDENT. A Travel Trailer, as defined herein, which is equipped with a self-contained kitchen, toilet, bath and shower facilities.

TRUCK PARKING AREA OR YARD. Any land used or intended to be used for the storage or parking of trucks, trailers, tractors, and including commercial vehicles, while not loading or unloading, which exceed one and one-half (1-1/2) tons in capacity.

VIDEO STORE, SEXUALLY-ORIENTED. (See BOOKSTORE OR VIDEO STORE, SEXUALLY-ORIENTED)

YARD OR SETBACK. An open space on the same zoning lot with a principal building or group of buildings, which is unoccupied and unobstructed, except as otherwise permitted in this chapter, and which extends along a lot line to a depth or width specified in the yard regulations for the district in which the zoning lot is located.

ZONING LOT. A parcel of land considered or treated as a single unit. A zoning lot may or may not correspond with a lot or record.

ZONING MAPS. The map or maps incorporated into this chapter as a part thereof, designating zoning districts.

Sec. 21-5. INTERPRETATION OF CHAPTER.

(1) Minimum requirements. The provision of this chapter shall be held to the minimum requirements for carrying out the intent and purpose, as defined in Section 21-2.

(2) Relationship with other laws. Where the conditions imposed by any provision of this chapter upon the use of land, building, or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements)

shall govern.

(3) Effect on private agreements. This chapter is not intended to abrogate any existing easements, covenants, condition, restriction or any other private agreements; provided, that where the regulations of this chapter are more restrictive or impose higher standards or requirements, all future easements, shall meet the minimum requirements of this chapter.

Sec. 21-6.SCOPE OF REGULATIONS.

(1) Except as may otherwise be provided in Article II of this chapter, all structural alterations or relocation of existing structures occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter, shall be subject to all regulations of this chapter which are applicable to the zoning districts in which such structures uses, or land shall be located.

(2) Nonconforming structures and uses. Any lawful structure or use existing at the time of the enactment of this chapter may be continued, even though such structure or use does not conform to the provisions of this chapter for the district in which it is located, and whenever a district shall be changed hereafter, the then existing lawful use may be continued, subject to the provisions of Article II of this chapter.

(3) Building Permits. Where a building permit for a structure has been issued in accordance with law prior to the effective date of this Ordinance October 20, 1987, and provided that construction is begun within ninety (90) days of such effective date and diligently pursued in accordance with the approved plans on the basis of which the building permit has been issued, and further may upon completion be occupied under a certificate of occupancy by the use for which originally designated, subject hereafter to the provisions of Article II of this chapter.

Sec. 21-7.USE AND BULK REGULATIONS.

(1) Use. No structure or land shall hereafter be used or occupied, and no structure or part thereof shall be erected, raised, moved, reconstructed, replaced, extended or altered except in conformity with the regulations herein specified for the district in which it is located.

(2) Bulk. All new structures shall conform to the building regulations established herein for the district in which each structure shall be located; except, that parapet walls, windmills, aerial antennas, water towers, chimneys, cooling towers, elevated bulkheads, fire towers, stacks and necessary mechanical appurtenances shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the Village.

Sec. 21-8.LOT COVERAGE.

(1) Maintenance of yards, courts and other open spaces. The maintenance of yards, courts and other open spaces and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, courts, or other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason be used to satisfy yard, court, other open space or minimum lot area requirements for any other building, unless a variance is issued allowing said exception.

(2) Division of zoning lots. No improved zoning lot shall hereafter be divided into two (2) or more zoning lots unless all improved zoning lots resulting from each such division shall conform with all the applicable bulk regulations of the zoning district in which the property is located.

(3) Location of required open space. All yards, courts and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.

(4) Required yards for existing building. No yards now or hereafter provided for building existing on the effective date of this chapter shall subsequently be reduced below, or further reduced below, if already less than, the minimum yard requirements of this chapter for equivalent new construction.

(5) Permitted obstructions in required yards. The following shall be considered to be the only permitted obstructions when located in the required yards specified:

(a) IN ALL YARDS. Open terraces not over four (4') feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch; awnings and canopies; steps, four (4') feet or less above grade, which are necessary for access to a permitted building, or for access to a zoning lot from a street or alley; chimneys projecting eighteen inches (18'') or less into the yard; recreational and laundry-drying equipment; arbors and trellises, and flag poles.

(b) IN FRONT YARDS. One-story bay windows projecting three (3') feet or less into the yard; and overhanging eaves and gutters projecting three (3') feet or less into the yard.

(c) IN REAR YARDS. Enclosed, attached or detached off-street parking spaces; open off-street parking spaces; accessory sheds, tool rooms and similar buildings or

structures for domestic or agricultural storage; balconies; breezeways and open porches; one-story bay windows projecting three (3') feet or less into the yard; and satellite dish fixtures.

(d) IN SIDE YARDS. Overhanging eaves and gutters projecting into the yard for a distance not exceeding forty (40%) percent of the required yard width, but in no case exceeding thirty (30'') inches.

(e) FENCES, WALLS AND HEDGING IN ALL ZONE DISTRICTS.

(1) Fences, walls, hedges and trees which may be in conflict with public traffic signals or signs, railroad signals or signs, emergency lights or the movement of traffic shall not be permitted and may be removed or trimmed if the Village considers it in the interest of public safety.

(2) Interior lots: Fences, walls and hedges shall be prohibited in the front yard of any lot. In side and rear yards, a maximum height of six feet (6') is permitted. Notwithstanding the foregoing, any fence located in the side yard shall not extend forward towards the street beyond the front face of the building located on the lot and into the front yard. (Ordinance No. 2015-5)

(3) Corner lots (Vision Clearance): On any corner lot, within the triangular area formed by the two (2) street center lines and a third line connecting two (2) points, one of which is located on each of the two (2) street center lines at a point equal to one and one-half (1-1/2) times the width of the right-of-way of that street from said street center lines allowed to grow in such a manner as to materially impede visions above the plane surface formed by the center line grades of the aforementioned streets.

(4) Subject to the fencing requirements of the County Health Code, swimming pools shall be enclosed within a wall, fence, or hedge with a maximum height of six (6') feet, and a minimum height of four (4') feet. Such fencing may be an extension of bearing walls of existing structures in the rear yards, but shall not project closer than six (6') feet to the side or rear lot lines if the fencing is an extension of bearing walls of an existing structure.

(5) Notwithstanding anything to the contrary contained in this Section, in all commercial and industrial districts, all walls, fences or hedges shall

not be less than six (6') feet nor more than eight (8') feet in height. Any fence that is constructed on a piece of property zoned commercial or industrial shall be a "sight tight" fence or a solid fence which prohibits any party standing on the outside of the fence from viewing the property which is screened by a fence. (Ordinance No. 2015-5)

(6) Any person, entity, partnership, or party wishing to construct a fence on a property must first submit an application for a fence permit to construct said fence to the Village Clerk, or her authorized designee, for the Village of New Milford and accompany said application with a fifty (\$50.00) dollar processing fee. A detailed fence plan, including, but not limited to, location, construction material and elevation details drawn to scale, must be submitted with the fence permit application to the Village Clerk. The Village Clerk, or designee, shall forward the application to the Village Board at the next available Village Board or Committee meeting after receipt of a complete application. The Village Clerk shall notify the applicant of the Village's decision to issue the permit for the construction of the fence within seven (7) days of the Village Board's decision.

If any fence is erected prior to obtaining a fence permit, the fence shall be removed if it is in violation of this Section 21-8 or, if the fence meets all the regulations of this Section 21-8, it may remain only if a fence permit is subsequently obtained within 45 days after notice from the Village at double the regular application fee. All fence permits shall be valid for 120 days from the date of approval of the application. If any fence permit expires prior to the completion of construction of the fence, then another fence permit must be obtained and another fee paid.

- (i) All fences shall be installed with the finished side facing the adjacent property or public right-of-way, and the fence posts must be located on the inside of the fence facing the property on which the fence is located, unless the fence is designed and constructed to look the same on both sides of the fence.

- (ii) It shall be unlawful for any person, entity, partnership, or party to erect or maintain in any residential or commercial zoning district (except around utility installations or substations) within the Village any barbed wire fence, or any guard or barricade to which there is attached any barbed wire.
- (iii) Barbed wire shall be permitted on industrially-zoned property. However, the use of barbed wire on industrial-zoned property will be limited to the top portions of any fence and must be located a minimum of six feet above grade.
- (iv) Barbed wire shall be permitted on agriculturally-zoned property subject to the following conditions: barbed wire shall not be allowed to be installed along the boundary line of adjacent residentially-zoned property.
- (v) Fences of any material with pointed pickets of any kind that have an angle less than 90 degrees must be terminated at a point with at least a one-quarter inch flat surface or one-quarter inch ball or radius.
- (vi) It shall be unlawful for any person, entity, partnership, or party to erect or maintain any electric fence within the Village without the prior consent of the Village Board.
- (vii) All fences must be constructed and maintained in a safe and secure condition. The fencing materials used must be those customarily used: chain link/metal (not less than 11 gauge thickness), wrought iron, aluminum, wood (chemically treated or naturally resistant to decay), polyvinyl chloride (PVC), concrete, masonry. Alternate materials may be used if the Village determines they are safe and appropriate. All other materials are prohibited including: chicken wire, welded mesh wire, corrugated or sheet metal, solid plywood, scrap lumber, common concrete, cinder block, and construction, snow and other temporary fencing as permanent fencing. Open-mesh type fencing shall be permitted to enclose school sites.

(viii) It shall be unlawful for any person, entity, partnership, or party to erect or maintain a fence of any type not in full compliance with the applicable provisions of this Section 21-8. (Ordinance No. 2015-5)

Sec. 21-9. LOT AREA AND DIMENSION.

(1) Contiguous parcel. When two (2) or more parcels of land, either of which lacks adequate area or dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be combined and used as one zoning lot for such use.

(2) Lots or parcels of land of record. Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this ordinance amendment, that does not meet the requirements of minimum lot width and area, may be utilized for a permitted use; provided, that yards, courts or usable open spaces are not less than seventy-five (75%) percent of the minimum required dimensions or areas.

(3) Irregular lots. All setbacks shall be determined by the Village according to principles as set forth for yard setbacks in this chapter after having first been reviewed by the Village Planning Commission and Zoning Board of Appeals.

Sec. 21-10. NUMBER OF DWELLINGS ON A ZONING LOT.

(1) In the RR, R1 and R2 Districts, not more than one dwelling shall be permitted on a zoning lot.

(2) In the AG District, more than one dwelling shall be permitted on a zoning lot; provided, that the site for each dwelling shall be not less than five (5) acres in area and shall have not less than two hundred fifty (250') feet of frontage on a public highway.

(3) In the R3 and R4 districts, more than one dwelling may be permitted on a zoning lot. In addition to the yards and setbacks established by this chapter, the following additional setbacks between dwellings shall be required where there is more than one dwelling on a zoning lot::

(a) Side to side: A minimum of ten (10') feet is required.

(b) Side to back: A minimum of twenty (20') feet is required.

(c) Front to front: A minimum of sixty (60') feet is required.

(d) Front to side: A minimum of twenty (20') feet is required.

(e) Front to back: A minimum of sixty (60') feet is required.

(f) Back to back: A minimum of forty (40') feet is required.

(g) All setbacks shall be increased by one (1') foot for every increase of four (4') feet in height if either of the adjacent buildings are greater than twenty-five (25') feet in height.

Sec. 21-11. ACCESSORY BUILDINGS.

(1) Location.

(a) Residential Structures. On all residentially zoned property, when a rear yard is required, no part of an accessory building shall be located closer than six (6') feet to the rear lot line or to the side lot line.

(b) All zoning designations other than residential. On all property zoned other than residential when a rear yard is required, no part of an accessory building shall be located closer than three (3') feet to the rear lot line or to the side lot line.

(2) Location and Distance from Residential Building.

(a) Overhanging eaves or gutters on an accessory building may project not more than eight (8") inches into the minimum required setbacks or yards specified above.

(b) In all Residential Districts, or in any Zoning District in which the property is used primarily for residential purposes, a detached accessory building shall not be located within ten (10') feet from the principal building, and shall be required to comply with the same side yard setbacks as required for the principal building in the Zoning District in which the property lies.

(c) Accessory buildings within ten (10') feet of the principal building must have a one (1) hour fire rating wall on the side nearest the residentially used building.

(3) Time of construction. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

(4) Percentage of Lot Area Occupied. The total square footage of all accessory structures located on a residentially zoned lot shall not exceed the square footage of the principal structure and shall not occupy more than ten percent (10%) of the total lot area, subject to a maximum of four hundred and fifty (450) square feet of accessory use per residential lot. (Ordinance No. 2017-1)

(5) Height of accessory building in required rear yards. No accessory building or portion thereof located in a required side or rear yard shall exceed fifteen (15') feet in height.

(6) Commercial Districts. Accessory structures in commercial districts are not allowed unless they are approved on the original site plan or unless the property owner obtains all necessary permits prior to said erection. No permit shall be issued for "drop boxes" whose purpose is to collect clothes and donations from the public.

Sec. 21-12. EXISTING SPECIAL USES.

Where a use is classified as a special use under this chapter, and exists as a permitted use at the date of the adoption of this chapter, it shall be considered a legal use, without further action of the village board, the zoning officer or the planning commission.

Sec. 21-13. ESTABLISH BUILDING SETBACK LINE.

Where a block is at least forty (40%) percent occupied by permanent buildings at the time of the passage of this chapter, the average of the distances of the street walls of such buildings from the street right-of-way line shall be the requirements of each district, but in no case shall a setback of greater than sixty (60') feet be required.

Sec. 21-14. ACCESSORY BUILDINGS-NUMBER LIMITATION.

All residentially zoned property shall have no more than one (1) accessory building which shall not exceed four hundred fifty (450) square feet in total ground square footage located on each property. (Ordinance No. 2017-1)

ARTICLE II. NONCONFORMING USES AND STRUCTURES

Sec. 21-15. CONTINUANCE OF USE.

(1) Any lawfully established use of a structure or land, on the effective date of this chapter, or of amendments hereto, that

does not conform to the use regulations for the districts in which it is located, shall be deemed to be a legal nonconforming use and may be continued except as otherwise provided herein.

(2) Any legal nonconforming structure may be continued in use, provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein.

(3) Any structure for which a permit has been lawfully granted prior to January 14, 2003, the effective date of this chapter; or of amendments hereafter, may be completed, in accordance with the approved plans; provided, that the construction is started within ninety (90) days and diligently pursued to completion. Such structure shall hereafter be deemed a lawful, established structure.

(4) Where this chapter by its adoption has reclassified property to a more restrictive district, the owner thereof may use such property for any use or structure permitted under the previous zoning district; provided, that such use is commenced within one year from the adoption of this chapter, or that a building permit is obtained for such structure during such period and construction is diligently pursued thereafter. Such use or structure shall thereafter be classified a nonconformity.

Sec. 21-16. DISCONTINUANCE OF USE.

(1) Whenever any part of a building, structure, or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this chapter, such premises shall not thereafter be used or occupied by a nonconforming use, even though the structure may have been originally designed and constructed for the prior nonconforming use.

(2) Whenever a nonconforming use of a structure or part thereof has been discontinued for a period of six (6) consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a nonconforming use, such use shall not, after being discontinued or abandoned, be re-established and the use of the premises thereafter shall be in conformity with the regulations of the district.

(3) Where no enclosed structure is involved, discontinuance of a nonconforming use for a period of six (6) consecutive months shall constitute abandonment, and shall not thereafter be used in a nonconforming manner.

(4) A use not authorized by the previous zoning ordinance of the Village shall be discontinued and not re-established, except when the provisions of this chapter find the use to be conforming to the district in which it is then located.

Sec. 21-17. CHANGE OR CONVERSION OF NONCONFORMING USE.

A nonconforming use or a nonconforming structure may not be replaced by, nor changed to another nonconforming use or nonconforming structure; provided, however, a nonconforming use or a nonconforming structure may be thus changed or replaced in any zoning district as a special use, pursuant to the procedure set forth in Section 21-58 herein.

Sec. 21-18. TERMINATIONS AND REMOVAL OF NONCONFORMING USES
 AND STRUCTURES IN RESIDENTIAL DISTRICTS.

The period of time during which the following nonconforming uses and structures may continue or remain in residential districts shall be limited to two (2) years from the effective date of this chapter, or of any amendment thereto which causes the use or structure to be nonconforming. Every such nonconforming use or structure shall be completely removed from the premises at the expiration of the two (2) year period.

(1) Any nonconforming structure having an assessed valuation of less than five hundred (\$500.00) dollars on the effective date of this chapter.

(2) All nonconforming uses where no enclosed building is involved; or where only buildings employed are accessory or incidental to such use, or where such is maintained in connection with a conforming building.

Sec. 21-19. REPAIRS AND ALTERATIONS.

(1) Normal maintenance of a nonconforming structure or of a conforming structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use or the life of the nonconforming structure.

(2) No structural alteration shall be made in a structure containing a nonconforming use, except in the following situations:

(a) When the alteration is required by law.

(b) When the alteration will actually result in eliminating the nonconforming use or structure.

(c) When a building in a residential district containing residential nonconforming uses may be altered in any way to improve habitability; provided, no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.

Sec. 21-20. DAMAGE AND DESTRUCTION.

If a nonconforming structure or a structure containing a nonconforming use is damaged or destroyed by any means to the extent of fifty (50%) percent or more of its replacement value at

that time, the structure can be rebuilt or used thereafter, only in compliance with the provisions of the district in which it is located. In the event the damage or destruction is less than fifty (50%) percent of its replacement value based upon prevailing costs, the structure may then be restored to its original condition and the structure and use thereof may then continue as before the partial destruction.

In either event, restoration or repair of the structure or other structure must be started within a period of six (6) months from the date of damage or destruction, and diligently pursued to completion.

Sec. 21-21. ADDITIONS AND ENLARGEMENTS.

(1) A conforming structure containing a nonconforming use may be enlarged or extended only if the entire structure is thereafter devoted to a conforming use.

(2) No structure partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.

(3) No nonconforming use may be enlarged or extended in such a way as to occupy any required usable open space, or any land beyond the boundaries of the zoning lot as it existed on the effective date of this chapter, or to displace any conforming uses in the same building or on the same parcel.

(4) A structure which is nonconforming with respect to yards, height, or any other element of bulk regulated by this chapter shall not be altered or expanded in any manner which would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located.

Sec. 21-22. RESERVED.

ARTICLE III. ZONING DISTRICTS GENERALLY

Sec. 21-23. ENUMERATION.

For the purpose and provisions of this chapter, the Village is hereby organized into the following districts:

- AG Agricultural
- RR Rural Residential
- R1 Residential Single-Family
- R2 Residential Two-Family
- R3 Residential Multi-Family
- R4 Residential Multi-Family
- MH Mobile Home District
- CN Commercial Neighborhood
- CC Commercial Community
- CG Commercial General

OF Office District
IL Industrial-Light
IG Industrial-General
IH Industrial-Heavy

Sec. 21-24. ZONING MAPS.

The boundaries of the aforesaid zoning districts are hereby established as shown on the map entitled "Village of New Milford Zoning Map". This official map and all explanatory matter thereon and attached thereto are hereby adopted by reference and declared to be part of this chapter.

The "Village of New Milford Zoning Map", and all official explanatory matter attached thereto bears the signature of the Village Clerk, and shall be on file in the Office of the Village Clerk.

Sec. 21-25. DISTRICT BOUNDARIES.

When uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

(1) District boundary lines are either the centerline or railroads, highways, streets, alleys or easements, or the boundary lines of sections, quarter sections, divisions of sections, tracts or lots, or such lines extended or otherwise indicated.

(2) In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with the dimensions shown on the maps measured at right angles from the centerline of the street, or highway, and the length of frontage shall be in accordance with dimensions shown on the map from section, quarter section or division lines, or centerline of streets, highways or railroad right-of-ways unless otherwise indicated.

(3) Where a lot held in one ownership and of record on the effective date of this chapter is divided by a district boundary line, the entire lot shall be construed to be within the less restricted district; provided, that this construction shall not apply if it increases the less restricted frontage of the lot by more than twenty-five (25') feet.

Sec. 21-26. ZONING OF STREETS, ALLEYS, PUBLIC WAYS, WATERWAYS AND RIGHT-OF-WAYS.

All streets, alleys, public ways, waterways and railroad right-of-ways, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, public ways or waterways and railroad

right-of-ways. Where the centerline of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

ARTICLE IV. HOME OCCUPATIONS

Sec. 21-27. REQUIRED CONDITIONS.

RESIDENTIAL DISTRICTS:

Conforming home occupations are those activities that require the practice of some skill, talent or craft on the part of the homeowner or member of the immediate family of the homeowner and not just a place to house or furnish the use of some machine or equipment, and shall comply with the following regulations:

(1) No person shall be employed other than a member of the immediate family (parent, spouse, child, or sibling only) which permanently reside in that dwelling.

(2) A home occupation shall be conducted within a dwelling in an accessory dwelling not to exceed five hundred (500) square feet in area.

(3) No more than twenty-five (25%) percent of home's floor area shall be devoted to the home occupation. The basement, attic, and garage shall not be included in the calculation of floor area.

(4) There shall be no external alterations of the dwelling or the accessory building nor any other evidence indicating the existence of a home occupation other than a nameplate which may not exceed one (1') foot by two (2') feet and may not be illuminated.

(5) There shall be no exterior storage equipment or materials used in the home occupation.

(6) No unreasonable odor, liquid or solid waste shall be emitted nor shall any electrical disturbance to the surrounding residence be allowed. Any home occupation that involves volatile materials, compress gases or toxic chemicals shall be permitted only after approval by the Fire Department.

(7) No home occupation shall be lawful if it creates or contributes to an unreasonable disturbance including but not limited to unreasonable noise, light, electrical disturbance, traffic or parking problems.

(8) Any individual wishing to operate a home occupation must file an application with the Village Clerk or designee of the Village of New Milford, and said application shall be accompanied by a \$15.00 fee for the processing of said application.

Permits shall expire one year from the date of the issuance or renewal. Applicants for renewal permits shall pay a non-refundable renewal application fee of \$15.00 annually. An application is an initial application unless the applicant and owner's are the same as on the earlier permit which were actually issued by the Village.

ARTICLE V. AGRICULTURAL DISTRICTS

Sec. 21-28. AG AGRICULTURAL DISTRICT.

(1) Purposes.

(a) To permit nonagricultural uses that require large land areas that will not detract or adversely affect the normal agricultural pursuits of the rural area.

(b) To give primary consideration to agricultural pursuits and secondary consideration to large urban supporting uses.

(2) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered, in the AG District except for one or more of the following uses:

(a) One-family detached dwelling.

(b) All uses commonly classed as agricultural, horticultural or forestry, including crop and tree farming, truck gardening and wholesale nursery operations, together with the operation of any machinery or vehicles incidental to the above uses.

(c) Temporary buildings for construction purposes, not for human habitation and not to exist after terminations of project.

(d) Accessory uses as defined in Section 21-3.

(e) Railroad right-of-way and trackage, but not including classification yards, terminal facilities or maintenance facilities.

(f) The sale of products produced on the premises from temporary stands or from existing farm buildings.

(g) Churches, rectories and parish houses.

(h) Public service uses:

Filtration plan, pumping station and water reservoir.

Sewage treatment plant.

Police and fire station.

Telephone exchange.
Electric and gas substations and booster
stations.
Other governmental uses.

(3) Special Uses. The following uses may be allowed by special use permit in accordance with the provisions of Article 21-39 of this chapter.

(a) Cemeteries, including crematories and mausoleums in conjunction therewith, if not located within five hundred (500') feet of any dwelling.

(b) Feed, seed, and farm implements, but excluding sales of farm implements used for tillage and harvesting of crops.

(c) Outdoor theaters and indoor theaters, which are an integral part of an outdoor theater complex.

(d) Private and public recreations facilities and commercial entertainment and tourist establishments, dining and dancing establishments, archery clubs, gun clubs, "Par 3" golf courses, automobile, cycle, snowmobile race tracks or courses, commercial stables and riding trails, commercial fishing ponds or lakes and/or similar tourist facilities.

(e) Extraction and removal of sand, gravel, topsoil or other aggregate, but not including equipment, buildings or structures for screening, mixing, washing or storage, except as may be specifically authorized for a limited period of time.

(f) Radio and television towers and accessory facilities.

(g) Airports, landing strips and heliports.

(h) Veterinary office and hospital; medical or dental office or clinic.

(i) Manufacturing of asphalt and asphalt products and/or concrete and concrete products; provided, that the same is performed within the excavated portion of the same site where gravel or crushed stone aggregate is extracted therefrom.

(j) Water Retention Area.

(k) Institutions for the rehabilitation, education or training of handicapped persons.

(l) Day nursery schools.

(m) Use of buildings previously allowed under Section 21-28(2), (k), and (l), provided that:

(1) The building and premises will be in compliance with all the applicable State and County Building, Health and Fire regulations;

(2) There is no enlargement or expansion of the buildings; and,

(3) There is no alteration of the external appearance of the premises unless approved in accordance with the procedures in Section 21-25.

(4) Lot Size.

(a) Every principal permitted use in this Article shall be located on a tract of land having an area of not less than five (5) acres and a width at the established building line of not less than two hundred fifty (250') feet. This requirement shall not apply to railroad right-of-way.

(b) The lot size requirements set forth herein may be reduced by special use permit.

(c) Every special use authorized in the AG District shall be located on a tract of land the minimum size of which shall be specified in the special use permit.

(5) Yards. No building shall be erected or enlarged unless it is in compliance with the distances specifically enumerated within this section for specific uses, or established when a special use permit is approved as follows:

(a) FRONT. One-half (1/2) the existing right-of-way when right-of-way has been established by adopted comprehensive plans, not to exceed sixty-six (66') feet or be less than thirty-three (33') feet.

(b) SIDE.

1. Corner lot: Same as front yard.
2. Interior lot: Ten (10') feet.

(c) REAR. Twenty-five (25') feet.

Sec. 21-29. RA RURAL AGRICULTURAL DISTRICT.

(1) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered in the Rural Agricultural District except for one or more of the following uses:

(a) One-family detached dwellings.

(b) Home occupations, as permitted in accordance with provisions of Article IV.

(c) Temporary buildings for construction purposes, not for human habitation and not to exist after termination of project.

(d) Signs, as permitted in accordance with the sign ordinance for the Village.

(e) Wind-operated energy devices, for site service only, provided the lot area has a minimum of two and one-half (2-1/2) acres, and the minimum distance from the base of the structure to every lot line shall be the height of the structure plus ten (10') feet.

(f) Not more than three (3) garage sales for each calendar year, provided that each garage sale shall extend no more than five (5) days or part of days, all of said days or parts of days to be in succession.

(2) Special Uses. The following uses may be allowed by special use permit in accordance with the provisions of Section 21-58 of this chapter:

(a) Any special use as denoted hereinafter:

1. Airports, aircraft landing fields, and heliports.

2. Cemeteries, including crematories and mausoleums in conjunction therewith, if not within five hundred feet (500') of any dwelling.

3. Churches, rectories, seminaries, convents, monasteries, and similar religious institutions, including dormitories and other accessory uses required for operation.

4. Day nursery schools.

5. Daytime or nighttime care centers.

6. Filling of holes, pits, or lowlands with noncombustible material free from refuse and food waste.

7. Golf courses, public or private, regulation size and "Par 3" golf courses, but not including commercially operated driving ranges or miniature golf courses.

8. Off-street parking areas, provided there is a need for this facility in the interest of public

necessity and convenience, and that no appropriate site is available in nearby business or industrial district.

9. Public service uses:

a. Filtration plant, pumping station, and water reservoir.

b. Sewage treatment plants.

c. Police and fire stations.

d. Telephone exchange.

e. Electric substations and booster stations.

f. Other governmental uses.

10. Radio and television towers, commercial.

11. Railroad rights-of-way and trackage, but not including classification yards, terminal facilities or maintenance facilities.

(b) Temporary roadside stands for the display, sale or offering for sale or agricultural products grown or produced on the property.

(c) Truck gardening and other horticultural uses where no building is involved and when no sale of products is conducted on the premises.

(3) Lot Size.

(a) Every principal permitted use in this section shall be located on a tract of land having an area of not less than two and one-half (2-1/2) acres and a width at the established building line of not less than two hundred (200') feet.

(b) Every special use permitted in the RA District shall be located on a tract of land the minimum size of which shall be specified at the time a special use permit is authorized.

(c) Not more than two (2) horses may be kept on two and one-half (2-1/2) acres plus one (1) horse for each one (1) acre thereafter unless a special use is first secured.

(4) Yard Areas. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement.

(a) Front Yard. A front yard equal to at least one-half (1/2) the right-of-way of the street on which the lot

fronts; however, in no case shall the front yard be less than thirty-three (33') feet nor require more than sixty-six (66') feet.

(b) Side Yard. A side yard on each side of the zoning lot of not less than twenty-five (25') feet; except, where a side yard adjoins a street, the minimum width shall be increased to one-half (1/2) of the right-of-way of the adjoining street, with a maximum of sixty (60') feet.

(c) Rear Yard. A rear yard of not less than seventy-five (75') feet.

(d) Special yards setback for private stables.

1. Front Yards. Stables shall not be located in front of, or closer to the public right-of-way than the main residence.

2. Side Yards. Stables shall not be located closer than twenty-five (25') feet to any interior side yards; or a distance of not less than one-half (1/2) the adjacent right-of-way on corner lots; however, in no case shall the setback be less than sixty-six (66') feet from the center line of the right-of-way.

3. Rear Yards. Stables shall not be located less than twenty-five (25') feet from any area lot line.

4. Other yards and setbacks. No stables shall be located less than fifty (50') feet to any dwelling on the same zoning lot or one hundred (100') feet from any dwelling or within one hundred fifty (150') feet from the center line of any natural watercourse or within any defined floodplain.

ARTICLE VI. RESIDENTIAL DISTRICTS

Sec. 21-30. GENERAL PURPOSES - RR, R1, AND R2 RESIDENTIAL DISTRICTS.

These districts are established in order to protect public health and promote public safety, convenience, comfort, prosperity and welfare. The general goals include, among others, the following specific purposes:

(1) To protect residential areas against fire, explosion, noxious fumes, offensive noise, smoke, vibrations, dust, odors, heat, glare and other objectionable factors.

(2) To protect residential areas to the extent possible and appropriate in each area against unduly heavy motor vehicle

traffic, especially through traffic, and to alleviate congestion by promoting off-street parking.

(3) To protect residential areas against undue congestion of public streets and other public facilities by controlling the density of population through regulation of the bulk of buildings.

(4) To protect and promote the public health and comfort by providing for ample light and air to buildings and the windows thereof.

(5) To promote public comfort and welfare by providing for usable open space on the same zoning lot with residential development.

(6) To provide sufficient space in appropriate locations to meet the probable need for future residential expansion, and to meet the need for necessary and desirable services in the vicinity of residences, which increase safety and amenity for residents and which do not exert objectionable influences.

(7) To promote the best use and development of residential land, to promote stability of residential development and protect the character and desirable development, and to protect the value of land and improvements and so strengthen the economic base of the Village.

Sec. 21-31. R3 AND R4 RESIDENTIAL DISTRICTS.

In addition to the objectives prescribed in Section 21-29, the R3 and R4 Districts are included in this chapter to achieve the following purposes:

(1) To reserve appropriately located areas for family living in a variety of types of dwelling at a reasonable range of densities consistent with sound standard of public health and safety.

(2) To preserve as many as possible of the desirable characteristics of one-family and two-family residential districts while permitting higher population densities.

(3) To ensure adequate light, air, privacy and open space for each dwelling unit.

(4) To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them.

(5) To provide necessary space for off-street parking of automobiles, and where appropriate, for off-street loading of trucks.

(6) To protect residential properties from the hazards, noise and congestion created by commercial and industrial traffic.

(7) To protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, increased water runoff and other objectionable influences.

(8) To protect residential properties from fire, explosion, noxious fumes and other hazards.

Sec. 21-32. RESERVED.

Sec. 21-33. OFF STREET PARKING REQUIREMENT IN ALL RESIDENTIAL DISTRICTS.

All Residential Districts as defined in Section 21-35 through Section 21-38 inclusive, shall provide at least one off street parking space for each living unit.

Sec. 21-34. RR RURAL RESIDENTIAL DISTRICT.

(1) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted or enlarged or structurally altered, in the RR District except for one or more of the following uses:

(a) One-family detached dwelling.

(b) Home occupations, as permitted in accordance with provisions of this chapter.

(c) Temporary buildings for construction purposes, not for human habitations and not to exist after termination of project.

(d) Accessory uses as defined in Section 21-3.

(2) Special Uses. Any special use as denoted in Section 21-39 may be allowed by special use permit in RR District in accordance with provisions of this chapter.

(3) Lot Size.

(a) Every principal permitted used in this section shall be located on a tract of land having an area of not less than twenty thousand (20,000) square feet and a width at the established building line of not less than one hundred (100') feet with at least one public utility to the tract.

(b) Every special use permitted in RR District shall be located on a tract of land the minimum size of which shall be specified at the time a special use permit is authorized.

(4) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement;

(a) FRONT. A front yard equal to at least one-half (1/2) the right-of-way of the street on which the lot fronts; however, in no case shall the front yard be less than thirty-three (33') feet nor require more than sixty (66') feet.

(b) SIDE. A side yard of not less than fifteen (15') feet; except, where a side yard adjoins a street, the minimum width shall be increased to one-half (1/2) the right-of-way of the adjoining street with a minimum of thirty-three (33') feet and a maximum of sixty-six (66') feet.

(c) REAR. A rear yard of not less than sixty (60') feet.

(5) Height. In the RR District, no building shall be erected or altered to a height in excess of thirty-five (35') feet or two and one-half (2-1/2) stories.

Sec. 21-35. R1 ONE-FAMILY RESIDENTIAL DISTRICT.

(1) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered except for use as a single family residence.

(2) Special Uses. Any special use as denoted in Section 21-39 may be allowed by special use permit in the R1 District in accordance with provisions of this chapter.

(3) Lot Size.

(a) Every principal permitted use hereafter erected or located in R1 District shall have a lot area of not less than ten thousand (10,000) square feet with a minimum width at the established building set-back line of eighty-five (85') feet with at least one public utility to the lot.

(b) Every special use permitted in the R1 District shall be located on a lot the size of which shall be specified at the time a special use permit is authorized.

(4) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(a) FRONT. A front yard equal to at least one-half (1/2) the right-of-way of the street on which the lot fronts; however, in no case shall the front yard be less than thirty (30') feet nor require more than sixty (60') feet.

(b) SIDE. A side yard on each side of the zoning lot of not less than seven (7') feet; except, where a side adjoins a street, the minimum width shall be increased to equal one-half (1/2) the right-of-way of the adjoining street, with a minimum of thirty (30') feet but not require more than sixty (60') feet.

1. All lots located in the older portion of the Village as indicated on the attached map which have a width of seventy (70') feet or less shall have a side yard on each side of the zoning lot of not less than four (4') feet except where a side adjoins a street, the minimum width shall be increased to equal one-half (1/2) of the right-of-way of the adjoining street, with a minimum of thirty (30') feet but not requiring more than sixty (60') feet.

2. All other lots which Section 21-35 does not apply shall have a side yard on each side of the zoning lot of not less than seven (7') feet; except, where a side yard adjoins a street, the minimum width shall be increased to equal one-half (1/2) of the right-of-way of the adjoining street, with the minimum of thirty (30') feet but not requiring more than sixty (60') feet.

(c) REAR. A rear yard of not less than thirty (30') feet.

(5) Height. In the R1 District, no building shall be erected or altered to a height in excess of thirty-five (35') feet or two and one-half (2-1/2) stories.

Sec. 21-36. R2 TWO-FAMILY RESIDENTIAL DISTRICT.

(1) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged, or structurally altered, in the R2 District, except for one or more of the following uses:

Two-family dwellings.

(2) Special Uses. Any special use as denoted in Section 21-39 may be allowed by special use permit in the R2 District in accordance with provisions of this chapter.

(3) Lot Size.

(a) The minimum lot size in the R2 District shall be fifteen thousand (15,000) square feet and have a minimum lot area of not less than seventy-five hundred (7,500) square feet for each dwelling unit and a minimum width at the established building set-back line of eighty-five (85') feet.

(b) Every single-family dwelling hereafter erected or located in the R2 District shall have the same lot area requirements as found in R1 District.

(c) Every special use permitted in the R2 District shall be located on a lot the size of which shall be specified at the time a special use permit is authorized.

(4) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(a) FRONT. A front yard equal to at least one-half (1/2) the right-of-way of the street on which the lot fronts; however, in no case shall the front yard be less than thirty (30') feet nor require more than sixty (60') feet.

(b) SIDE. A side yard on each side of the zoning lot of not less than seven (7') feet except where a side yard adjoins a street, the minimum width shall be increased to equal one-half (1/2) the right-of-way of the adjoining street with a minimum of thirty-five (35') feet, but not more than sixty (60') feet.

1. All lots which Section 21-35 does not apply shall have a side yard on each side of the zoning lot of not less than seven (7') feet; except, where a side yard adjoins a street, the minimum width shall be increased to equal one-half (1/2) the right-of-way of the adjoining street, with the minimum of thirty (30') feet, but not requiring more than sixty (60') feet.

(c) REAR. A rear yard of not less than thirty (30') feet.

(5) Height. In the R2 District, no building shall be erected or altered to a height in excess of thirty-five (35') or two and one-half (2.5) stories.

Sec. 21-37. R3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

(1) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered, in the R3 District, except for one or more of the following uses:

Three-family structures or less

(2) Special Uses. Any special use as denoted in Section 21-39 may be allowed by special use permit in the R3 District in accordance with provisions of this chapter.

(3) Lot Size.

(a) The minimum lot size in the R3 District shall be fifteen thousand (15,000) square feet.

(b) Every multiple-family dwelling hereafter erected or enlarged shall be located on a lot, which provides a minimum of five thousand (5,000) square feet of land area for each dwelling unit.

(c) Every special use permitted in the R3 District shall be located on a lot the size of which shall be specified at the time a special use permit is authorized.

(4) Height. In the R3 District, no building shall be erected or altered to a height in excess of thirty-five (35') feet or two and one-half (2-1/2) stories.

(5) Maximum site coverage. The maximum site coverage in the R3 District shall not exceed forty (40%) percent of the lot area.

Sec. 21-38. R4 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

(1) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered, in the R4 District, except for one or more of the following uses:

Four-family structures or less

(2) Special Uses. Any special use as denoted in Section 21-39 may be allowed by special use permit in the R4 District in accordance with provisions of this chapter.

(3) Lot Size.

(a) The minimum lot size in the R4 District shall be fifteen thousand (15,000) square feet.

(b) Every multiple-family dwelling hereafter erected or enlarged shall be located on a lot which provides a minimum of three thousand seven hundred fifty (3,750) square feet of land area for each dwelling unit.

(c) Every special use permitted in the R4 District shall be located on a lot the size of which shall be specified at the time a special use permit is authorized.

(4) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(a) FRONT. A front yard equal to at least one-half (1/2) the right-of-way of the street on which the lot fronts; however, in no case shall the front yard be less than thirty (30') feet nor require more than sixty (60') feet.

For buildings exceeding twenty-five (25') feet in height, the minimum front yard determined above shall be increased one (1') foot for each two (2') feet or fraction thereof by which the building height exceeds twenty-five (25') feet, but in no case shall a front yard of more than sixty (60') feet be required.

(b) SIDE. On every zoning lot, side yards shall be provided as follows:

1. Every principal permitted use, except multiple-family dwellings shall have the same side yard requirements as found in R2 District.

2. Every multiple-family dwelling shall have a side yard on each side of not less than eight (8') feet and a combined total of side yards of not less than sixteen (16') feet when the multiple-family structure is not more than twenty-five (25') feet in height.

For buildings exceeding twenty-five (25') feet in height, the minimum side yard shall be increased by one (1') foot for each four (4') feet or fraction thereof by which the building exceeds twenty-five (25') feet.

On corner lots where the side yard adjoins a street, the minimum width shall be increased to equal one-half (1/2) the right-of-way of the adjoining street with a minimum of twenty-five (25') feet, but in no case shall a yard of more than sixty (60') feet be required.

(c) REAR. A rear yard of not less than thirty (30') feet.

(5) Height. In the R4 District, no building shall be erected or altered to a height in excess of forty-five (45') feet or three (3) stories.

(6) Maximum Site Coverage. The maximum site coverage in the R4 District shall not exceed fifty (50%) percent of the lot area.

Sec. 21-39. SCHEDULE OF SPECIAL USES IN RESIDENTIAL DISTRICTS.

	RR	R1	R2	R3	R4
Airports, aircraft landing fields and heliports.	X	X	X	X	X
Cemeteries, including crematories and mausoleums in conjunction therewith, if not within five hundred (500') feet of any dwelling.	X	X	X	X	X

Churches, rectories, seminaries, convents, monasteries and similar religious institutions, including dormitories and other accessory uses required for operation.		X	X	X	X	X
Community swimming pools or clubs, as defined in this chapter, with the following restrictions:						
1. The swimming pool shall have an area no more than five thousand (5,000) square feet and shall be on a lot with an area of not less than two (2) acres.						
2. Every pool, building or paved play area shall be no less than one hundred (100') feet distance from every abutting property line in any residential district.						
3. Pumps and filtration stations shall be no less than fifty (50') feet from every abutting property line in any residential district.						
4. The sale of refreshments shall be from the principal building only.			X	X	X	X
	RR	R1	R2	R3	R4	
Contractor Equipment Storage	X					
Day nursery schools.	X	X	X	X	X	
Educational institutions.	X	X	X	X	X	
Firewood Processing and Storage	X					
Funeral homes.				X	X	
Golf course, public or private, regulations size and "Par 3" golf courses, but not including commercially operated driving ranges or miniature golf course.	X	X	X	X	X	

LP gas for dispensing for fleet operations.	X	X	X	X	X
Miscellaneous uses, as follows: Railroad freight terminals, motor freight terminals, railroad switching and classifications yards, repair shops and roundhouses.	X	X	X	X	X
Non-profit and charitable Institutions.	X			X	X
Off-street parking areas, provided there is a need for this facility in the interest of public necessity and convenience, and that no appropriate site is available in nearby business or industrial districts.	X	X	X	X	X
Offices, Professional.				X	X
Planned community developments and planned unit developments in accordance with the provisions of this chapter.	X	X	X	X	X
	RR	R1	R2	R3	R4
Private clubs or lodges, except those private clubs or lodges whose chief activity is a service customarily carried on as a business. Acceptable uses are those that provide recreation or services to the club or lodge.				X	X
Production, processing, cleaning servicing, testing, and repair, including the following uses and manufacturing of the following products: Automobile wrecking yards and junk yards. Asphalt and asphalt products. Chemical including acetylene aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, cleaning and polishing preparation,					

creosote, exterminating agents,
 hydrogen and oxygen, industrial
 alcohol, nitrating of cotton or
 other materials, nitrates
 (manufactured and natural) of an
 explosive nature, potash, plastic
 materials and synthetic resins,
 pyroxylin, rayon yard, hydrochloric,
 picric and sulfuric acids and
 derivatives.
 Coal, coke and tar products,
 including gas manufacturing.
 Electric central station, power
 and steam generating plants.
 Explosives, when not prohibited
 by other ordinances.
 Fertilizers.
 Film photography.
 Flour, feed and grain-milling
 processing.
 Gelatin, glue or size-animal
 Incineration or reduction

RR R1 R2 R3 R4

of garbage, offal and dead
 animals.
 Linoleum and oil cloth.
 Magnesium foundries.
 Matches.
 Metal Fabrication.
 Metal and metal ores (except
 precious and rare metals)
 reduction, refining, smelting
 and alloying.
 Paint, lacquer, shellac,
 varnishes, linseed oil and
 turpentine.
 Petroleum products, refining-
 such as gasoline, kerosene,
 naphtha, lubricating oil and
 liquefied petroleum gases.
 Ready-mix cement plants.
 Rubber (natural or synthetic).
 Soaps, including fat and oil
 rendering.
 Starch.
 Wood, coal and bones distillation.
 Wood pulp and fiber, reduction
 and processing, including paper
 mill operations.
 Any other production, processing,
 cleaning, servicing, testing and
 repair.

X X X X X

Public service uses:

- | | | | | | |
|--|---|---|---|---|---|
| 1. Filtration plant, pumping stations and water reservoir. | | | | | |
| 2. Sewage treatment plant. | | | | | |
| 3. Police and fire stations. | | | | | |
| 4. Telephone exchange. | | | | | |
| 5. Electric substations and booster stations. | | | | | |
| 6. Other governmental uses. | X | X | X | X | X |

Radio and television towers, commercial.	X	X	X	X	X
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	RR	R1	R2	R3	R4
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Rest homes, nursing homes, hospitals and sanitariums, for human beings, only.	X	X	X	X	X
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Storage, including the following uses and materials or products: Goods used in or produced by manufacturing activities permitted in this district. Explosives. Grain. Manure, peat and topsoil. Petroleum and petroleum products.	X	X	X	X	X
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Water Detention Area	X	X	X	X	X
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Wind-operated energy devices for site service only, provided the lot area has a minimum of 2.5 acres.	X	X	X	X	X
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ARTICLE VII. COMMERCIAL DISTRICTS

Sec. 21-40. GENERAL PURPOSES.

The commercial districts are established in this chapter in order to achieve the following general purposes:

- (1) To protect commercial areas against fire, explosion, noxious fumes, offensive noise, smoke, vibrations, dust, odor, heat, glare and other objectionable influences incidental to industrial uses.

(2) To provide appropriately located areas for retail stores, offices, service establishments, wholesale business and amusement establishments offering commodities and services required by residents of the Village and its market area.

(3) To provide opportunities for retail stores, offices, service establishments, wholesale business and amusement establishments to concentrate in certain areas for the convenience of the public and for the beneficial relationship to each other.

(4) To provide for community facilities and institutions that may be located in commercial areas.

(5) To provide adequate space to meet the needs of commercial development, including off-street parking and loading facilities.

(6) To minimize traffic congestion and to avoid the over loading of public facilities by regulating the construction of building in relation to the area of the zoning lot.

Sec. 21-41. SPECIAL PURPOSES.

In addition to the general purposes prescribed in Section 21-40, each commercial district has been established in this chapter to achieve the following special purposes:

(1) The CN Commercial Neighborhood District is established for the convenience of persons residing in nearby residential areas, and is limited to accommodating the basic recurring shopping needs of the typical family. The area of the CN District should be limited in order to reduce the traffic surrounding residential neighborhood.

(2) The CC Commercial Community District is established to accommodate a greater variety of goods and services than permitted in the CN District including business establishments, which serve a larger segment of the Village than the immediate surrounding residential area. This District includes the sub-regional shopping centers.

(3) The CG Commercial General District is established to accommodate a greater variety of goods and services than permitted in the CC District, and to provide appropriately located areas for commercial uses having features that are incompatible with the purpose of other commercial districts.

Sec. 21-42. CN COMMERCIAL NEIGHBORHOOD DISTRICT.

(1) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered, in the CN District except for one or more of the following uses:

Art and school supply stores

Bakery shops, but not including processing or baking
Bank, savings and loan, including drive-in customer
service window
Barber shops and beauty parlors
Book and stationary stores
Candy and ice cream shops
Community swimming pools and clubs with the following
restrictions:

(a) The swimming pool shall have an area no greater than five thousand (5,000) square feet and shall be on a lot with an area of not less than two (2) acres.

(b) Every pool, building or paved play area shall be no less than one hundred (100') feet distant from every abutting property line in any residential district.

(c) Pumps and filtration stations shall be no less than fifty (50') feet from every abutting property line in any residential district.

(d) The sale of refreshments shall be from the principal building.

Christmas tree sales (forty-five days)
Delicatessens
Drug Stores
Dry cleaning and laundry receiving and distribution stations, but not including processing.
Florist shops
Food, meat and fruit stores
Gift shops
Laundries, automatic self-service type or hand
Newsstand
Postal substations
Restaurants, but not including drive-ins
Shoe repair

Accessory uses:

(a) Including off-street parking and loading in accordance with the provisions of the Code of Ordinances for the Village.

(b) Public utility collection offices.

(2) Special Uses. The following uses may be allowed by special use permit in accordance with the provisions of this chapter:

Automobile service stations
Bus terminals, bus garages, and bus lots
Churches
Convenience Stores

Day nursery schools
Gas Stations
Hospitals, medical clinics (out-patient) and medical facilities including in-patient care.
Offices, business and professional including dental offices
Private clubs and lodges
Package liquor stores
Public service uses, including:
(a) Filtration plant, pumping station and water reservoir
(b) Sewage treatment plants
(c) Police and fire stations
(d) Telephone exchanges
(e) Electric and gas substations and booster stations
(f) Other governmental uses
Rest homes, nursing homes and sanitarium for human beings only
Restaurants serving liquor
Storage facilities
Tanning booths
Tattoo Establishments
Teen Entertainment Centers
Water detention area
Wind-operated energy devices, for site service only, provided the lot area has a minimum of 2.5 acres.

(3) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(a) FRONT. A front yard of at least thirty (30') feet for buildings under twenty-five (25') feet in height. For buildings exceeding twenty-five (25') feet in height, the minimum front yard shall be increased by one (1') foot for each two (2') feet or fraction thereof by which the building height exceeds twenty-five (25') feet, but in no case shall a front yard of more than sixty (60') feet be required.

(b) SIDE. Side yards of at least five (5') feet for buildings under twenty-five (25') feet in height. For buildings exceeding twenty-five (25') feet in height, the minimum front yard shall be increased by one foot (1') for each two (2') feet or fraction thereof by which the building height exceeds twenty-five (25') feet, but in no case shall a front yard of more than sixty (60') feet be required.

(c) CORNER LOTS. On corner lots, where the side yard adjoins a street, the side yard shall be determined in the same manner as the front yard.

(d) REAR. A rear yard of not less than twenty-five (25') feet.

(4) Height. In the CD District, no buildings shall be erected or altered to a height in excess of thirty-five (35') feet or two and one-half (2-1/2) stories.

Outside storage. No outside storage is allowed in a CN District unless a variance is granted as the circumstances may dictate.

Sec. 21-43. CC COMMERCIAL COMMUNITY DISTRICT. INCLUDES SUB-REGIONAL SHOPPING CENTERS.

(1) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, enlarged or structurally altered, in the CC District except for one or more of the following uses:

Any use permitted in the CN District
Amusement establishments, bowling alleys, pool halls, dance halls, gymnasiums, swimming pools and skating rinks
Antique shops (No outside display)
Art galleries and studios, but not including auction rooms
Blueprinting and photostatting establishments
Bicycle sales and repair
Business associations, professional membership organizations, labor unions, civic, social and fraternal organizations
Camera and photograph supply shops for retail sale
Catering establishments
Carpet and rug stores
Charitable institutions
China and glass stores
Coin and stamp stores
Costume rental shop
Custom dressmaking, millinery or tailoring
Department and discount stores
Dry good stores
Electrical and household appliance stores-including radio and television sales, but not including appliance assembly or manufacturing
Employment agencies
Exterminating shops
Flea markets (No outside display)
Furniture stores, and upholstery when conducted as a part of the retail operations and secondary to the main use
Furrier shops, including the incidental storage and conditioning of furs
Garden supply and seed stores
Garages; public and private, for the storage of private passenger vehicles and small (under three-fourths ton) commercial vehicles

Gifts and novelty shops; china, glassware and metalware sales
Golf courses, including driving ranges
Greenhouses with outside display for retail trade on the premises
Haberdasheries
Hardware stores
Hobby stores
Hotels and motels
Household appliance stores, including radio and Television sales and service, and sewing machine sales and service
Independent off-street parking areas
Interior decorating shops, including upholstery and making of draperies, slip covers and other similar articles; when conducted as part of the retail operations and secondary to the main use
Jewelry and watch repair shops
Leather goods and luggage stores
Loan offices
Locksmiths
Mail order houses
Meeting halls
Monument sales within a building, but not including the cutting or grinding of stones
Musical instruments sales and repair
Offices; business and professional
Office supply stores
Optical goods
Orthopedic and medical appliance store, but not including the assembly or manufacturing of such articles
Paint and wallpaper stores
Pawn shops
Pet shops
Photograph studios, including the development of film and pictures when done as a part of the retail business on the premises
Physical culture and health services
Picture framing, when conducted for retail trade on the premises only
Printing and publishing of newspapers, periodicals, books and including letter process work
Private clubs and lodges
Restaurant, including drive-in restaurants
Radio and television broadcasting stations
Schools: Music, dance, art, barber, beauty, business stenographic, correspondence, driving, nursery, commercial or trade
Seasonal farm produce open-air market (operation not to exceed seven (7) months per year)
Secondhand stores and rummage shops
Sewing machine sales and service
Shoe and hat stores
Sporting goods stores

Storage building, mini
Tanning booths
Taxidermists
Telephone offices
Telephone exchange and equipment essential to its operation in the interest of public convenience and necessity, and including business offices in conjunction herewith
Temporary sales forty-five (45) days (i.e., Christmas trees, landscape and nursery supplies)
Theater, indoor
Toy stores
Travel bureau and transportation ticket office
Typewriter and adding machine sales and service
Undertaking establishments, funeral parlors or mortuaries
Veterinary office
Wearing apparel stores
Welfare services

Accessory uses, including off-street parking and loading in accordance with the provisions of this chapter.

(2) Special Uses. The following uses may be allowed by special use permit in accordance with the provisions of this chapter.

Ambulance service
Automobile accessory store where there is servicing or installation of accessories including automobile laundries.
Automobile repair, Minor
Automobile service stations
Bus terminals, bus garages, and bus lots
Churches
Construction of billboards
Construction of radio towers

- (1) No tower constructed on the premises pursuant to the Special Use Permit granted herein shall exceed one hundred fifty (150') feet in height. In measuring the height requirement set forth herein, the measurement shall be taken from the ground level at the base of the tower to the highest point of the tower or any extensions thereto.
- (2) Any building constructed on the premises described in Section 2 herein shall have a brick exterior.

Day nursery schools
Hospitals, medical clinics (out-patient) and medical facilities including in-patient care
Go-cart race track facilities

Laboratories: Medical, dental research, experimental and testing; provided no production or manufacturing of products take place

Liquor establishments, including package liquor stores and taverns

Portable establishments, including package liquor stores and taverns

Portable signs

Public services uses, including:

- a. Filtration plant, pumping station and water reservoir
- b. Sewage treatment plant
- c. Police and fire stations
- d. Telephone exchange
- e. Electric and gas substitutions and booster stations
- f. Other governmental uses

Retail Firearms and Ammunitions Sales

- a. No special use permit shall be granted by the Village for retail firearms and/or ammunitions sales unless the applicant has obtained any and all applicable federal, state and local licenses, permits and/or approvals for the retail sales of firearms and/or ammunition. To the extent the application for any federal, state or local license, permit and/or approval requires a prior showing that a Village special use permit has been granted, the Village may conditionally approve the special use permit subject to the applicant obtaining the other necessary federal, state and/or local license, permit and/or approval. If such other federal, state or local license is not obtained, the Village shall have the right to revoke the special use permit.
- b. No special use permit shall be granted by the Village unless the applicant has shown, to the satisfaction of the Corporate Authorities, that adequate security and safety measures will be implemented as a part of the operation of the retail firearms and ammunition business, including but not limited to, secured storage of firearms and ammunition during and after business hours, fire suppression measures, and security alarms and cameras. The Village shall have the right to impose reasonable restrictions, standards and

rules as conditions of the granting of any such special use permit."

Sexually-oriented business, subject to the following special uses criteria:

1. A sexually-oriented business may not be operated within one thousand (1,000') feet of the following previously established uses:
 - a. A church, synagogue or regular place of worship, or
 - b. A public or private elementary or secondary school, or
 - c. Any property legally used or zoned for residential purposes, or
 - d. A public park, or
 - e. A day-care facility, or
 - f. Another sexually-oriented business, or
 - g. Municipal owned property - Community Center
2. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually-oriented business is conducted, to the nearest property line of a church, school, park, residential use or other sexually-oriented business, or to the nearest boundary of a residential zoning district.
3. Nothing in this section shall be interpreted to authorize or permit any activity or conduct prohibited by any activity or conduct prohibited by any local, state or federal law, including but not limited to obscenity and prostitution.

Tattoo Establishments

(3) Yard. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(a) FRONT. A front yard of at least thirty (30') feet for buildings under twenty-five (25') feet in height. For buildings exceeding twenty-five (25') feet in height, the minimum front yards shall be increased by one (1') foot for each two (2') feet or fraction thereof by which the building height exceeds twenty-five (25') feet, but in no case shall a front yard of more than sixty (60') feet be required.

(b) SIDE. Side yards of at least five (5') feet for buildings under twenty-five (25') feet in height. For buildings, exceeding twenty-five (25') feet in height, the minimum side yards shall be increased by one (1') foot for each four (4') feet or fraction thereof by which the building

height exceeds twenty-five (25') feet, but in no case shall a side yard of more than sixty (60') feet be required.

(c) CORNER LOTS. On corner lots, where the side yards adjoin a street, the side yard shall be determined in the same manner as the front yard.

(d) REAR. A rear yard of not less than twenty-five (25') feet.

(4) Height. In the CC District, no building shall be erected or altered to a height in excess of forty-five (45) or three and one-half (3-1/2) stories.

Sec. 21-44. CG COMMERCIAL GENERAL DISTRICT.

(1) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered in the CG District for one (1) or more of the following uses:

Any use permitted in the CC and CN District
Agricultural implement sales and services, on an open lot or within a building
Ambulance service
Antique shops
Art galleries and studios
Auction rooms
Automobile laundry
Automobile sales and services, new and used, on an open lot or within a building
Automobile service station
Automobile parts and accessory stores
Bait shops, live
Beverages, non-alcoholic, bottling and distribution
Carpet and rug cleaning business
Contractors offices and shops, when fabricating is done on the premises and when all storage of material and equipment is within a building (i.e., lumber yards, contractor equipment rental, cabinet shop)
Laboratories: Medical, dental research, experimental and testing; provided no production or manufacturing of product take place
Monument sales, on an open lot or within a building, but not including the cutting or grinding of stones
Motorcycle sales and repairs
Newspaper distribution agencies
Offices, business and professional
Sales and service of mobile homes, travel trailers and motor homes
Tanning booths
Trailer sales and rental, on an open lot or within a building
Veterinary clinic

Veterinary office and hospital
Accessory use, including off-street parking and loading facilities as permitted or required in accordance with the provisions of this chapter.

(2) Special Uses. The following uses may be allowed by special use permit in accordance with the provisions of this chapter:

Automobile body and fender repair, including welding
Automobile repair, major
Buildings in excess of 3-1/2 stories in height
Churches, rectories, seminaries, convents, monasteries and similar religious institutions, including dormitories and other accessory uses required for operation
Construction of billboards
Construction of radio towers
Day nursery schools
Hospitals, medical clinics (out-patient) and medical facilities including in-patient care
Liquor establishments, including package liquor stores and taverns
LP gas for commercial dispensing
Outdoor theaters
Portable signs

- a. Filtration plant, pumping station and water reservoir
- b. Police and fire station
- c. Telephone exchange
- d. Electrical and gas substations and booster stations
- e. Other governmental uses

Radio and television towers, commercial
Retail Firearms and Ammunitions Sales

- a. No special use permit shall be granted by the Village for retail firearms and/or ammunitions sales unless the applicant has obtained any and all applicable federal, state and local licenses, permits and/or approvals for the retail sales of firearms and/or ammunition. To the extent the application for any federal, state or local license, permit and/or approval requires a prior showing that a Village special use permit has been granted, the Village may conditionally approve the special use permit subject to the applicant obtaining the other necessary federal, state and/or local license, permit and/or approval. If such other federal, state or local license is

not obtained, the Village shall have the right to revoke the special use permit.

- b. No special use permit shall be granted by the Village unless the applicant has shown, to the satisfaction of the Corporate Authorities, that adequate security and safety measures will be implemented as a part of the operation of the retail firearms and ammunition business, including but not limited to, secured storage of firearms and ammunition during and after business hours, fire suppression measures, and security alarms and cameras. The Village shall have the right to impose reasonable restrictions, standards and rules as conditions of the granting of any such special use permit."

Tattoo Establishments

(3) Exceptions.

(a) Sexually-oriented business may not be operated within one thousand (1,000') feet of the following previously established uses:

1. a church, synagogue or regular place of worship, or
2. a public or private elementary or secondary school, or
3. any property legally used or zoned for residential purposes, or
4. a public park, or
5. a day-care facility, or
6. another sexually-oriented business, or
7. Municipal owned property

(b) For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually-oriented business is conducted, to the nearest property line of a church, school, park, residential use or other sexually-oriented business, or to the nearest boundary of a residential zoning district.

(c) Nothing in this Section shall be interpreted to authorize or permit any activity or conduct prohibited by any local, state or federal law, including but not limited to obscenity and prostitution.

(4) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(a) FRONT. A front yard of at least thirty (30') feet for buildings under twenty-five (25') feet in height. For buildings exceeding twenty-five (25') feet in height, the minimum front yards shall be increased by one foot (1') for each two (2') feet or fraction thereof by which the building height exceeds twenty-five (25') feet, but in no case shall a front yard of more than sixty (60') feet be required.

(b) SIDE. Side yards of at least five (5') feet for buildings under twenty-five (25') feet in height. For buildings exceeding twenty-five (25') feet in height, the minimum side yard shall be increased by one (1') foot for each four (4') feet or fraction thereof by which the building height exceeds twenty-five (25') feet, but in no case shall a side yard of more than sixty (60') feet be required.

(c) CORNER LOTS. On corner lots, where the side yards adjoin a street, the side yards shall be determined in the same manner as the front yards.

(d) REAR. A rear yard of not less than twenty-five (25') feet.

(5) Height. In the CG District no building shall be erected or altered to a height in excess of forty-five (45') feet or three and one-half (3-1/2) stories.

ARTICLE VIII. OFFICE DISTRICT - RESERVE

Sec. 21-45. RESERVED

ARTICLE IX. INDUSTRIAL DISTRICTS

Sec. 21-46. IL INDUSTRIAL DISTRICT

(1) Purpose. The IL District is intended to accommodate light industrial, wholesale and research establishments. The IL District may be located in various areas throughout the Village and may be in close proximity to residential neighborhoods and not be detrimental to residential uses because of its limited nature. While most often applied to areas where the location of particular industries has no district relationship to other nearby business or industrial districts, it may also be formed as an adjunct to these established districts.

(2) Required conditions.

(a) All production, processing, servicing, testing, repair or storage of materials, goods or products shall take place within completely enclosed buildings.

(b) All uses shall comply with the performance standards as cited in the "Environmental Protection Act" effective July 1, 1970, as amended, State of Illinois.

(3) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered in the IL District except for one or more of the following uses:

(a) Any production, processing, servicing, testing, repair or storage of materials, goods or products but not including any of the uses listed as permitted in the IH District.

(b) Wholesaling and warehousing; local cartage and express facilities (but not including motor freight terminals).

(c) Public community service uses as follows:

- a. Bus terminals, bus garages and bus lots
- b. Electric and gas sub-stations
- c. Fire stations
- d. Municipal or privately owned recreation buildings or community centers
- e. Parks and recreation areas
- f. Police stations
- g. Radio and television towers
- h. Telephone exchanges
- i. Water filtration plants
- j. Water pumping stations
- k. Water reservoirs

(d) Temporary buildings for construction purposes, not for human habitation and not to exist after termination of project.

(e) Accessory uses, including off-street parking and loading as permitted or required in this chapter.

(4) Special Uses. The following uses may be allowed by special use permit in accordance with the provisions of this chapter:

(a) Any use which may be allowed as a permitted use and a special use in the CG District.

(b) Airport or aircraft landing fields.

(c) Motor freight terminals.

(d) Stadiums, auditoriums and arenas.

(e) Theaters, outdoor drive-ins.

(f) Any industrial use which, by the nature of conditions placed upon it, can be compatible with the proposed and required conditions of the IL District. In establishing such conditions, the Zoning Board of Appeals shall consider the impact of the use as it is discernible from or beyond the property lines, taking into account generated vibration, noise, odors, smoke, particulate, chemical or other debris emissions, electro-magnetic radiation, including light sources or reflected glare, potential for traffic congestion, and any other parameters particular to the proposed use and which have a bearing on the public health, safety and welfare. In addition, all hazardous influences shall be confined to completely enclosed buildings.

(g) Wind-operated energy devices, for site service only, provided the lot area has a minimum of two and one-half (2-1/2) acres.

(h) Storage of materials, goods or products outside of completely enclosed buildings, but within site tight fences of not less than eight (8') feet nor more than twelve (12') feet in height.

(i) LP Gas for Commercial and/or fleet operations.

(j) Water detention area.

(k) Storage and warehousing, wholesale establishments and local cartage and express.

(l) Sexually-oriented business, subject to the following special uses criteria:

1. A sexually-oriented business may not be operated within one thousand (1,000') feet of the following previously established uses:

a. a church, synagogue or regular place of worship, or

b. a public or private elementary or secondary school, or

c. any property legally used or zoned for residential purposes, or

d. a public park, or

e. a day-care facility, or

f. another sexually oriented business, or

g. Municipal owned property.

2. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of

the premises where a sexually-oriented business is conducted, to the nearest property line of a church, school, park, residential use or other sexually-oriented business, or to the nearest boundary of a residential zoning district.

3. Nothing in this Section shall be interpreted to authorize or permit any activity or conduct prohibited by any local, state or federal law, including but not limited to obscenity and prostitution.

(m) Adult-Use Cannabis

(1) Definitions:

ADULT-USE CANNABIS BUSINESS ESTABLISHMENT: An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

ADULT-USE CANNABIS CRAFT GROWER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS CULTIVATION CENTER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

(2) ADULT-USE CANNABIS:

(a) Purpose and Applicability: It is the intent and purpose of this Section to provide regulations regarding the cultivation, processing of adult-use cannabis occurring within the corporate limits of the Village of New Milford. Such facilities shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027) (Act), as it may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Act is amended, the more restrictive of the state or local regulations shall apply.

(b) Special Use: Adult-Use Cannabis Business Establishment facilities, as defined herein, requiring approval of a special use.

(c) Adult-Use Cannabis Facility Components: In determining compliance with Section 46(4)(m) (Special Uses) of this Title, the following components of the Adult-Use Cannabis Facility shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:

- (1) Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
- (2) Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
- (3) Hours of operation and anticipated number of customers/employees.
- (4) Anticipated parking demand.
- (5) Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
- (6) Site design, including access points and internal site circulation.
- (7) Proposed signage plan.
- (8) Compliance with all requirements provided in Section 4 (Adult-Use Cannabis Craft Grower); Section 5 (Adult-Use Cannabis Cultivation Center); Section 6 (Adult-Use Cannabis Dispensing Organization); Section 7 (Adult-Use Cannabis Infuser Organization); Section 8 (Adult-Use Cannabis Processing Organization); or Section 9 (Adult-Use

Cannabis Transporting Organization), as applicable.

(d) Adult-Use Cannabis Craft Grower: In those zoning districts in which an Adult-Use Cannabis Craft Grower may be located, the proposed facility must comply with the following:

(1) Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

(2) Facility may not be located within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

(3) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

(e) Adult-Use Cannabis Cultivation Center: In those zoning districts in which an Adult-Use Cannabis Cultivation Center may be located, the proposed facility must comply with the following:

(1) Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

(2) Facility may not be located within 1,500 feet of the property line of a pre-existing property zoned or used for residential purposes.

(f) Adult-Use Cannabis Infuser Organization: In those zoning districts in which an Adult-Use Cannabis Infuser Organization may be located, the proposed facility must comply with the following:

(1) Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers

shall not be classified as a public or private school for purposes of this Section.

(2) Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

(3) At least 75% of the floor area of any tenant space occupied by an infusing organization shall be devoted to the activities of the infusing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

(g) Adult-Use Cannabis Processing Organization: In those zoning districts in which an Adult-Use Cannabis Processing Organization may be located, the proposed facility must comply with the following:

(1) Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

(2) Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.

(3) At least 75% of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

(h) Additional Requirements: Petitioner shall install building enhancements, such as security cameras, lighting or other improvements, as set forth in the special use permit, to ensure the safety of employees and customers of the adult-use cannabis business establishments, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for

an Adult-Use Cannabis Business Establishment and the site on which it is located, consistent with the requirements of the Act.

(i) Co-Location of Cannabis Business Establishments. The Village may approve the co-location of an Adult-Use Cannabis Dispensing Organization with an Adult-Use Cannabis Craft Grower Center or an Adult-Use Cannabis Infuser Organization, or both, subject to the provisions of the Act and the Conditional Use criteria within the Village of New Milford Municipal Code. In a co-location, the floor space requirements of Section (f)(3) and (g)(3) shall not apply, but the co-located establishments shall be the sole use of the tenant space.

(Ordinance No. 2020-01)

(5) Yards. No building or structure shall hereafter be erected or structurally altered unless the following yards are provided and maintained in connection with such buildings:

(a) FRONT. A front yard of at least twenty-five (25') feet for buildings under twenty-five (25') feet in height. For buildings exceeding twenty-five (25') feet in height, the minimum front yard shall be increased by one (1') foot for each two (2') feet or fraction thereof by which the building height exceeds twenty-five (25') feet, but in no case shall a front yard of more than sixty (60') feet be required.

(b) SIDE. A side yard equal to at least ten (10') feet; except, on corner lots where the side yards adjoin a street, the side yard shall be the same as the front yard.

(c) REAR. A rear yard equal to at least ten (10') feet except on a zoning lot abutting a residential district, a rear yard of at least twenty-five (25') feet in depth is required.

(6) Height. In the IL District, no building shall be erected or altered to a height in excess of forty-five (45') feet.

Sec. 21-47. IG INDUSTRIAL DISTRICT

(1) Purpose. The IG District is intended to accommodate those industrial uses which may not or cannot meet standards of the IL District yet do not have the objectionable influences of those uses found in the IH District. The IG District should not, where possible, be located in close proximity to a residential district.

(2) Required conditions.

(a) All production, processing, servicing, testing, repair or storage of materials, goods or products shall take place within completely enclosed buildings; except, that outdoor storage of materials shall be within completely enclosed areas with a perimeter fence of not less than eight (8') feet nor more than twelve (12') feet in height.

(b) All uses shall comply with the performance standards as cited in the "Environmental Protection Act" effective July 1, 1970, as amended, State of Illinois.

(c) Wholesaling and warehousing; local cartage and express facilities (but not including motor freight terminals).

(3) Permitted Uses. Unless otherwise provided for in this chapter, no building or land may be used, and no buildings may be erected, converted, enlarged or structurally altered in the IG District except for one or more of the following uses:

(a) Any use permitted in the IL District.

(b) LP gas for fleet operations.

(4) Special Uses. The following uses may be allowed by special use permit in accordance with the provisions of this chapter.

(a) Any use which may be allowed as a special use in the IL District.

(b) Stone and gravel quarries and crushing, grading, washing and loading equipment and structures. Concrete plants and/or batch plants. (Ordinance No. 2014-4)

(c) Race track.

(d) Railroad roundhouses, maintenance buildings and switching yards.

(e) Water detention area.

(f) Sexually-oriented business, subject to the following special uses criteria:

1. A sexually-oriented business may not be operated within one thousand (1,000') feet of the following previously established uses:

- a. a church, synagogue or regular place of worship, or
- b. a public or private elementary or secondary school, or
- c. any property legally used or zoned for residential purposes, or
- d. a public park, or
- e. a day-care facility, or
- f. another sexually-oriented business, or
- g. Municipal owned property.

2. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually-oriented business is conducted, to the nearest property line of a church, school, park, residential use or other sexually-oriented business, or to the nearest boundary of a residential zoning district.

3. Nothing in this section shall be interpreted to authorize or permit any activity or conduct prohibited by any local, state or federal law, including but not limited to obscenity or prostitution.

(5) Yards. No building or structure shall hereafter be erected or structurally altered unless the following yards are provided and maintained in connection with such buildings:

(a) FRONT. A front yard of at least twenty-five (25') feet for buildings under twenty-five (25') feet in height. For buildings exceeding twenty-five (25') feet in height, the minimum front yard shall be increased by one (1') foot for each two (2') feet or fraction thereof by which the building height exceeds twenty-five (25') feet, but in no case shall a front yard of more than sixty (60') feet be required.

(b) SIDE. A side yard equal to at least ten (10') feet; except, on corner lots where the side yard adjoins a street, the side yard shall be the same as the front yard.

(c) REAR. A rear yard equal to at least ten (10') feet; except, on a zoning lot abutting a residential district, a rear yard of at least twenty-five (25') feet in depth is required.

(6) Height. In the IG District, no building shall be erected or altered to a height in excess of seventy-five (75') feet.

Sec. 21-48. IH HEAVY INDUSTRIAL DISTRICT

(1) Purpose. The purpose of the IH District is to accommodate those heavier industrial uses which have objectionable influences, but which nevertheless should be provided for in the

community. The IH District is, insofar as possible, applied to locations removed from the residential districts on the basis of linear distance or natural or manmade features.

(2) Required Conditions. All uses shall comply with the performance standard cited in the "Environmental Protection Act" as set forth in 415 ILCS 5/1 *et seq.*

(3) Permitted Uses. Unless otherwise provided in this chapter, no building or land may be used and no building may be erected, converted, enlarged or structurally altered, in the IH District except for one or more of the following uses:

(a) Any use listed as a permitted use in the IG District.

(4) Special Uses.

(a) Any use which may be allowed as a special use in the IG District unless already permitted under subsection (3) of this section, may be allowed by special use permit in accordance with the provisions of this chapter.

(b) Junk yards and automobile wrecking yards, provided they are contained within completely enclosed buildings or screened from view from adjacent property or right-of-ways.

(c) Sanitary landfill.

(d) Sexually-oriented business, subject to the following special uses criteria:

1. A sexually-oriented business may not be operated within one thousand (1,000') feet of the following previously established uses:

a. a church, synagogue or regular place of worship, or

b. a public or private elementary or secondary school, or

c. any property legally used or zoned for residential purposes, or

d. a public park, or

e. a day-care facility, or

f. another sexually-oriented business.

2. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually-oriented business is conducted, to the nearest property line of a church, school, park, residential use or other sexually-oriented business, or to the nearest boundary of a residential zoning district.

3. Nothing in this section shall be interpreted to authorize or permit any activity or conduct prohibited by any local, state or federal law, including, but not limited to, obscenity and prostitution.

(5) Yards. No building or structure shall hereafter be erected or structurally altered unless the following yards are provided and maintained in connection with such buildings:

(a) SIDE. A side yard equal to at least ten (10') feet; except, on corner lots where the side yard adjoins a street, the side yard shall be the same as the front yard.

(6) Height. In the IH District, no building shall be erected or altered to a height in excess of one hundred (100') feet.

ARTICLE X. PARKS (PK)

Sec. 21-49. PARKS.

(1) Purpose. The PK - Park District is intended to allow those governmental agencies which own real estate to designate publicly held lands to provide for recreational and open space areas for their communities.

(2) Permitted Uses. Unless otherwise provided herein, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered in the PK District except for one or more of the following uses:

- A. Sports center facilities - sports fields.
- B. Recreational facilities and their offices.
- C. Golf courses, parks and playgrounds.

D. Accessory structures located on the same site and used in a manner to further promote the site's principal use.

(3) Special Uses. The following uses may be allowed by special use permit in accordance with the provisions of this chapter:

- A. Community swimming pools
- B. Public service uses
- C. Wildlife habitats or refugees
- D. Concession stands
- E. Historical sites and landmarks

F. Water detention area

Sec. 21-50 through Sec. 21-54. RESERVED.

ARTICLE XI. ADMINISTRATIVE

Sec. 21-55. ZONING OFFICE.

(1) Creation. The zoning office is hereby created and, under the direction of a zoning officer, shall have the responsibility of administering and enforcing the provisions of this ordinance.

(2) Powers and duties. The zoning officer shall enforce the provisions of this ordinance and in addition thereto and furtherance of such authority shall:

(a) Examine and approve any application pertaining to the use of land, buildings or structures to determine if the application conforms with the provisions of this ordinance.

(b) Issue all zoning certificates, and keep permanent records thereof.

(c) Issue all certificates of zoning compliance and keep permanent records thereof.

(d) Conduct such inspections of buildings, structures and uses of land as are necessary to determine compliance with the terms of this ordinance.

(e) Receive, file and process for action all applications for appeals, variations, special uses and amendments to this ordinance which are filed in the zoning office.

(f) Initiate petition to revoke certificates of zoning nonconforming uses existing at the time of passage of this ordinance or any amendment thereto upon request.

(g) Issue certificates of zoning compliance for nonconforming uses existing at the time of passage of this ordinance or any amendment thereto upon request.

(h) Maintain permanent and current records of this chapter, including all maps, amendments, special uses and variations.

(3) Remedies cumulative. All remedies provided for herein shall be cumulative and not exclusive.

Sec. 21-56. ZONING BOARD OF APPEALS.

(1) Creation and Memberships. The zoning board of appeals is hereby authorized to be established. The board shall consist

of a chairman and six (6) members, and said board shall be appointed by the Village President with the consent of the Board of Trustees of the Village. In addition to the seven (7) members of the Zoning Board of Appeals, the President of the Board of Trustees and a designated Trustee from the Board of Trustees shall also be considered ex officio members of the Zoning Board of Appeals. The Village President and the designated Trustee are to be considered ex officio members and shall be appointed by the President of the Board of Trustees with the advice and consent of the Board of Trustees on an annual basis. Neither the President nor the designated Trustee shall be counted in determining whether or not the Zoning Board of Appeals has a quorum to constitute business at any given meeting. Further, neither the president nor the designated Trustee shall have any voting rights on the Zoning Board of Appeals. Further, neither the President nor the designated Trustee shall be entitled to any additional compensation as members of the Zoning Board of Appeals.

A. When first appointed, the members of the Zoning Board of Appeals shall serve respectively for the following terms: One for one (1) year, one for two (2) years, one for three (3) years, one for four (4) years, one for five (5) years, one for six (6) years, and one for seven (7) years.

1. The successor to each member so appointed shall serve for a term of five (5) years.

2. Upon creation of the Zoning Board of Appeals one of the members so appointed shall be named as chairman at the time of his/her appointment for a period of one year.

3. Each successor to the chairman shall be elected by the membership by a majority vote.

4. All members of the Zoning Board of Appeals shall be residents of the Village of New Milford, Illinois, at all times during their appointment.

B. The Village President and the Board of Trustees shall have the power to remove any member of the Zoning Board of Appeals, including its chairman for cause and after a public hearing.

C. Vacancies upon the Zoning Board of Appeals shall be filled for the unexpired term of the member or the chairman whose seat has become vacant by appointment by the Village President with the consent of the Board of Trustees of the Village.

D. When members propose to resign, if reasonably feasible, they shall give notice of their intent to the

chairman, or make the date of resignation effective in such a manner to allow time for appointment of replacement.

(2) Hearings and meetings.

A. All hearings and all meetings of the Zoning Board of Appeals shall be open to the public and the record and minutes thereof shall be available for examination of the Office of the Village Clerk during regular business hours.

1. At hearings and meetings of the Zoning Board of Appeals, any interested person may appear or may be represented by duly authorized agent or attorneys.

2. No testimony shall be taken and no witnesses heard except at a properly convened hearing of the Zoning Board of Appeals.

B. Each meeting of the Zoning Board of Appeals must be preceded by notice of such hearing which shall be published at least once not more than thirty (30) nor less than fifteen (15) days prior to the hearing in one or more newspapers of general circulation in the Village.

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

2. The chairman shall administer or authorize the administration of oaths and may compel the attendance of witnesses.

3. The Village Clerk is hereby authorized to make such additional charges to the applicant as may be necessary to cover the cost of sending and publishing a notice in the event the filing fees authorized to be collected hereinafter are insufficient to cover the cost of said hearing. The applicant is also responsible for any and all charges which the Village incurs in processing the petition.

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

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

2. At such meetings and within the perimeter of its jurisdiction granted herein below, the Zoning Board of Appeals shall make its decision or its recommendation

of all matters presented to it within a reasonable time.

a. The Zoning Board of Appeals may reverse or confirm, wholly or partly, or may modify or amend any order, requirement, decision or determination, appealed from the extent and in the manner the board may decide to be fitting and property subject to the provisions contained in this chapter or in the applicable Statutes of the State of Illinois.

b. The concurring vote of four (4) members of the Zoning Board of Appeals shall be necessary to recommend a variation from the terms of this chapter or to recommend or decide in favor of the petitioner on any matter, upon which the Zoning Board of Appeals is required to pass, under this chapter or any other ordinance of the Village.

3. Any exhibits containing plans and specifications for the proposed use shall remain part of the permanent records of the Zoning Board of Appeals.

D. All special hearings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the said Zoning Board of Appeals may determine by rule.

1. All of the foregoing rules and regulations governing the conduct of regular hearing before the Zoning Board of Appeals shall apply to special hearing of the said Zoning Board of Appeals.

2. The Village Clerk is hereby authorized to make such additional charges to the applicant as may be necessary to cover the cost of sending and publishing a notice in the event the filing fees authorized to be collected hereinafter are insufficient to cover costs, as well as the costs of the said hearings.

E. Jurisdiction. The zoning board of appeals is hereby vested with the following jurisdiction and authority and it shall be its duty:

1. To hold public hearings on requests for amendments to this chapter, to make findings and recommendations thereon, and to forward the same to the President and Board of Trustees of the Village;

2. To hear and decide appeals from any order, requirement, decision or determination made by an administrative official in the administration and enforcement of any other ordinances of the Village upon

which the Zoning Board of Appeals is required to pass;

3. To hear applications for variations from the regulations and restrictions contained in this chapter and submit its recommendations thereon to the President and Board of Trustees of the Village;

4. To hear all applications for special uses and submit its recommendations thereon to the President and Board of Trustees of the Village; and,

5. To hear and decide, or make recommendations on, such other matters as may from time to time be committed to its jurisdiction by other ordinances of the Village.

(3) Compensation. Each Member of the Zoning Board of Appeals for the Village of New Milford shall be reimbursed thirty-five dollars (\$35.00) for each meeting attended. The Zoning Board Chair shall receive forty-five dollars (\$45.00) for each meeting attended.

(4) Zoning Board of Appeals Clerk. The Board of Trustees of the Village of New Milford does hereby create a position of clerk for the Zoning Board of Appeals. The clerk shall be a person other than the seven (7) members of the Zoning Board of Appeals and shall be appointed by the President of the Board of Trustees for the Village of New Milford for a one (1) year term commencing on the first day of the fiscal year of the Village of New Milford. The clerk for the Zoning Board of Appeals shall receive sixty dollars (\$60.00) for each meeting attended.

A. Duties of the Zoning Board of Appeals Clerk. It shall be the clerk's duty to keep meeting minutes of each Zoning Board of Appeals meeting. The minutes shall be typed and forwarded to the Attorney for the Village of New Milford for approval. Once the minutes of each Zoning Board of Appeals meeting have been approved by the Zoning Board of Appeals, said minutes shall be filed with the Village Clerk. (Ordinance No. 2020-4)

Sec. 21-57. APPEALS.

(1) Scope of appeal. An appeal may be taken to the Zoning Board of Appeals by any person, firm, corporation or office, department, board or bureau affected by a decision of the zoning officer. Such appeals shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rules adopted by it, and shall be taken by filing with the zoning officer a notice of appeals, specifying the grounds thereof, together with such plats and exhibits as are reasonably necessary. Such appeal shall be taken upon forms provided by the Zoning Board of Appeals.

The zoning officer shall forthwith transmit to the Zoning

Board of Appeals, all of the papers constituting the record upon which the action appealed was taken.

(2) Hearing of appeals. The Zoning Board of Appeals shall fix a reasonable time and place for the hearing of appeals and shall give notice thereof to the person appealing and to the office from whom the appeal is taken. It shall hear and decide the appeal within a reasonable time. At the hearing, parties of interest may appear in person or by agent or attorney to testify. After receiving testimony the Zoning Board of Appeals shall make findings and submit the same to the Board of Trustees who will ultimately decide the issue at hand.

(3) Stay of proceedings. The appeal shall stay all proceedings and furtherance of the action appealed from, unless the zoning officer certifies to the Zoning Board of Appeals, after notice of appeals has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such a case, the proceedings, shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by court of record on application, with notice to the officer from whom the appeal is taken, and all due causes shown.

Sec. 21-58. SPECIAL USES.

(1) Purposes. The formulation and enactment of this chapter is based on the division of the entire Village into districts in each of which is permitted specified uses that are compatible. In addition to such permitted, compatible uses, however, it is recognized that there are other uses which it may be necessary or desirable to allow in a given district but, because of their potential influence upon neighboring uses, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this chapter as "special uses".

(2) Application and fee.

(a) DATA TO BE FURNISHED. Application for a special use permit shall be made to the zoning officer on a form prescribed by the Zoning Board of Appeals with the following data:

1. (A) Name and address of the applicant.
(B) Name and address of the owner of the real estate which is the subject of the request for a special use permit if other than the applicant.

2. Statement that the applicant is the owner or an authorized agent of the owner, and submit written proof that the owner authorizes this applicant to act on

its behalf, of the property on which the use is proposed to be located.

3. Address and description of the property.

4. Statement indicating the precise manner of compliance with each of the applicable provisions of this chapter, together with any other data pertinent to the findings prerequisite to the granting of a special use permit, prescribed in subsection (3) of this section.

5. Name and address of all adjacent property owners from the latest adopted tax rolls.

(b) MAPS. The application shall be accompanied by the following plans and drawings:

1. An accurate scale drawing of the site and the surrounding area for a distance of at least three hundred (300') feet from each boundary of the site showing the existing locations of streets and property lines.

2. An accurate scale drawing of the site showing the contours at intervals of not more than five (5') feet and existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.

3. The zoning officer may authorize omission of any or all of the plan and drawing required by this section if they are not necessary to enable the Zoning Board of Appeals to determine whether the proposed use will comply with each of the applicable provisions of this chapter.

(c) FEE. The application shall be accompanied by a fee as follows to cover the cost of processing the application as described in this article:

Zoning lot of less than two (2) acres	\$100.00
Zoning lot of not less than two (2) nor more than five (5) acres in area	\$175.00
Zoning lot of more than five (5) acres in area	\$175.00

(Plus \$10.00 for each acre or part thereof in excess of five (5) acres, with a total maximum of

\$300.00)

In the event that the application for a special use is for a use which is already in existence, the fee shall be double the amount of the fee set forth above to cover the cost of additional inspections and the costs of processing the application.

(3) Public Hearing.

(a) NOTICE. The Zoning Board of Appeals shall hold at least one public hearing on each applicant for a special use permit within forty-five (45) days of the date when the application was filed and found to be complete by the zoning officer. Notice of such hearing shall be published at least one day not more than thirty (30) nor less than fifteen (15) days prior to the hearing in one or more newspapers of general circulation in the Village. Notice shall also be sent via certified mailing to adjacent property owners within the time frame described above.

(b) PROCEDURE. At the public hearing the Zoning Board of Appeals shall review the application and the drawings submitted therewith and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with regard to the findings prescribed in paragraph (3) below.

(c) FINDING OF FACT. Within forty-five (45) days after the close of the public hearing on a proposed special use, the Zoning board of Appeals shall make written findings of fact and shall submit same together with its recommendation to the village board. For the Zoning Board of Appeals to make an affirmative recommendation of any special use permit, it must find that each of the following items are met:

1. The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;

2. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood;

3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district;

4. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided;

5. Adequate measures have been, or will be taken, to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and

6. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

(d) The Zoning Board of Appeals may recommend and the Village Board may require such conditions or restrictions upon the construction, location and operation of a special use as deemed necessary for the protection of the adjacent properties. These conditions may include the expiration of the special use permit after a specified period of time and off-street parking and loading requirements in accordance with the provisions of the ordinance.

(e) If the Zoning Board of Appeals fails to act within forty-five (45) days of the public hearing, the special use shall be deemed approved by the Zoning Board of Appeals. The zoning officer shall forward the zoning board within ten (10) days after action or within fifty-five (55) days from the date of public hearing if no action has been taken by the Zoning Board of Appeals.

(4) Action of Village Board. The Village Board may affirm, reverse or modify a decision of the Zoning Board of Appeals; provided, that if a decision denying a special use permit is reversed or a decision granting a use permit is modified, the Village Board, on the basis of the record transmitted by the zoning officer and such additional evidence as may be submitted, shall make the findings prerequisite to the granting of a special use permit prescribed in subsection (3) of this section. A special use permit shall become effective immediately after it is granted by resolution of the Village Board.

An application for special use permit shall be passed by a majority vote of the elected officials of the Village.

(5) Lapse of Special Use Permit.

(a) A special use permit shall lapse and shall become void one year following the date on which the special use permit became effective, unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the special use permit application, or a certificate of occupancy is issued for the structure which was the subject of the special use permit application or the site was occupied if no building permit or

certificate of occupancy is required.

(b) A special use permit may be renewed for an additional period of one year; provided, that prior to the expiration of one year from the date when the special use permit originally became effective, and application for renewal of the special use permit is filed with the Zoning Board of Appeals.

(c) The Zoning Board of Appeals may grant or deny an application for renewal of a special use permit.

(d) Subsections (3) to (5) of this section shall apply to an application for renewal of a special use permit.

(6) Existing Special Use. A use established by a special use permit issued by the County and/or Village prior to the enactment of this ordinance shall be deemed nonconforming; however, it shall be permitted to continue; provided, that the use if operated and conducted in accord with the conditions prescribed in the special use permit as granted, if any. Any alterations, expansion or restoration shall be thereafter governed by the provisions of this chapter.

(7) Revocation. Upon violation of any applicable provision of this chapter, or, if granted subject to a condition or conditions, upon failure to comply with the condition or conditions, a special use permit shall be suspended automatically. The Zoning Board of Appeals shall hold a public hearing within forty-five (45) days, in accord with the procedure prescribed in subsection (3)(a) of this section, and if not satisfied that the regulation, general provision or condition is being complied with, may revoke the special use permit or take such action as may be necessary to ensure compliance with the regulation, general provision or condition. Within five (5) days following the date of a decision of the Zoning Board of Appeals revoking a special use permit, the zoning officer shall transmit to the Village Board written notice of the decision. The decision shall become final ten (10) days following the date on which the special use permit was revoked or on the day following the next meeting of the Village Board whichever is later, unless an appeal has been taken to the Village Board or unless the Village Board shall elect to review the decision of the Zoning Board of Appeals, in which cases subsections (4) to (6) of this section shall apply.

(8) Effect or Denial of a Special Use Permit. No application for a special use permit which has been denied only or partly by the Village Board shall be resubmitted for a period on one year from the date of such denial, except on the grounds of new evidence not known to applicant at the time of hearing on first applications, or as proof of changed conditions.

(9) A special use permit granted pursuant to the provisions of this article, allowing liquor establishments, including but not

limited to, packaged liquor stores and taverns, is restricted to the special use permit for the particular class of license granted, and in the event the owner of said premises or the licensee seeks to change the classification of a license granted pursuant to a special use permit, to a different class license than that granted pursuant to the special use permit, a new special use permit must be applied for as provided herein.

Sec. 21-59. VARIATIONS.

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

(a) To permit any yard of less dimension than required by the applicable regulations;

(b) To permit any building or structure to exceed the height limitations imposed by the applicable regulations;

(c) To permit the use of a lot prohibited solely because of the insufficient area of the lot;

(d) To reduce the applicable off-street parking or loading facilities, required parking spaces are permitted to be located from the use served; and,

(e) To waive or modify the screening requirements of Section 21-8, subsection (5)(e)(2) of this chapter, or to permit any fence, wall or other enclosure which is greater than or less than the required height limit.

(2) Application and fee.

(a) DATA TO BE FURNISHED. Application for a variation shall be made to the Zoning Officer on a form prescribed by the Zoning Board of Appeals, which shall include the following data:

1. (A) Name and address of the applicant.

(B) Name and address of the owner of the real estate which is the subject of the request for a variance if other than the applicant.

2. Statement that the applicant is the owner or an authorized agent of the owner, and submit written proof that the owner authorized this applicant to act on its behalf, of the property on which the use is proposed to be located.

3. Address or description of the property.

4. Statement of the precise nature of the variation requested and the practical difficulty or unnecessary physical hardship inconsistent with the objectives of this chapter that enforcement of a specified regulation of this chapter, together with any other data pertinent to the findings prerequisite to the granting of a variation, prescribed in subsection (4) of this section.

5. Name and address of all adjacent property owners at the address as taken from the latest adopted tax rolls.

(b) MAP. The application shall be accompanied by accurate scale drawing of the site and any adjacent property affected, showing, when pertinent, the contours at intervals of not more than five (5') feet, and all existing and proposed locations of street, property lines, uses, structures, driveways, pedestrian walks, off-street loading and off-street parking facilities and landscaped areas.

1. If required for a public hearing as prescribed in subsection (3) of this section, the application shall be accompanied by an accurate scale drawing of the site and the surrounding area for a distance of at least three hundred (300') feet from each boundary of the site showing the existing locations of streets and property lines.

(c) FEE. The application shall be accompanied by a fee of seventy-five (\$75.00) dollars to cover the cost of handling the application as prescribed in this article.

In the event that the variation is for an improvement or building that is already under construction or in existence, the fee shall be double the amount of the fee set forth above to cover the cost of additional inspections and the costs of processing the application.

(3) Public hearing.

(a) NOTICE. The Zoning Board of Appeals shall hold a public hearing on an application for a variation within forty-five (45) days of the date when the applications was filed and found to be complete by the Zoning Officer. Notice of a public hearing shall be given not less than fifteen (15) days nor more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation within the Village Notice shall also be sent via certified mailing to adjacent property owners within the time frame described above.

(b) PROCEDURE. At a public hearing the Zoning Board of Appeals shall review the application, statements and drawing submitted therewith and shall receive pertinent evidence concerning the variation, particularly with respect to the findings prescribed in paragraph (3)(d) below.

(c) The Zoning Board of Appeals shall grant by resolution an application for a variation as the variation was applied for, or in modified form, or the application may be denied.

(d) The concurring vote of four (4) members of the board shall be necessary to authorize any variation in this ordinance.

(e) FINDINGS OF FACT. Within forty-five (45) days after the close of the public hearing on a proposed variation, the Zoning Board of Appeals shall make a written finding of fact. For the Zoning Board of Appeals to make an affirmative decision on any proposed variation, it must find that each of the following items are met:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;

2. The conditions upon which a petition for a variation is based are unique to the property for which the variation is sought and are not applicable, generally to other property within the same zoning classification;

3. The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property;

4. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which

the property is located.

5. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets or increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood; and,

6. The proposed variance complies with the spirit and intent of restrictions imposed by this chapter.

(4) Lapse of variation.

(a) A variation shall lapse and become void one year following the date on which the variation became effective unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variation application, or a permit is issued authorizing occupancy of the site or structure which the subject of the variation application which was the subject of the variation application or the site is occupied if no building permit or certificate of occupancy is required.

(b) A variation may be renewed for an additional period of one year; provided, that prior to the expiration of one year from the date when the variation originally became effective, an application for renewal of the variation is made to the Zoning Board of Appeals.

(c) The Zoning Board of Appeals may grant or deny an application for renewal of a variation.

(d) Subsections (2) and (3) of this section shall apply to an application for renewal of a variation.

(5) Revocation. A variation granted subject to a condition or conditions shall be revoked by the Zoning Board of Appeals, if the condition or conditions are not complied with. The Zoning Board of Appeals shall hold a public hearing within forty-five (45) days, in accord with the procedure prescribed in subsection (3) of this section and if not satisfied that the regulation, general provision or condition is being complied with may revoke the variation or take such action as may be necessary to ensure compliance with the regulation, general provision or condition.

(6) Effect of denial of the variation. No application for a variation which has been denied wholly or partly by the Zoning Board of Appeals shall be resubmitted for a period of one year from the date of such denial, except on the grounds of new evidence not known to applicant at time of hearing on first application, or as proof of changed conditions found to be valid by the Zoning Board of Appeals.

(7) Variation by ordinance. Within fifteen (15) days after the last public hearing or meeting held on any variation, the recommendation of the Zoning Board of Appeals shall be forwarded to the President and Board of Trustees of the Village, as well as to the Village Clerk and the zoning officer.

Whenever a variation is to be made by ordinance, upon receiving the report of the Zoning Board of Appeals, the President and Board of Trustees of the Village, without further public hearing, may grant or deny any proposed variation or may refer it back to the Zoning Board of Appeals for further consideration.

Any proposed variation which fails to receive the approval of the Zoning Board of Appeals in the form of a favorable recommendation to the President and Board of Trustees of the Village shall not be granted except by the favorable vote of two-thirds (2/3) of all of the Trustees of the Village.

Sec. 21-60. AMENDMENTS TO CHAPTER.

(1) Purpose. This chapter may be amended by changing the boundaries of any district, by changing any district regulation, general provision, exception or other provision thereof in accord with the procedure prescribed in this article.

(2) Initiation.

(a) A change in the boundaries of any district may be initiated by the owner of the authorized agent of the owner of the property by filing an application for a change in district boundaries as prescribed in subsection (3) of this section. If more than one ownership, all the owners of their authorized agents shall join in filing the application.

(b) A change in boundaries of any district, or a change in a district regulation, general provision, exception or other text amendments may be initiated by action of a person, persons, Zoning Board of Appeals or Village Board; provided, that the procedure prescribed in subsections (3) to (6) of this section shall be followed.

(c) A proposal for a change in district boundaries initiated by the Village Board and one initiated by a property owner for all or part of the same area may be considered simultaneously.

(3) Application and fee.

(a) DATA TO BE FURNISHED. A property owner desiring to propose a change in the boundaries of the district in which his property is located or his authorized agent may file with the zoning officer an application for a change in district

boundaries on a form prescribed by the Zoning Board of Appeals which shall include the following data:

1. (A) Name and address of the applicant.
(B) Name and address of the owner of the real estate which is the subject of the request for a zoning map amendment if other than the applicant.

2. Statement that the applicant is the owner or an authorized agent of the owner, and submit written proof that the owner authorized this applicant to act on its behalf, of the property on which the use is proposed to be located.

3. Address and description of the property.

4. Name and address of all adjacent property owners at the address as taken from the latest adopted tax rolls.

(b) MAP. The application shall be accompanied by an accurate scale drawing of the site and the surrounding area for a distance of at least three hundred (300') feet from each boundary of the site showing the location, of street and property lines.

(c) FEE. The application shall be accompanied by a fee as follows to cover the cost of processing the application as described in this article:

Zoning lot of less than one-half (1/2) acres	\$200.00
Zoning lot of not less than one-half (1/2) nor more than two (2) acres	\$275.00
Zoning lot of not less than two (2) nor more than five (5) acres	\$350.00
(Plus \$25.00 for each acre or part thereof in excess of five (5) acres, with a total maximum of \$600.00)	
Text amendment	\$150.00
Zoning of a lot of any size initiated by Village Board	\$ -0-

In the event that an amendment is necessitated because of use

is already in existence, the fee shall be double the amount of the fee set forth above to cover the cost of additional inspections and the costs of processing the application.

(4) Public hearing.

(a) NOTICE. The Zoning Board of Appeals shall hold a public hearing on each application for a change in district boundaries or for a change of a district regulation, general provisions, exception or other provision of this chapter within forty-five (45) days of date when the application as filed and found to be complete by the zoning officer. Notice of the public hearing shall be given not less than fifteen (15) days nor more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation in the Village.

(b) PROCEDURE. At the public hearing the Zoning Board of Appeals shall review the application or the proposal and may receive pertinent evidence as to why or how the proposed change is consistent with the objectives of this chapter prescribed in Section 21-2.

(c) REVIEW. The planning and zoning officer shall submit a review to the Zoning Board of Appeals on the proposed amendment at the time of public hearing.

(d) FINDINGS OF FACT AND RECOMMENDATION OF THE ZONING BOARD OF APPEALS. Within forty-five (45) days following the public hearing the Zoning Board of Appeals shall make a specific finding as to whether the change is consistent with the objectives of the zoning ordinance prescribed in Section 21-2. The zoning officer shall forward the report to the Village Board recommending that the application be granted, granted in modified form, or denied or that the proposal be adopted, adopted in modified form, or rejected, together with a copy of the application, resolution of the Zoning Board of Appeals; the scale drawing of the site and the surrounding area and all other data filed therewith; the minutes of the public hearing; and the findings of the Zoning Board of Appeals.

(5) Action of Village Board. An amendment shall be passed by a majority vote of the Village Board present. In the following cases, an amendment shall be passed only by the favorable vote of two thirds (2/3) of all of the members of the Village Board.

If a written protest against the proposed amendment is filed with the Village Clerk, signed and acknowledged by the owners of twenty (20%) percent or more of:

(a) The frontage immediately adjoining or across an alley therefrom.

(b) The frontage directly opposite the frontage proposed to be altered.

(c) Any adjacent property contiguous to the property in question.

(6) Effect of denial of an amendment. No application for an amendment which has been denied wholly or partly by the Village Board shall be resubmitted for a period of one year from the date of such denial, except on the grounds of new evidence, or proof of changed conditions found to be valid by the Zoning Board of Appeals.

Sec. 21-61. ENFORCEMENT.

(1) Zoning Officer's responsibilities. The zoning officer shall be the official responsible for the enforcement of this chapter. The zoning officer may serve notice requiring the removal of any structure or use in violation of this chapter on the owner or his use in violation of this chapter on the owner or his authorized agent, on a tenant or on an architect, builder, contractor or other person who commits or participates in any violation. The zoning officer may call upon the village attorney to institute necessary legal proceedings to enforce the provisions of this chapter, and the Village Attorney is hereby authorized to institute appropriate actions to that end.

(2) Enforcement Procedure.

(a) The zoning officer is authorized to enforce the zoning ordinance on a complaint basis or whenever any violation is brought to his or her attention. Upon becoming aware of an alleged violation, an inspection of the property involved shall be made by the zoning officer or designated representative.

If, in the opinion of the zoning officer, such violation does exist, they shall cause to notify the alleged violator of the violation by certified mail, which notice shall request a response within fourteen (14) calendar days from date of notification.

Within said fourteen (14) days the alleged violator shall be required to contact the zoning officer to either demonstrate compliance with the zoning ordinance or show cause why he/she should be exempt.

(b) Zoning violations may be brought into compliance with the zoning ordinance by approval of the Board of Trustees

of a map amendment, special use permit or variance.

The zoning officer's authorized in cases of denial of a map amendment, special use permit or a variance to notify said violator in person or certified mail that he/she must comply with existing zoning regulations within thirty (30) days of board action or be subject to prosecution.

(c) Map amendment initiated by a petitioner other than the village board may invalidate a pre-existing use(s) of the petitioner's property.

Map amendments initiated by a petitioner other than the Village Board that invalidate a pre-existing use(s) a petitioners property shall cause the pre-existing use to be in violation of this chapter.

The zoning officer is authorized to notify the petitioner in person or by certified mail, that he/she must comply with the new zone district regulations within thirty (30) days of board approval of such map amendment or be subject to prosecution.

(3) Penalties. Failure to comply with any of the requirements of this chapter shall constitute a violation, and any person upon conviction thereof shall be fined not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars of each offense. Each day the violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violations may each be found guilty of a separate offense and subject to the above penalties.

The Village may also take other lawful action as is necessary to prevent or remedy any violation.

Sec. 21-62. through Sec. 21-76. RESERVED

ARTICLE XII. OVERLAY DISTRICTS

Division I.

Baxter Road Commercial Overlay District

Sec. 21-77. Purpose.

The purpose of the Baxter Road Commercial Overlay District is to establish regulations to encourage and accommodate planned

commercial development when it is compatible with its surrounding uses and on land that could otherwise be suitably used as regulated by the underlying zoning classification. The Baxter Road Commercial Overlay District and the uses allowed herein are centered on the goal of permitting useful commercial businesses and services that are compatible with the underlying industrial zoning of the I-39/Baxter Road Redevelopment Project Area. Further, the Baxter Road Commercial Overlay District is designed to achieve, among others, the following objectives:

A. To encourage the design and development of commercial uses in a manner which enhances the Village's image through the application of site design principles and review procedures, which assure a high-quality of development including the provision of aesthetic amenities.

B. To give the Village the ability to permit a range of commercial uses in a manner that ensures that such uses are compatible with the surrounding environment, specifically industrial uses.

c. Notwithstanding the foregoing, the Village shall not grant commercial use within the Baxter Road Commercial Overlay District to such an extent or in such a manner so as to affect the underlying intent and requirement of the TIF District that the properties within the TIF District shall primarily be used for industrial purposes.

Sec. 21-78. Boundaries.

The boundaries of the Baxter Road Commercial Overlay District shall be as identified on Exhibit A, attached hereto and incorporated herein. Such District shall be indentified on the Village's Official Zoning Map and shall also include the label of the zoning designation in existence for the properties located within the District at the time this Ordinance is effective. This existing zoning classification shall continue as the property's underlying zoning classification.

Sec. 21-79. Use Regulations.

Any uses permitted by the underlying zoning classification shall be permissible for all properties located within the Baxter Road Commercial Overlay District, subject to all regulations and procedures for such underlying zoning classification as set forth in the Village's Code of Ordinances. Further, notwithstanding the underlying zoning classification, the following commercial uses

shall also be permitted for properties located within the Baxter Road Commercial Overlay District: any permitted use or special use under the Village's Commercial General (CG) zoning classification.

Sec. 21-80. Site Development Standards.

All site development standards, procedures and approval processes as required by Village ordinances and practice shall be applicable to any development within the Baxter Road Commercial Overlay District.

EXHIBIT A- LEGAL DESCRIPTION OF COMMERCIAL OVERLAY DISTRICT

Part of the West Half (1/2) of the Southeast Quarter (1/4) of Section 30, Township 43 North of Range 2 East of the Third Principal Meridian, Winnebago County, Illinois, described as follows: Beginning at the Southeast corner of the West Half (1/2) of the Southeast Quarter (1/4) of said Section 30; thence North 90 degrees 00'00" West along the South line of the Southeast Quarter (1/4) of said Section 30, a distance of 340.00 feet; thence North 0 degrees 37'01" East a distance of 414.97 feet; thence North 90 degrees 00'00" East parallel with the South line of the Southeast Quarter (1/4) of Section 30, a distance of 342.00 feet to the East line of the West Half (1/2) of said Southeast Quarter (1/4); thence South 0 degrees 37'01" West on the East line of the West Half (1/2) of the Southeast Quarter (1/4) of said Section 30, a distance of 415.00 feet to the point of beginning; situated in the County of Winnebago and State of Illinois. (PIN 16-30-400-020)

AND

Part of the Southeast Quarter (1/4) of Section 30, Township 43 North, Range 2 East of the 3rd Principal Meridian, bounded and described as follows, to-wit: Beginning at the Southeast corner of the Southeast Quarter of said Section; thence South 90° 00' 00" West, along the South line of the Southeast Quarter of said Section, 250.0 feet; thence North 00° 51' 41" East, parallel with the East line of the Southeast Quarter of said Section, 906.30 feet; thence North 90° 00' 00" East, parallel with the South line of the Southeast Quarter of said Section 250.0 feet to the East line of the Southeast Quarter of said Section; thence South 00° 51' 47" West, along the East line of the Southeast Quarter of said Section, 906.30 feet to the point of beginning, situated in the County of Winnebago and State of Illinois. (PIN 16-30-400-016)

AND

Part of the Southeast Quarter (SE 1/4) of Section 30, Township 43 North Range 2 East of the Third Principal Meridian, bounded and described as follows: Beginning at the Southeast corner of said Section 30; thence South 90° -00'-00" West along the South line of Southeast Quarter of said Section a distance of 714.0 feet; thence North 00° 51'-47" East parallel with the East line of the Southeast Quarter of said Section a distance of 1155.0 feet (17 chains 50 links); thence North 90° -00'-00" East parallel with the South line of Southeast Quarter of said Section a distance of 714.0 feet to

the East line of the Southeast Quarter of said Section; thence South 0° -51'-47" West along the East line of the Southeast Quarter of Section a distance of 1155.0 feet to the place of beginning; EXCEPTING THEREFROM THE FOLLOWING: Beginning at the Southeast corner of the Southeast Quarter of said Section; thence South 90° -00'-00" West, along the South line of the Southeast Quarter of said Section, 250.0 feet; thence North 00° -51'-41" East, parallel with the East line of the Southeast Quarter of said Section, 906.30 feet; thence North 90° -00'-00" East, parallel with the South line of the Southeast Quarter of said Section 250.0 feet to the East line of the Southeast Quarter of said Section; thence South 00° -51'-47" West, along the East line of the Southeast Quarter of said Section, 906.30 feet to the point of beginning; SUBJECT TO the rights of the public and the State of Illinois in and to those portions thereof taken, used or dedicated for public road purposes; situated in the County of Winnebago and State of Illinois. (PIN 16-30-400-015)

AND

Part of Lot Four (4) in Section 30, Township 43 North, Range 2 East of the Third Principal Meridian, bounded and described as follows, to-wit: Beginning on the South line of said Section at a point distant 150.0 feet West of the Southeast corner of said Lot Four (4), said point being the Southwest corner of premises conveyed to Maynard E. Baxter and Alma Baxter, husband and wife, by Warranty Deed recorded in Book 517 on page 85 in the Recorder's Office of Winnebago County, Illinois; thence West, along the South line of said Section 125.0 feet; thence North parallel with the West line of premises so conveyed to Maynard E. Baxter and wife, 195.0 feet; thence East, parallel to the South line of said Section, 125.0 feet to the Northwest corner of premises so conveyed to Maynard E. Baxter and wife; thence South, along the West line of premises so conveyed to Maynard E. Baxter and wife, 195.0 feet to the place of beginning; situated in the County of Winnebago, State of Illinois. (PIN 16-30-400-010)

AND

A part of the West 1/2 of the Southwest 1/4 of Section 29, Township 43 North, Range 2 East of the Third P.M., bounded and described as follows, to-wit: Commencing at the Northeast corner of a certain tract of land conveyed by Anthony Haines and wife to the Trustees of Town 43 North, Range 2, East of the Third P.M., by Warranty Deed recorded in Book 63 of Deeds, page 533 in the Recorder's Office of Winnebago County, Illinois, which point is 180.75 feet, more or less, North of the Southeast corner of said West 1/2 of

the Southwest 1/4 of said Section 29; thence North along the East line of said West 1/2 of the Southwest 1/4 of said Section 29, 203 feet to a point; thence West parallel with the South line of said West 1/2 of the Southwest 1/4 of said Section 29, 214.75 feet to a point; thence South, parallel with said East line of said West 1/2 of the Southwest 1/4 of said Section 29, 383.75 feet, more or less, to the center line of the highway; thence East along the center line of said highway, 214.75 feet, more or less, to the East line of said West 1/2 of the Southwest 1/4 of said Section 29; thence North along said East line of said West 1/2 of the Southwest 1/4, 180.75 feet, more or less, to the point of beginning, situated in Winnebago County, State of Illinois.
(PIN 16-29-351-004)

AND

A part of the West 1/2 of the Southwest 1/4 of Section 29, T. 43 N., P. 2E of the 3rd P.M., bounded and described as follows, to-wit: Beginning at a point on the South line of said 1/4 section 214.75 feet West of the Southeast corner of the West 1/2 of the S.W. 1/4 of said Section 29, said point being the Southwest corner of the premises conveyed to Arvid W. Seagren and Verna L. Seagren by instrument recorded on Microfilm No. 8616-1243 in the Recorder's Office of Winnebago County, Illinois; thence North along the West line thereof 180.75 feet to a point on the North line of the premises conveyed to the Harrisville Grange by Warranty Deed recorded in Book 288 of deeds, page 318 in the Recorder's Office of Winnebago County, Illinois; thence West along the North line thereof and along the North line of the premises conveyed to the Harrisville Grange No. 1783 by instrument recorded in Book 1147 on page 337, 139.75 feet more or less to the Northwest corner thereof; thence South along the West line thereof 180.75 feet more or less to the South line of said 1/4 section; thence East, along the South line thereof 139.75 feet more or less to the place of beginning; situated in the County of Winnebago and State of Illinois.

AND

The South Half (1/2) of the West Half (1/2) of the Southwest Quarter (1/4) of Section 29, Township 43 North, Range 2 East of the Third Principal Meridian, EXCEPTING THEREFROM a part of the West Half (1/2) of the Southwest Quarter (1/4) of Section 29, Township 43 North, Range 2 East of the Third Principal Meridian, bounded and described as follows, to-wit: Commencing at the Southeast corner of said West Half (1/2) of the Southwest Quarter (1/4) of said Section 29; thence North along the East line of said West Half (1/2) of the Southwest Quarter (1/4) of said Section 29,

383.75 feet to a point; thence West, parallel with the South line of said West Half (1/2) of the Southwest Quarter (1/4) of said Section 29, 214.75 feet to a point; thence South parallel with said East line of said West Half (1/2) of the Southwest Quarter (1/4) of said Section 29, 383.75 feet, more or less, to the center line of the highway; thence East along the center line of said highway, 214.75 feet, more or less, to the East line of said West Half (1/2) of the Southwest Quarter (1/4) of said Section 29 being the point of beginning, ALSO EXCEPTING THEREFROM a part of the West Half (1/2) of the Southwest Quarter (1/4) of Section 29, Township 43 North, Range 2 East of the Third Principal Meridian, bounded and described as follows, to-wit: Beginning at a point on the South line of said Quarter (1/4) Section 29, 214.75 feet West of the Southeast corner of the West Half (1/2) of the Southwest Quarter (1/4) of said Section 29, said point being the Southwest corner of the premises conveyed to Arvid W. Seagren and Verna L. Seagren by instrument recorded on Microfilm No. 8616-1243 in the Recorder's Office of Winnebago County, Illinois, thence North along the West line thereof 180.75 feet to a point; thence West parallel with the South line of said West 1/2 of the Southwest 1/4 of said Section 29, 139.75 feet to a point; thence South parallel with the West line thereof 180.75 feet to the South line of said Quarter (1/4) section; thence East, along the South line thereof 139.75 feet to the place of beginning; situated in the County of Winnebago and State of Illinois. (PIN 16-29-351-001)

CHAPTER 22

WATER

Article I Water

Definitions

- A. The following rules and regulations specified in this Article shall be established by the Village of New Millford, Illinois. Such rules and regulations shall be for controlling the use of water to the respective water users of the Village of New Millford now and in the future.
- B. Water Department: where used herein, means the water department of the Village of New Millford, Illinois.
- C. Owner: where used herein, means the actual owner of the property to be supplied with water service.
- D. Existing Service: where used herein, means those properties already connected to the Village Water Main.
- E. New Service: where used herein, means those properties not connected to the Village Water Main.
- F. Labor or cost thereof: shall herein mean in accordance with the prevailing wage for labor.
- G. SSWC: where used herein, shall mean the Standard Specifications for Water and Sewer Main in Illinois, latest addition, which will be standards for the Village of New Millford.
- H. Superintendent: where used herein, shall mean the Superintendent of Water of the Village of New Millford or an authorized agent or representative.
- I. Clerk: where used herein, shall mean the Village Clerk of New Millford or her authorized agent.

Article II Intent and Purpose

- A. The Village of New Millford finds and declares that the provisions of this Article are enacted for the following reasons:

1. To ensure timely and complete payment of all water charges arising from water service supply to customers.
 2. To regulate termination of water services to customers for nonpayment of water charges.
 3. To provide full and adequate notice to customers of a termination of water service to that customer and of the procedure to follow to avoid termination.
 4. To provide customers with the fair and reasonable opportunity, prior to termination, to dispute the correctness of water charges.
 5. To standardize the notice of termination and other notices sent to customers.
 6. To regulate termination of water services to rental property for nonpayment of water charges.
- B. Scope: The provisions of this Article shall apply to water services supplied to customers.
- C. Water Bills: A water bill shall be mailed to every water customer as outlined in this Chapter. Each water bill shall contain the following:
1. The time period of water service covered by the water bill.
 2. The water charge and/or other applicable fees.
 3. The date of the water bill.
 4. The date when complete payment is due.
 5. The telephone number to call in order to dispute the water charges, or request answers to any other questions regarding water service.
- D. Computation of Time: for purposes of this Chapter, the following procedure shall be used in computing time periods:

1. In computing any period of time prescribed by this Chapter, the day of the act or event from which the designated period of time begins to run shall not be included.
2. The last day of the period so computed shall be included, until the next day which is not a Saturday, Sunday or a legal holiday.
3. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

Article III Water Service Connections

Section 1 Application for Service

- A. Any consumer desiring water service shall make application with the Clerk's Office at the Village Hall, using the forms provided.
- B. A Water Service Connection Form Application is required for new service connections and a Water Service Connection Permit is valid for one (1) year.
 1. The water connection permit time frame may be extended for a period not exceeding six (6) months with an additional twenty-five percent (25%) fee based on the current Water Service Connection Fee.
- C. The Water Service Connection Permit will only be issued upon review and approval of the application by the Water Department and/or Water Superintendent and, if applicable, a valid Building Permit has been issued.
- D. The Water Service Connection Form must be completed and submitted with full payment of the Application Fee and Service Connection Fee as outlined in Section 2.
- E. Applicants requesting a water service connection are required to pay for a water meter and reader supplied by the Village at the current price and have such meter and reader installed according to the SSWM, at the applicant's expense for labor and materials and

said meter and reader shall remain the Water Department property. Water meters larger than one inch (1") shall be supplied and installed by owner. The Water Department will inspect the installation and record all meter and reader data.

Section 2 Application Fees, Meter Deposits and Connection Fees

A. Application Fees and Meter Deposits

1. All applicants requesting water service shall be required to pay a non-refundable application fee and meter deposit for such service of One Hundred Fifty Dollars (\$150.00). If not paid, then the amount will be added to their bill.
2. If a water customer sells his or her property and the Village collected and is holding a meter deposit in this customer's name for said property and the customer requests such meter deposit be refunded to them, then the meter deposit shall be returned upon payment of the final water bill, including but not limited to any interest, late charges, penalties, turn-on fees or other amounts owed the Village.
 - a. The Village may in its discretion set off said meter deposit against any amounts owed, including but not limited to any late charges, penalties, turn-on fees, turn-off fees or any other amounts due the Village.

B. Connection Fees

1. Anyone making application for a new water service connection to the water main will pay a Water Service Connection Fee according to the size of the service or main.
 - a. 1" \$1,000.00
 - b. 1.5" \$1,250.00
 - c. 2" \$1,500.00
 - d. 4" \$3,000.00
 - e. 6" \$5,000.00
 - f. 8" \$7,500.00

2. Any connections to said main larger than the standard one inch (1") line will require an additional fee, including but not limited to the cost of labor and materials as specified and approved by the Water Department.

Section 3 Connection to the Water Main

- A. All installations or replacements of water lines shall be required to follow the SSWM.
- B. The party or parties making connection to the water system shall be responsible for all expenses incurred to the installing or replacing of said services, including but not limited to the cost of labor and materials.
- C. All service lines, either between the main and the cut off or between the cut off and the water meter, shall require an on sight inspection by the Superintendent.
 1. At least a twenty-four (24) hour notice shall be given to the Water Department for inspections of the water service connection.
 2. Inspections will be done during normal business hours of the Water Department.
 3. Failure to comply with the inspection procedure shall be subject to the penalties provided herein, including but not limited to, a fine not to exceed Two Hundred Fifty Dollars (\$250.00) and must be paid in full or water service will be shut off.
- D. Any customer requiring a re-connection of existing or replacement of a service line to the water main system shall be responsible for all expenses, including but not limited to, the costs of materials, labor and inspection fees.
 1. Exception: If the re-connection was because of leaks or repairs at the main or because of the Village's water main replacement program, then the Village shall bear the expense.

- E. The Water Service Connection is to be regulated by the Water Department.
- F. Multi-Family and Duplex Units.
 - 1. All duplex units shall be serviced by a single service line/meter of appropriate size for each distinct unit.
 - 2. Any new construction will follow the BOCA codes for the water service connection.

Article IV Connection Inside and Outside Village Limits

Section 1 Connections Inside Village Limits

- A. No connection shall be made to the Village Water System unless it is located within the corporate limits of the Village.
- B. Exceptions: The Village Board may, in its discretion, allow connection to the Village Water System by a customer located outside the corporate limits of the Village under the following conditions:
 - 1. The owner of the property to be connected to the system is unable to annex to the Village because the property is not contiguous to the Village.
 - 2. The owner of the property agrees to petition for annexation to the Village within thirty (30) days of the property becoming contiguous to the Village and must do so according to the Municipal Code of Illinois.
 - a. If the owner fails to timely submit said petition, each owner at the time of extension of the water service and all subsequent owners irrevocably designate the Village President to execute said petition for annexation.
 - 3. Annexation to the Village can be anticipated in the foreseeable future.
 - 4. The Village derives and will continue to derive a significant benefit from the user (as determined

solely by the Village Board) or there is a potential economic benefit from the user that the Village will derive (as determined solely by the Village Board).

- a. The economic benefit derived by the Village shall exceed the cost, if any incurred by the Village for the extension of such water service.
- C. The owner with the Village Board approval shall pay the cost of extending water service from the existing water mains to the extremities of the property for easy access by future extensions, including but not limited to, all engineering fees, materials, labor and installation costs.
1. The Village may, in its discretion, contribute to the cost of extending the water main if the Village requires the owner to install a water main of larger than the standard size as defined elsewhere in the Village Code.

Section 2 Connections Outside Village Limits

- A. All persons making connection to any main which property is outside of the Village limits shall pay double the connection fee, and shall adhere to the same requirements as if inside the Village limits.
- B. the property owner shall sign a written agreement that the owner will annex his property to the Village when and if said property shall become contiguous to said Village, said agreement shall be recorded in the Office of the Recorder of Winnebago County.
 1. The owner shall follow the same annexation procedure as outlined in Article I of this Chapter.

Article V Disconnection of Water Service Lines and Demolitions

- A. All demolitions of properties where water service lines are present shall be inspected by the Superintendent for proof that existing water service lines have been removed and properly capped off.

1. Any costs, including but not limited to, labor, materials and inspection fees shall be paid by the owner.
- B. Disconnection of service lines at the water main shall be required on all existing services where the property is being demolished and where no buildings are going to be replaced.
1. Any costs, including but not limited to, labor, materials and inspections fees shall be paid by the owner.

Article VI Water Meters

- A. All water service connections shall be required to have a water meter to register water usage, as well as a touch pad outside readers.
- B. Water meters and readers can only be purchased from the Village of New Millford and must be installed according to the SSWM.
1. Cost of said meter will be based on the actual purchase price supplied to the Village.
 2. The owner shall be responsible for all expenses incurred for installation or future repair or replacement of said meter, including but not limited to, the cost of building materials, repairs or re-plumbing necessary or desirable to accommodate the water meter.
- C. For all dwellings having more than one tenant and only one meter, the meter shall be registered in the Property Owner's name.
- D. No building shall have water available until the Property Owner has a meter installed and the Water Department has programmed such meter.
- E. If the water meter or reading device should become damaged for any reason, the Property Owner shall be responsible for the cost of repairs or replacement thereof, including but not limited to, labor and material costs.

F. Testing of meter:

1. In the event that the water customer desires to have the meter tested for correct operation, the Water Department will remove said meter and seal it in the customer's presence.
2. If the meter test indicates that the meter is not working correctly, as defined by the Water Department, then the meter will be replaced or repaired at not charge to the owner and the testing fee will be waived.
3. If the meter test indicates that the meter is working correctly, as defined by the Water Department, then the meter will be replaced in the premises and the actual charge, including but not limited to, the charge for testing and any labor or materials expended by the Water Department for such testing, will be the responsibility of the Property Owner.

G. Failure of the meter:

1. When the meter fails to register, the charge for water used during the period of non-registration will be determined from the average water usage of the previous twelve months.
2. When such average is obviously unfair to either the customer or the Village, then an average will be agreed upon by both parties.
3. If both parties cannot agree, all the facts will be submitted to the Village Board and their decision will be final.

H. Use of water or of property of the Water Department contrary to the provisions herein, or the tampering with water meter devices, shall be illegal, subject to the penalties provided herein, including but not limited to, a fine not to exceed Five Hundred Dollars (\$500.00).

I. In the event that the interior water meter and the outside reading device (remote reader) do not have the same readings, then the inside meter shall be the

official reading for purposes of determine water usage and appropriate charges.

- J. In the even that the Water Department personnel cannot read the meter device due to inaccessibility, failure or accuracy of said water meter equipment, in order to determine water usage the bill shall be estimated bases on the average water usage of the previous twelve (12) months.

Article VII Protection of Water Department Property

- A. All devices installed on the customers premises for the purposes of facilitating the metering of water shall become the property of the owner, excluding the meter and the ert, which shall be owned by the Village of New Millford but protected and cared for by the Property Owner.
- B. The Property Owner shall protect and be responsible for such property in the case of loss or damages.
- C. Only authorized agents of the Water Department will be permitted to remove or replace such property unless stated differently elsewhere in this Chapter or approved otherwise.
 - 1. Removal of such property by parties other than those authorized to do so shall be subject to the penalties provided herein, including but not limited, a fine not to exceed Five Hundred Dollars (\$500.00).
- D. The Property Owner or customer shall maintain free access to all Water Department property.
- E. The Property Owner or customer shall not store or construct any obstacles which will interfere with the reading, repairing or removal of the water meter.
- F. The Property Owner shall keep his curb box and curb stop free from obstruction so that the water can be turned on or off whenever necessary without delay.
- J. Any person, firm or corporation, whosever may be working in any street or streets of the Village, who may disturb or in any way damage the Village water

mains, appurtenances, or thereto, shall be responsible to the Village for any and all such damages, and shall bear all expenses of labor and material of such replacement or repair made necessary thereby, and they shall also be responsible for damage to surrounding properties, on account of said damage to water mains.

Article VIII Access to Premises

- A. Authorized agents of the Water Department shall at all reasonable hours have access to premises for the purposes of inspecting, reading, repairing, testing or removing any and all Water Department property.
- B. All authorized agents of the Water Department can and shall present an identification card if asked to do so.

Article IX Discontinuing of Service for Repairs

- A. When it is necessary for the Water Department to interrupt water service for the purpose of repairing or extending the water main, it will endeavor to give notice of interruption and to shut off the water at a time when it will cause the least inconvenience to the customer.
- B. In case of a main break or pumping equipment failure requiring an immediate shut down or interruption of service, the Water Department shall not bear the responsibility of prior notice to its customers.
- C. All boilers or tanks on the customer's premises that are connected directly with the service line shall be required to have installed a check valve that adequately prevents it collapse or prevents damage in case the water is suddenly shut off.
- D. Only persons authorized by the Water Department shall turn on or off water valves or curb cocks.
- E. The Village shall not bear the responsibility for damages or loss due to interruption of water service.

Article X Notice to Plumbers and Excavators

- A. All plumbers, contractors and other persons shall contact and shall get written permission from the Superintendent prior to performing any excavating, tapping, repairing, changing or any other disturbances to the water mains or service lines.
- B. The Superintendent will use his or her best efforts to locate and mark any underground water mains or services.
- C. The plumber or contractor shall take every precaution to prevent damage to the water main or service line.
 - 1. If any damages do occur, the plumber or person that caused the damage and the owner who hired such person shall be jointly and severally liable and shall pay the cost, including but not limited to, repairs and liabilities resulting from such damages.
- D. All water connections shall follow the SSWM and local and State building codes.

Article XI Water Main Extensions and Subdivisions

- A. All subdividers/developers shall follow all the procedures and specifications as outlined in the SSWM provided by the Superintendent.
- B. The entire water system shall be installed by and paid for by the subdivider/developer.
- C. In such cases where the subdivider/developer is required to provide a later diameter main for future expansion and said subdivider/developer believes he is entitled to additional reimbursement, he shall appear before the Village Board.
 - 1. The reimbursement is to be made based on the difference between the cost of an eight inch (8") minimum size extension pipe which the Village Board may require to be installed and the cost of a larger pipe which the Village may require for future expansion.

2. If the increased size water main is required for the purposes of fire flow then the difference in the cost of the pipe does not apply for reimbursement by the Village.
 3. The Village Board will study the facts of the case and may or may not give additional reimbursement.
- D. The installation of the water main shall be inspected and the entire installation shall be approved by the Water Department and the Village Engineer in writing prior to final acceptance of the subdivision by the Village by the Water Department or Village Engineer.
1. Such costs for inspection shall be the responsibility of the subdivider/developer.

Article XII Replacing or Repairing Water Service Lines

Section 1 Leak or Break

- A. When a leak or break has been discovered in a water service line between the curb stop, to and including the premises, the Property Owner is responsible for repair or replacement, including but not limited to, all the expenses of labor and material of such repair or replacement.
- B. If the property owner has not taken action within twenty-four (24) hours after the Property Owner has been notified, the Water Department shall turn off or disconnect the service or shall cause the service to be disconnected with all labor and material to be paid for by the Property Owner and shall notify the Clerk of such.
- C. The Water Department shall be authorized to undertake said turn off or disconnection by using Water Department employees or by employing an independent contractor to perform such service.
- D. The Water Department has the right to shut off any service with a leak or break at any time that said leak or break, is in the opinion of the Water Department, causing or could cause serious damage to the street or property.

- E. The water service disconnection or reconnection shall be inspected by the Water Department and shall be in accordance with this Article and other rules and regulations of the Water Department.

Section 2 Costs

- A. The Property Owner shall be responsible for and shall pay all costs incurred by the Water Department or agents in disconnecting said service line.
- B. The Property Owner may select and pay for a plumber of his choice to replace the water service or it will be replaced by the Water Department at the Property Owner's expense.
- C. If the Water Department employees turn off or disconnect said service or do the work to correct said service, all costs shall be calculated on labor and material based on the prevailing rate of wages established by Village Ordinance.
- D. If the Water Department employs an independent contractor to perform said service, the amount of the charges incurred by the Village shall be paid by the Property Owner.
- E. The Property Owner shall make payment in full or seek Village Board approval for other arrangements, within twenty-one (21) days of mailing of a bill from the Village.
- F. If payment or terms/arrangements with the Village Board for time payments are made within said twenty-one (21) days, the water service shall become delinquent and result in being turned off or disconnected until the bill is paid along with late fees and a Twenty-five Dollar (\$25.00) turn off fee and a Twenty-five Dollar (\$25.00) turn on fee.

Article XIII Street Improvements

- A. Prior to any street improvements program where the street is improved with either a Portland cement concrete surface or a bituminous surface, all water services which are not type K soft copper shall be

replaced at the owner's expense for labor and materials.

- B. Water services shall also be extended to vacant lots containing fifty feet (50') or more frontage at the owner's expense for labor and materials.

Article XIV Fire Hydrants

- A. Fire hydrants are for the use of the New Milford Fire Protection District for the purpose of extinguishing fires.
- B. No persons other than members of said Fire District and persons authorized by the Water Department shall open or attempt to draw water from any fire hydrant.
- C. Fire hydrant locations and installations shall follow the SSWM as provided by the Water Department.
- D. Flushing of hydrants will be performed by the Water Department on a timely schedule and the Village shall not bear the expense of any loss or damage due to such flushing.

Article XV Cross-Connections

- A. Definitions. For purposes of this Article, the following definitions shall apply:

BACKFLOW: The reversal of flow from that normally intended. The flow of water or other liquids, mixtures or substances into the distributing pipe of a potable supply of water from any source or sources other than its intended source.

CROSS-CONNECTION: A connection or arrangement of piping or appurtenance through which a backflow could occur.

SAFE AIR GAP: The air gap in a water supply system that is the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank or plumbing fixture and the flood-level rim of the receptacle.

SECONDARY WATER SUPPLY: The water supply system maintained in addition to the public water supply system, including but not limited to, water systems from ground or surface resources, or water from a public water supply which in any way has been treated, processed or exposed to any possible contaminant or stored in other than an approved storage facility.

SUBMERGED INLET: A water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant and which is unprotected against backflow.

WATER UTILITY OR PUBLIC WATER SUPPLY SYSTEM: The water system maintained by the Village of New Millford by and through its Water Department.

- B. Compliance with Existing Laws. A connection with the public water supply system shall comply with the existing laws and rules of the Illinois State Plumbing Code, the provisions of the Code of the Village of New Millford and the rules and regulations of the Illinois Environmental Protection Agency.
- C. Cross-Connections. Cross-connection of the public water supply system and any other water supply system or source, including but not limited to, the following is prohibited:
 - 1. Between a public water supply system and a secondary water supply.
 - 2. Between a public water supply system and a submerged inlet.
 - 3. Between a public water supply system and a lawn sprinkling system.
 - 4. Between a public water supply system and piping immersed in a tank or vessel which may contain a contaminant.
- D. Local Cross-Connection Control Program. The Village shall develop a comprehensive control program for the elimination and prevention of all cross-connections

and removal of all existing cross-connections and prevention of all future cross-connections.

E. Corrections and Protective Devices.

1. Any use of the public water supply system shall obtain written approval from the Water Department of any proposed corrective action or protective device intended to eliminate or prevent a cross-connection before its use or installation.
2. The time allowed for completion of the necessary corrective action required to eliminate cross-connections shall be dependent upon the degree of hazard involved and the time required to obtain and install the equipment.
3. If the cross-connection has not been removed within the time as hereinafter specified, the Village shall physically separate the public water supply system from the on-site piping system in such a manner that the two (2) systems cannot be connected by persons other than employees of the Water Department.

F. Piping Identification. When a secondary water source is used in addition to the public water supply system, the public water supply and the secondary water piping shall be identified by distinguishing colors or tags and so maintained that each pipe may be readily traced in its entirety to its origin in order to protect the public water supply at the service connection in a manner acceptable to the Water Department.

G. Private Water Storage Tanks. A private water storage tank supplied from the public water supply system shall be deemed a secondary water supply unless it is designed and approved for potable water usage.

H. Elimination of Existing Cross-Connections:

1. Within one year from the effective date of this Article, all existing cross-connections to the water supply system shall be eliminated.

2. The expense of such elimination shall be that of the Property Owner on which such cross-connection exists.

I. Inspection:

1. The Water Department or any representative thereof shall have the authority to inspect any premises to determine the presence of any existing cross-connection and to order the elimination of such cross-connection.
2. Any new plumbing system shall be inspected by the Water Department and also a licensed plumber certified by the State as a cross-connection control device inspector.

J. Discontinuance of Water Service.

1. The Water Department is hereby authorized to discontinue water service after reasonable notice to any person owning any property where a cross-connection exists in violation of this Code.
2. The Water Department may take such other measures as necessary to eliminate any danger of contamination of the public water supply system.
3. Water service to such property shall not be restored until such cross-connection has been eliminated.

- K. Prohibition. No user of the Village water supply system shall cause or allow any cross-connection to exist on his premises.

Article XVI Private Wells

- A. Private wells are not permitted within the Village without a permit from the Village Board, and no permit for a private well shall be granted in the event that the Village Water Supply is within 1000 feet of any property line of the applicant for a well permit.
- B. The Property Owner shall be required to pay the total cost of labor and materials to extend the water main to the Owner's property line.

1. Such extension shall follow the SSWM.
- C. The Village may, in its discretion, contribute to the cost of extending the water main if the Village of New Millford requires the Property Owner to install a water main of larger than the standard size as required by the Village.
- D. When a water main becomes available and the well is determined unfit by the Winnebago County Department of Health or an Illinois Licensed Sanitarian, then a water service line shall be connected to said water main within ninety (90) days and the private well must be properly abandoned in accordance with Village, County and State codes. The Water Department shall receive documentation from the Property Owner within said time period showing a properly abandoned well.
1. The private well shall be determined unfit in the event that contamination is found.
 2. To determine contamination, a test will be required via a Winnebago County Department of Health or an Illinois Licensed Sanitarian.
 3. An annual test shall be required to prove fitness for any private well within the Village limits at the expense of the Property Owner.

Article XVII Water Department Employees

- A. The management and supervision of the Water Department of the Village of New Millford of any and all property pertaining thereto, shall be vested in the Water Superintendent of said Village, hereinafter known as the Superintendent.
- B. The Superintendent shall:
1. Have the duty to protect the Water Department from unnecessary damage or loss and keep said Water Department in good running order and repair.

2. Direct all work pertaining to the future extension of said Water Department and all repairs upon the same of every kind and nature.
 3. Have the duty to enforce all the provisions of this Chapter.
 4. Make monthly reports to the Public Works Committee or the Village Board, or more often if required, such reports shall be determined by the Committee.
 5. Keep an accurate map or profile of all the water mains now or hereinafter laid in said Village on file in his office with their dimensions, locations and connections, hydrants and service connections.
 6. Keep an accurate map showing easements.
 7. Perform such other duties as may be required by the Village Board.
- C. Identification: Inspectors, Foreman, Meter Readers or any other employees or authorized agents of the Water Department whose duty it may be to enter upon private premises to make inspection and examination of water meters, pipes, fixtures or appurtenances thereto, for any reason whatsoever in connection with the Village water supply, will be provided with an Identification Card, or other credentials to identify him, or them, as authorized agents and representatives of the Village Water Department.

Article XVIII Sprinkling Lawns or Water Bans

- A. This section shall be enforced at the discretion of the Village Board, based on the extra dry weather conditions or if the running order of the water distribution system, is in a state of emergency, as established by the Superintendent.
1. The Water Ban will be first published in one or more local newspapers or given as a notice on a prior billing.

2. When such condition exists, the Village will be divided into two (2) areas utilizing odd/even addresses through the Village.
- B. Sprinkling or watering of lawns, grass or parkways during a declared emergency or water ban announcement is lawful and permitted on the even side of the street only on Monday, Wednesday and Friday.
 - C. Sprinkling or watering of lawns, grass or parkways during a declared emergency or water ban announcement is lawful and permitted on the odd side of the street only on Tuesday, Thursday and Saturday.
 - D. During the water ban announcement or emergency it is unlawful to sprinkle or water on Sunday or on any other day except as above designated.
 - E. It shall be unlawful for any person, corporation or other entity to violate or fail to comply with any of the provisions of this Article, and any person who violates any provision of this Article shall be liable for a fine of Twenty-five Dollars (\$25.00), if paid within ten (10) days of the date of issuance of a citation or complain, or Fifty Dollars (\$50.00) if paid after the ten (10) days from said issuance.
 - F. Any person, corporation or other entity that violates or fails to comply with the provisions of this Article for a second offense shall be liable for said fines that are twice the amounts stated in Subparagraph E above.

Article XIX Water Service Rates

- A. Operation, Maintenance and Debt Service costs estimated for the distribution system will be established for all customers equally, and shall be as follows:
 1. All water users shall pay the metered rate of Four and 86/100ths Dollars (\$4.86) per one thousand (1000) gallons of volume used.
 2. The minimum flat rate shall be Fifteen Dollars (\$15.00) a month, plus any bond surcharge

necessary for the improvement or maintenance of the water system.

- B. Rates charged to accounts outside the corporate boundaries of the Village of New Millford shall be one hundred fifty percent (150%) of the identical rates charged to accounts inside the corporate boundaries of the Village.
- C. Metered accounts that do not get true readings, and/or had their meter removed for repair, shall have their monthly bill estimated using the prior twelve months water usage as an average.
- D. The adequacy of the water rates for operating the system in a fiscally sound manner shall be reviewed periodically by the Village Board and may be revised to reflect changes in costs for operating the system, including but not limited to, operations, maintenance, debt service and capital improvements.
- E. Mobile home parks shall be charged a minimum \$5.00/lot connection per month plus Four and 86/100ths Dollars (\$4.86) per one thousand (1000) gallons used.

Article XX Billing

Section 1 Billing Procedure

- A. All water bills shall be paid on or before the due date as noted on the water bill.
- B. Bills and notices will be mailed or delivered to the customer's last address as shown by the records of the Clerk, failure to receive a bill will not relieve the customer from his obligation to pay the bill.
- C. All bills for water service shall become delinquent twenty-one (21) days after the date thereon.
- D. If payment of a bill is made by mail, the post office cancellation date shown by the sending post office will determine the date of payment.
 - 1. If the cancellation date is beyond the due date then late fees will be applied to the customer's next bill.

- E. If payment of bill is made by dropping it in the drop box on the Village Hall door, then it will be posted for payment at the next business day of the Clerk as noted upon the door.

Section 2 Delinquency Procedure

- A. On the twenty-second (22) day after the date thereon, or thereafter, a second bill will be sent with indication of delinquency including all late charges and notice of an additional ten (10) days to pay the charges.
- B. Ten Dollars (\$10.00) or ten percent (10%) late charge, whichever is greater, will be added on the twenty-second (22) day.
- C. If the bill has not been paid by the thirty-second (32) day after the original bill, a final notice will be mailed (certified) indicating the delinquency and the certification fee will be added to the customer's account.
 - 1. The notice will include an additional ten (10) days beginning from the mailing date of said notice to pay the delinquent charges or the water will be turned off to the premises and a shut off fee of Twenty-five Dollars (\$25.00) and turn on fee of Twenty-five Dollars (\$25.00) will be required to be paid in order for service to be reinstated.
- D. If the bill has not been paid before the date indicated on the final notice, then the procedure for termination will take place for such water service.
- E. Disputes involving Section 2 of this Article XX may be brought to the Public Works Committee for review.

Section 3 Person Responsible for Payment

- A. The owner of the premises, the occupant thereof, the tenant thereof, or the user of the water service shall be jointly and severally liable to pay for the service to such premises.

- B. In the event the water bill is not paid, the owner or occupant or user or tenant shall be jointly and severally liable to pay all costs incurred in collecting said water bill, including but not limited to, all reasonable attorney's fees and court costs.

Section 4 Lien Notice of Delinquency

- A. Lien: In the event charges for water service remains unpaid after rendition of the bill for such services, such charges shall be deemed and are hereby declared to be delinquent and thereafter such delinquency shall constitute a lien upon the real estate for which service is supplied, and the Clerk is hereby authorized and directed to file with the County Recorder of Deed of Winnebago County a notice of lien claim showing such delinquencies and the filing of such statement shall be deemed notice of the lien for said water service.
- B. This notice shall consist of a sworn statement setting out the following:
 - 1. The address of the premises served.
 - 2. The amount of money due for such water service.
 - 3. The date when such amount became delinquent.
 - 4. The Village's reasonable Attorney's fees.
 - 5. The Recorder's fees.
 - 6. The costs for verifying the legal description of the property.
- C. This remedy of a lien notice shall not be construed to limit or in any manner interfere with the right and power of the Village to enforce collection of the unpaid water bills or any other violation of this Ordinance by any other action.
- D. Notification of lien:
 - 1. If the user whose bill is unpaid is not the owner of the premises and the Clerk has notice of this, then the notice shall be mailed to the owner of the premises, if his address be known to the Clerk.
 - 2. Failure of the Clerk to mail such notice or the failure of the owner to receive such notice shall

not affect the right to foreclose the lien for unpaid bills, as provided in this Section.

- E. Foreclosure of lien: property subject to a lien for unpaid charges shall be foreclosed in the manner as provided by the Illinois Compiled Statutes.
- F. Every water lien shall, upon compliance with the condition hereinafter set forth, become and be prior and superior to the rights and interest of creditors, encumbrances, purchasers and other parties in interest in the premises and real estate.
- G. When this Chapter shall become effective, a copy of this Section thereof property certified by the Clerk shall be filed in the office of the Recorder of Deeds of Winnebago County, and shall be deemed notice to all owners of real estate of their liability for charges for the water system supplied to any occupant or user of such service on their property.
- H. The lien provisions established in this Chapter shall become effective upon passage, approval and publication of this Chapter.
- I. No water lien shall be defeated to the proper amount thereof because of an error or overcharge on the part of the Village, nor shall any such lien be defeated upon proof that such water was used or contracted for by a tenant of the premises or occupant thereof or user thereof other than the owner.

Section 5 Revenues and Accounts

- A. The Clerk shall keep accounts of all the money received by the Clerk's Office for payment of water bills, and the source and disposition thereof; and such other accounts as may be required by Statute.
- B. The Clerk shall promptly deposit all money received for payment of water bills on behalf of the Village of New Millford and make necessary reports to the Village.
- C. The Village Clerk or their authorized agent shall keep accurate records of all money received showing the source from which it is received, the purpose for

which it is paid; and shall keep records at all times showing the financial status of the Water Department and report such facts to the Village Board of Trustees.

Article XXI

Customer Billing and/or Violation Appeals Procedure

- A. At any time before the date of termination of water service for nonpayment of the amount shown on the water bill or for a violation of this Article or for a notice of rejection, a customer may dispute the basis of the termination, violation or rejection.
- B. The customer shall not be entitled to dispute the basis of termination, violation or rejection if the basis was the subject of a previous dispute under this Article.
- C. The procedure for customer disputes shall be as follows:
 - 1. If a notice of termination has been given for nonpayment for water usage charges or violation of this Article or any other reasons to which they have received such notice, the customer shall have the right to dispute such notice by notifying the Clerk before the date of termination, in writing, that they dispute such notice and state as completely as possible the basis for their dispute.
 - 2. If a notice of rejection has been given, the customer shall notify the Clerk, in writing, that they dispute the reasons for rejection and state as completely as possible the basis for their dispute.
 - 3. If the Clerk determines that the present dispute is untimely or that the customer previously disputed the basis, the Clerk shall mail to the customer a notice stating that the present dispute is untimely or invalid.
 - a. A dispute is considered untimely if filed after the water service has been terminated and the Water Department shall then proceed

as if the customer had not notified the Clerk of the present dispute.

- b. If the Clerk determines that the present dispute is not untimely or invalid under this Article, the Clerk will within three (3) days after receipt of the customer's notice or a reasonable time thereafter, arrange or attempt to arrange an informal meeting between the customer, the Chairman of the Public Works Committee, the Village President, the Superintendent of the Water Department and/or the Clerk.
4. Water Department records, Village records, customer's allegations and all other relevant materials available shall be used to resolve the dispute in a manner satisfactory to all parties involved in the dispute.
5. Within five (5) days of completion of the meeting, the Clerk shall mail to the customer a copy of the decision from the meeting resolving the dispute.
6. If the decision is unsatisfactory to the customer, the customer, within five (5) days of the mailing of the Village's decision, as determined by the postmark, may file, in writing with the Clerk, a request for a formal hearing before the Village Board.
7. The formal hearing before the Board shall be held at its next regularly scheduled Board meeting following the Clerk's receipt of the customer's written request.
8. At the hearing, the Superintendent, the Committee Chairman, and the customer shall be entitled to present all evidence that is, in the Village Board's view, relevant and material to the dispute, and to examine and cross-examine witnesses. A stenographic record of the hearing shall be maintained, at the customer's cost (to be added to the water bill).

9. Based on the record established at the hearing, the Board, within five (5) days of the completion of the hearing, shall issue its written decision formally resolving the dispute.
 10. This decision shall be final and binding on the Water Department and on the customer.
- D. Utilization of this dispute procedure shall not relieve a customer of his obligation to:
1. Timely and completely pay all other undisputed water charges or other fees or costs provided for herein.
 2. Timely and completely pay the undisputed portions of the amounts which are subject to the present dispute.
 3. Comply with all other provisions as set forth in this Article.
- E. Until the date of the Village Board's decision, the Water Department shall not terminate the water service of the customer and shall not issue a notice of termination to him solely based upon the matters in dispute.
- F. If it is determined that the customer must pay some or all of the disputed amounts, or must take some action to comply with all other provisions of this Article, the Superintendent or the Village Board shall promptly mail to, or personally serve upon the customer, a notice of termination, which shall contain the following:
1. The amount to be paid or the violation to be corrected.
 2. The date of the notice of termination.
 3. The date of termination.
 4. Notice that unless the Clerk receives complete payment in the amount shown prior to the date of termination, or that the violation has been corrected, water service shall be terminated.

Article XXII Termination of the Water Services

Section 1 Requested Turn Off/On or Disconnect/Re-Connect

- A. Whenever a premise is to be vacated or closed for any period of time, application shall be made to the Water Department to have the water supply turned off or disconnected.
- B. The Water Department shall then proceed to turn off the water, read and if necessary, remove the water meter.
- C. The customer will receive a bill for water usage based on the meter reading and pay an additional fee as described below.
 - 1. If the request is for turning off of service at the curb stop then a fee of Twelve and 50/100ths Dollars (\$12.50) shall apply.
 - 2. If the request is for disconnection of service then the customer will be required to pay the charges, including but not limited to, the costs of labor and materials.
- D. Whenever the premises requires the water service to be turned on or re-connected to the water system then application shall be made to the Water Department and a fee for such will be charged as follows:
 - 1. If the request is for turning on of service at the curb stop then a fee of Twelve and 50/100ths Dollars (\$12.50) shall apply.
 - 2. If the request is for re-connection of service then the customer will be required to pay the charges, including but not limited to, the costs of labor and materials.

Section 2 Termination Due to Delinquency or Violation of this Article

- A. The provisions of this Section shall govern all terminations of water service for nonpayment of utility charges or for failure to comply with any of

the provisions as set forth in this Article.

- B. If by the payment date shown on the water bill the Village has not received complete payment of the amounts shown on the bill or that violations of this Article have not been corrected, then the Water Department shall mail to, or personally serve upon the customer, a notice of termination.
- C. The notice of termination shall contain the following:
 - 1. The amount to be paid or the violation to be corrected.
 - 2. The date of notice of termination.
 - 3. The date of termination, which shall be at least ten (10) days from the date of notice of termination.
 - 4. Notice that unless the Water Department receives complete payment of the amount shown or that the violation has been corrected prior to the date of termination, the water service shall be terminated.
- D. If, prior to the date of termination the Water Department has not received complete payment of the amount shown on the notice of termination or corrected the violation for such notice or the customer has not notified the Clerk that he disputes the correctness of the notice then the Water Department shall terminate the water service provided to the customer on the date of termination.
- E. If the Water Department receives payment of the entire amount shown on the notice of termination or the violation has been corrected prior to the date of termination, such payment or correction shall be considered timely for the purposes of this Article.

Section 3 Limitations on Termination of Water Service

- A. The Water Department shall terminate water service for nonpayment of water charges and/or violations to this Article only between the hours of eight o'clock (8:00)

a.m. and three o'clock (3:00) p.m. Monday through Thursday.

1. No terminations shall be permitted on Friday, Saturday, Sunday or a legal holiday or on the day before a legal holiday.
- B. No terminations shall be permitted on a day when the low temperature within the previous twenty-four (24) hours, as reported by the National Weather Service at its First Order Station nearest the residence, was below zero (0) degrees Fahrenheit.
- C. If water service to a residential customer has been terminated and not reinstated by three o'clock (3:00) p.m. on the day of termination, when the low temperature within the previous twenty-four (24) hours, as reported by the National Weather Service, was below thirty-two (32) degrees Fahrenheit, the Water Department shall notify the Police Department and the County Health Department on the day of termination of the following:
 1. The name of the customer.
 2. The address and location of the residence no longer receiving water service.
- D. The Water Department shall not initially undertake to terminate water service for nonpayment of amounts totaling less than Forty Dollars (\$40.00).

Section 4 Reinstatement of Water Services

- A. When a water service has been terminated in accordance with the provisions of this Article, the Water Department shall be instructed to reinstate such service when:
 1. Complete payment of the amount whose nonpayment prompted the termination with an additional fee of Twenty-five Dollars (\$25.00) for turn off and Twenty-five Dollars (\$25.00) for turn on has been paid to the Water Department; or

2. Notice has been received by the Water Department that the violation of this Article has been corrected.
- B. The Water Department will reinstate the water service to the customer within one full working day of the Water Department when provisions in Subparagraph (A) have been completed.
1. The Water Department will not reinstate water service on a Saturday, Sunday or legal holidays.
- C. Such payment or correction of violation shall not be considered as timely for the purposes of this Article.

CHAPTER 23.
REGULATIONS TO MINIMIZE FLOODING AND
FLOOD DAMAGE TO PROPERTIES

Sec. 23-1. - Purpose.

This Chapter is enacted pursuant to the police powers granted to this Village by the Illinois Municipal Code (65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8 and 5/11-31-2) in order to accomplish the following purposes:

- (a) To prevent unwise developments from increasing flood or drainage hazards to others;
- (b) Protect new buildings and major improvements to buildings from flood damage;
- (c) To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, as well as flood rescue and relief operations;
- (d) To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- (e) Maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- (f) Make federally subsidized flood insurance available, and
- (g) To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

Sec. 23-2. - Definitions.

For the purposes of this Chapter, the following definitions are adopted:

Base flood means the flood having a one percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in section 23-3 of this Chapter.

Base flood elevation (BFE) means the elevation in relation to mean sea level of the crest of the base flood.

Basement means that portion of a building having its floor sub-grade (below ground level) on all sides.

Building means a walled and roofed structure, including gas or liquid storage tank that is principally above ground, including manufactured homes, prefabricated buildings and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than 180 days per year.

Critical facility means any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk.

Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals retirement homes and senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers, and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances).

Development means any man-made change to real estate including, but not necessarily limited to:

- (1) Demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building;
- (2) Substantial improvement of an existing building;
- (3) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than 180 days per year;
- (4) Installation of utilities, construction of roads, bridges, culverts or similar projects;
- (5) Construction or erection of levees, dams walls or fences;
- (6) Drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
- (7) Storage of materials including the placement of gas and liquid storage tanks, and channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include routine maintenance of existing buildings and facilities, resurfacing roads, or gardening,

plowing, and similar practices that do not involve filing, grading, or construction of levees.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood fringe means that portion of the floodplain outside of the regulatory floodway.

Flood insurance rate map means a map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHS) within a community. This map includes insurance rate zones and may or may not depict floodways and show base flood elevations.

Flood insurance study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain and special flood hazard area (SFHA). These two terms are synonymous. Those lands within the jurisdiction of the Village of New Milford, the extraterritorial jurisdiction of the Village of New Milford, or that may be annexed into the Village of New Milford that are subject to inundation by the base flood. The floodplains of the Village of New Milford are generally identified as such on panel number(s): 17201C0387 and 17201C0391 of the Flood Insurance Rate Map of Winnebago County and dated September 6, 2006; and 17201C0379 and 17201C383 of the Flood Insurance Rate Map of Winnebago County prepared by the Federal Emergency Management Agency and dated February 17, 2016. Floodplain also includes those areas of known flooding as identified by the community.

The floodplains of those parts of unincorporated Winnebago Counties that are within the extraterritorial jurisdiction of the Village of New Milford or that may be annexed into the Village of New Milford are generally identified as such on the Flood Insurance Rate map prepared for Winnebago County by the Federal Emergency Management Agency and dated February 17, 2016.

Floodproofing means any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

Floodproofing certificate means a form published by the Federal Emergency management agency that is used to certify that a building has been designed and constructed to be structurally dry flood proofed to the flood protection elevation.

Flood protection elevation (FPE) means the elevation of the base flood plus one foot of freeboard at any given location in the floodplain.

Floodway means that portion of the floodplain required to store and convey the base flood. The floodway for the floodplains of the Kishwaukee River shall be as delineated on the on panel number(s): 17201C0387 and 17201C0391 of the Flood Insurance Rate Map of Winnebago County and dated September 6, 2006; 17201C0379 and 17201C383 of the Flood Insurance Rate Map of Winnebago County prepared by the Federal Emergency Management Agency and dated February 17, 2016. The floodways for each of the remaining floodplains of the Village of New Milford shall be according to the best data available from the federal, state, or other sources.

Freeboard means an increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, future watershed development, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- (3) Individually listed on the state inventory of historic places by the Illinois Historic Preservation Agency.

(4) Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

IDNR/OWR means the Illinois Department of Natural Resources/Office of Water Resources.

IDNR/OWR Jurisdictional Stream - Illinois Department of Natural Resource Office of Water Resources has jurisdiction over any stream serving a tributary area of 640 acres or more in an urban area, or in the floodway of any stream serving a tributary area of 6,400 acres or more in a rural area. Construction on these streams requires a permit from the Department. (Ill. Admin. Code tit. 17, pt. 3700.30). The Department may grant approval for specific types of activities by issuance of a statement permit which meets the standards defined in Section 6 of this Chapter.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of section 23-7 of this Chapter.

Manufactured home means a structure transportable in one or more sections that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

New construction means structures for which the start of construction commenced or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

NFIP means the National Flood Insurance Program.

Recreational vehicle or travel trailer means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less in size;
- (3) Designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Repetitive loss means flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25 percent of the market value of the structure before the damage occurred.

SFHA. See definition of "floodplain".

Start of construction includes substantial improvement and means the date the building permit was issued. This, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement, was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or placement of a manufactured home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

Structure. See "building".

Substantial damage means damage of any origin sustained by a structure whereby the cumulative percentage of damage, subsequent to the adoption of this Chapter, equals or exceeds 50 percent of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes "repetitive loss buildings" (see definition).

Substantial improvement means any reconstruction, rehabilitation, addition or improvement of a structure taking place, subsequent to the adoption of this Chapter, in which the cumulative percentage of improvements:

Equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started, or

Increases the floor area by more than 20 percent.

"Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (2) Any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the required federal, state, and/or local permits and elevation certification is presumed to be in violation until such time as the documentation is provided.

Sec. 23-3. - Base flood elevation.

This Chapter's protection standard is the base flood. The best available base flood data are listed below. Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace the existing data with better data and submit it to the FEMA and IDNR/OWR for approval prior to any development of the site.

- (a) The base flood elevation for the floodplains of the Kishwaukee River shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Winnebago County prepared by the Federal Emergency Management Agency and dated February 17, 2016.
- (b) The base flood elevation for each floodplain delineated as an "AH zone" or "AO" zone shall be that elevation (or depth) delineated on the Flood Insurance Study of Winnebago County prepared by the Federal Emergency Management Agency and dated February 17, 2016.
- (c) The base flood elevation for each of the remaining floodplains delineated as an A zone on the Flood Insurance Study of Winnebago County prepared by the Federal Emergency Management Agency and dated February 17, 2016 shall be

according to the best data available from federal, state or sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations.

- (d) The base flood elevation for the floodplains of those parts of unincorporated Winnebago County that are within the extraterritorial jurisdiction of the Village of New Milford, or that may be annexed into the Village of New Milford shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Winnebago County prepared by the Federal Emergency Management Agency and dated February 17, 2016.

Sec. 23-4. - Duties of the Village Engineer.

The Village Engineer shall be responsible for the general administration of this Chapter and ensure that all development activities within the floodplains under the jurisdiction of the Village of New Milford meet the requirements of this Chapter. Specifically, the Village Engineer shall:

- (a) Process development permits in accordance with Section 23-5;
- (b) Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of Section 23-6;
- (c) Ensure that the building protection requirements for all buildings subject to Section 23-7 are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or flood proof certificate;
- (d) Assure that all subdivisions and annexations meet the requirements of Section 23-8;
- (e) Ensure that water supply and waste disposal systems meet the public health standards of Section 23-9;
- (f) If a variance is requested, ensure that the requirements of Section 23-11 are met and maintain documentation of any variances granted;
- (g) Inspect all development projects and take any and all penalty actions outlined in Section 23-13 as a necessary to ensure compliance with this Chapter;
- (h) Assure that applicants are aware of and obtain any and all other required local, state, and federal permits;
- (i) Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;

- (j) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- (k) Cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this Chapter;
- (l) Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this Chapter;
- (m) Perform site inspections to ensure compliance with this Chapter and make substantial damage determinations for structures within the floodplain, and
- (n) Maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within six months whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map.

Sec. 23-5. - Development permit.

No person, firm, corporation, or governmental body not exempted by law shall commence any development in the floodplain without first obtaining a development permit from the Village Engineer. The Village Engineer shall not issue a development permit if the proposed development does not meet the requirements of this Chapter.

- (a) The application for development permit shall be accompanied by:
 - (1) Drawings of the site, drawn to scale showing property line dimensions;
 - (2) Existing grade elevations and all changes in grade resulting from excavation or filling;
 - (3) The location and dimensions of all buildings and additions to buildings;
 - (4) The elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Section 23-7 of this Chapter, and
 - (5) Cost of project or improvements as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.
- (b) Upon receipt of an application for a development permit, the Village Engineer shall compare the elevation of the site

to the base flood elevation. Any development located on land that is shown by survey elevation to be below the current base flood elevation is subject to the provisions of this ordinance. In addition, any development located on land shown to be below the base flood elevation and hydraulically connected to a flood source, but not identified as floodplain on the current Flood Insurance Rate Map, is subject to the provisions of this ordinance. Any development located on land that can be shown by survey data to be higher than the current base flood elevation and which has not been filled after the date of the site's first Flood Insurance Rate Map is not in the floodplain and therefore not subject to the provisions of this ordinance.

The Village Engineer shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first flood insurance rate map identification.

The Village Engineer shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The Village Engineer **shall** not issue a permit unless all other federal, state, and local permits have been obtained.

Sec. 23-6. - Preventing increased flood heights and resulting damages.

Within any floodway identified on the countywide flood insurance rate map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

(a) Except as provided in subsection 23-6(b) of this Chapter, no development shall be allowed which, acting in combination with existing and anticipated development will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

(1) Bridge and culvert crossings of streams in rural areas meeting the following conditions of the Illinois Department of Natural Resources, Office of Water Resources Statewide Permit Number 2:

a. The crossing will not result in an increase in water surface profile elevation in excess of 1.0 foot, and

- b. The crossing will not result in an increase in water surface profile elevation in excess of 0.5 foot at a point 1,000 feet upstream of the proposed structure.
 - c. There are no buildings in the area impacted by the increases in water surface profile.
 - d. The proposed bridge or culvert crossing will not involve straightening, enlarging, or relocating the existing channel.
 - e. The design must be certified by a registered professional engineer in the State of Illinois and the designs must meet the conditions of an IDNR/OWR permit.
 - f. The design must be certified by a second registered professional engineer.
- (2) Barge fleeting facilities meeting the following conditions of IDNR/OWR Statewide Permit Number 3:
- a. The permit is only applicable when deadmen, pier cells, or other similar anchorage devices have been permitted by the U.S. Army Corps of Engineers.
- (3) Aerial utility crossings meeting the following conditions of IDNR/OWR Statewide Permit Number 4:
- a. The utility line must be constructed above the existing 100-year flood elevation or attached to an existing bridge.
 - b. A utility line attached to an existing bridge shall be constructed above the low cord elevation of the bridge.
 - c. No supporting towers or poles shall be located in a river, lake or stream.
 - d. Supporting towers including foundation and poles shall be designed and located so as to not cause an obstruction of flood flows by trapping debris.
 - e. All disturbed areas shall be returned to pre-construction grades and re-vegetated.
 - f. All Illinois Commerce Commission, National Electrical Safety Code, and federal requirements must be met.
- (4) Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit Number 5:
- a. The boat dock must not extend more than 50 feet into a waterway and no more than one quarter of the width of the waterway and shall not extend beyond the

navigational limited established by the IDNR and Corps of Engineers.

- b. The width of the boat dock shall not be more than ten feet.
 - c. For L-Shaped or T-shaped docks, the length of that portion parallel to the shoreline must not exceed 50 percent of the landowner's shoreline frontage nor 50 feet.
 - d. Docks must be aligned so as not to cross the projection of property lines into the waterway or come within ten feet of the projected property line.
 - e. Dock posts must be marked by reflective devices.
 - f. The boat dock must be securely anchored to prevent detachment during times of high wind or water.
 - g. Metal drums or containers may not be used as buoyancy units unless they are filled with floatation foam. Containers which previously stored pesticides, herbicides, or any other toxic chemicals are not permissible.
 - h. This permit does not authorize any other related construction activity such as shore protection or fill.
 - i. Nonfloating boat docks must be constructed in a manner which will minimize obstruction to flow.
 - j. At any future date, the permittee must agree to make necessary modifications to the dock as determined by the IDNR or Corp of Engineers
- (5) Minor, nonobstructive activities meeting the following conditions of IDNR/OWR Statewide Permit Number 6:
- a. The following activities (not involving fill or positive change in grade) are covered by this permit:
 - 1. The construction of underground utility lines, wells, or septic tanks not crossing a lake or stream.
 - 2. The construction of light poles, sign posts, and similar structures.
 - 3. The construction of sidewalks, driveways, athletic fields (excluding fences), patios, and similar structures.

4. The construction of properly anchored, unwalled, open structures such as playground equipment, pavilions, and carports.
 5. The placement of properly anchored buildings not exceeding 70 square feet in size, nor ten square feet in any dimension. Only one such building on a property is authorized by this statewide permit.
 6. The raising of existing buildings, provided no changes are made to the outside dimensions of the building and the placement of fill is not involved.
- (6) Outfall structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit Number 7:
- a. Any outfall structure, including any headwall or end-section, shall not extend riverward or lakeward of the existing adjacent natural bank slope or adjacent bank protection.
 - b. The velocity of the discharge shall not exceed the scour velocity of the channel soil, unless channel erosion would be prevented by the use of riprap or other design measures.
 - c. Outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation.
 - d. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
- (7) Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 8:
- a. In all cases, the crossing shall be placed beneath the bed of the river, lake or stream and, unless the crossing is encased in concrete or entrenched in bedrock, a minimum of three feet of cover shall be provided. The river, lake or streambed shall be returned to its original condition.
 - b. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including stream banks, shall be restored to their original

contours and seeded or otherwise stabilized upon completion of construction.

- c. Any utility crossing carrying material which may cause water pollution, as defined by the Environmental Protection Act (415 ILCS 5), shall be provided with shut-off valves on each side of the body of water to be crossed.
 - d. If blasting is to be utilized in the construction of the crossing, the permittee shall notify the IDNR/OWR at least ten days prior to the blasting date to allow monitoring of any related fish kills.
- (8) Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit Number 9:
- a. Only the following materials may be utilized in urban areas: stone and concrete riprap, steel sheet piling, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, natural vegetation and treated timber. Urban areas are defined as: areas of the state where residential, commercial, or industrial development currently exists or, based on land use plans or controls, is expected to occur within ten years. (The department should be consulted if there is a question of whether or not an area is considered urban).
 - b. In addition to the materials listed in subsection 23-6(8)a., other materials (e.g. tire revetments) may be utilized in rural areas provided all other conditions of this permit are met.
 - c. The following materials shall not be used in any case: auto bodies, garbage or debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous materials, or any material which would cause water pollution as defined by the Environmental Protections Act (415 ILCS 5).
 - d. The affected length of shoreline, stream bank, or channel to be protected shall not exceed, either singularly or cumulatively, 1,000 feet.
 - e. All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action.

- f. Materials shall be placed in a way which would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.
- g. Materials shall not be placed higher than the existing top of the bank.
- h. Materials shall be placed so that the modified bank full-width and cross-sectional area of the channel will conform to or be no more restrictive than that of the natural channel upstream and downstream of the site.

For projects involving continuous placement of riprap along the bank, toe of the bank or other similar applications, in no case shall the cross-sectional area of the natural channel be reduced by more than ten percent nor the volume of material placed exceed two cubic yards per lineal foot of the stream bank or shoreline. The bank may be graded to obtain a flatter slope and to lessen the quantity of material required.

- i. If broken concrete is used, all protruding materials such as reinforcing rods shall be cut flush with the surface of the concrete and removed from the construction area.
- j. Disturbance of vegetation shall be kept to a minimum during construction to prevent corrosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of construction.
- k. In the case of seawalls and gabion structures on lakes, the structure shall be constructed at or landward of the water line as determined by the normal pool elevation, unless:
 - 1. It is constructed in alignment with an existing seawall(s) or gabion structure(s), and
 - 2. The volume of material placed, including the structure, would not exceed two cubic yards per lineal foot.
- l. Excess material excavated during the construction of the bank or shoreline protection shall be placed in accordance with local, state, and federal laws and rules, shall not be placed in a floodway.

- (9) Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit Number 10:

- a. The accessory structure or building addition must comply with the requirements of the local floodplain ordinance.
 - b. The principle structure to which the project is being added must have been in existence on the effective date of this permit (July 25, 1988).
 - c. The accessory structure or addition must not exceed 500 square feet in size and must not deflect floodwaters onto another property, and
 - d. Must not involve the placement of any fill material.
 - e. No construction shall be undertaken in, or within 50 feet of the bank of the stream channel.
 - f. The accessory structure or addition must be properly anchored to prevent its movement during flood conditions.
 - g. Only one accessory structure or addition to an existing structure shall be authorized by this permit; plans for any subsequent addition must be submitted to IDNR/OWR for review.
 - h. Disturbances of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas shall be seeded or otherwise stabilized upon completion of construction.
- (10) Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit Number 11:
- a. The affected length of the stream shall not either singularly or cumulatively exceed 1,000 feet.
 - b. The project shall not include the construction of any new channel; all work must be confined to the existing channel or to reestablishing flows in the natural stream channel, and
 - c. The cross-sectional area of the dredged channel shall conform to that of the natural channel upstream and down stream of the site.
 - d. Dredged or spoil material shall not be disposed of in a wetland and shall be either:
 - 1. Removed from the floodway;
 - 2. Used to stabilize an existing bank provided no materials would be placed higher than the existing

top of bank and provided the cross-sectional area of the natural channel would not be reduced by more than ten percent, nor the volume of material placed exceed two cubic yards per lineal foot of stream bank;

3. Used to fill an existing washed out or scoured floodplain area such that the average natural floodplain elevation is not increased;
4. Used to stabilize and existing levee provided the height of the levee would not be increased nor its alignment changed;
5. Placed in a disposal site previously approved by the department in accordance with the conditions of the approval, or
6. Used for beach nourishment, provided the material meets all applicable water quality standards.

e. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be seeded or otherwise stabilized upon completion of construction.

(11) Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR statewide Permit Number 12:

- a. A registered professional engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
 1. No buildings or structures have been impacted by the backwater induced by the existing structure, and
 2. There is no record of complaints of flood damages associated with the existing structure.
- b. A registered professional engineer shall determine that the new structure will provide the same or greater effective waterway opening as the existing structure. For bridge widening projects the existing piers and the proposed pier extensions must be in line with the direction of the approaching flow upstream of the bridge.
- c. The project shall not include any appreciable raising of the approach roads. (This condition does not apply

if all points on the approaches exist at an elevation equal to or higher than the 100-year frequency flood headwater elevation as determined by a FEMA flood insurance study completed or approved by IDNR/OWR).

- d. The project shall not involve the straightening, enlargement or relocation of the existing channel of the river or stream except as permitted by the Department's Statewide Permit Number 9 (Minor Shoreline, channel and Stream bank Protection Activities) or Statewide Permit Number 11 (Minor Maintenance Dredging Activities).
 - e. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above conditions.
- (12) Temporary construction activities meeting the following conditions of IDNR/OWR statewide Permit Number 13:
- a. No temporary construction activity shall be commenced until the individual permittee determines that the permanent structure (if any) for which the work is being performed has received all required federal, state and local authorizations.
 - b. The term "temporary" shall mean not more than one construction season. All temporary construction materials must be removed from the stream and floodway within one year of their placement and the area returned to the conditions existing prior to the beginning of construction. Any desired subsequent or repetitive material placement shall not occur without the review and approval of the IDNR/OWR.
 - c. The temporary project shall be constructed such that it will not cause erosion or damage due to increases in water surface profiles to adjacent properties. For locations where there are structures in the upstream floodplain, the temporary project shall be constructed such that all water surface profile increases, due to the temporary project, are contained within the channel banks.
 - d. This permit does not authorize the placement or construction of any solid embankment or wall such as a dam, roadway, levee, or dike across any channel or floodway.
 - e. No temporary structure shall be placed within any river or stream channel until a registered

professional engineer determines and documents that the temporary structure will meet the requirements of Special Condition Number 3 of this statewide permit. Such documentation shall include, at a minimum, confirmation that no buildings or structures will be impacted by the backwater induced by the temporary structure.

- f. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above condition.
- g. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of the removal of the temporary construction.
- h. Materials used for the project shall not cause water pollution as defined by the Environmental Protection Act (415 ILCS 5).

(13) Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from state floodway permit requirements.

(b) Other development activities not listed in subsection 23-6(a) may be permitted only if:

- (1) Permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required), or
- (2) Sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation.

Sec. 23-7. - Protecting buildings.

(a) In addition to the damage prevention requirements of Section 23-6 of this Chapter, all buildings located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

- (1) Construction or placement of a new building or alteration or addition to an existing building valued at more than \$1,000.00 or 70 square feet.
- (2) Substantial improvements or structural alterations made to an existing building that increase the floor area by more than 20 percent or equal or exceed the market value by 50 percent. Alteration shall be figured cumulatively subsequent

to the adoption of this Chapter. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.

- (3) Repairs made to a substantially damaged building. These repairs shall be figured cumulatively subsequent to the adoption of this Chapter. If substantially damaged the entire structure must meet the flood protection standards of this section.
 - (4) Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.)
 - (5) Installing a travel trailer or recreational vehicle on a site for more than 180 days per year.
 - (6) Repetitive loss to an existing building as defined in section 23-2.
- (b) Residential or nonresidential buildings can meet the building protection requirements by one of the following methods:
- (1) The building may be constructed on permanent landfill in accordance with the following:
 - a. The lowest floor (including basement) shall be at or above the flood protection elevation.
 - b. The fill shall be placed in layers no greater than six inches before compaction and should extend at least ten feet beyond the foundation before sloping below the flood protection elevation.
 - c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure.
 - d. The fill shall be composed of rock or soil and not incorporated debris or refuse material, and
 - e. Shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary stormwater management techniques such as swales or basins shall be incorporated.
 - (2) The building may be elevated on solid walls in accordance with the following:
 - a. The building or improvements shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to flood waters.

- b. All structural components below the flood protection elevation shall be constructed of materials resistant to flood damage.
 - c. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation.
 - d. If walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a registered professional engineer or by having a minimum of one permanent opening on each wall no more than one foot above grade with a minimum of two openings. The openings shall provide a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding below the base flood elevation, and
 - e. The foundation and supporting members shall be anchored, designed, and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris.
 - 1. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
 - 2. The area below the flood protection elevation shall be used solely for parking or building access and not later modified or occupied as habitable space, or
 - 3. In lieu of the above criteria, the design methods to comply with these requirements may be certified by a registered professional engineer or architect.
- (3) The building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met.
- a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - b. Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than one square inch

per one square foot of enclosed area. The openings shall be no more than one foot above grade.

- c. The interior grade of the crawlspace below the flood protection elevation must not be more than two feet below the lowest adjacent exterior grade.
 - d. The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundations wall must not exceed four feet at any point.
 - e. An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event.
 - f. Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage, and
 - g. Utility systems within the crawlspace must be elevated above the flood protection elevation.
- (c) Nonresidential buildings may be structurally dry floodproofed (in lieu of elevation) provided a registered professional engineer or architect certifies that:
- (1) Below the flood protection elevation the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood.
 - (2) The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice.
 - (3) Floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.
 - (4) Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.
- (d) Manufactured homes or travel trailers to be permanently installed on site shall be:
- (1) Elevated to or above the flood protection elevation in accordance with subsection 23-7(b), and
 - (2) Anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code § 870.
- (e) Travel trailers and recreational vehicles on site for more than 180 days per year shall meet the elevation requirements of section 23-7(d) unless the following conditions are met:

- (1) The vehicle must be either self-propelled or towable by a light duty truck.
 - (2) The hitch must remain on the vehicle at all times.
 - (3) The vehicle must not be attached to external structures such as decks and porches.
 - (4) The vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.
 - (5) The vehicles largest horizontal projections must be no larger than 400 square feet.
 - (6) The vehicle's wheels must remain on axles and inflated.
 - (7) Air conditioning units must be attached to the frame so as to be safe for movement of the floodplain.
 - (8) Propane tanks as well as electrical and sewage connections must be quick-disconnect and above the 100-year flood elevation.
 - (9) The vehicle must be licensed and titled as a recreational vehicle or park model, and
 - (10) Must either:
 - a. Entirely be supported by jacks, or
 - b. Have a hitch jack permanently mounted, have the tires touching the ground and be supported by block in a manner that will allow the block to be easily removed by used of the hitch jack.
- (f) Garages, sheds or other minor accessory structures constructed ancillary to an existing residential use may be permitted provided the following conditions are met:
- (1) The garage of shed must be nonhabitable.
 - (2) The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use.
 - (3) The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits.
 - (4) The garage or shed must be on a single-family lot and be accessory to an existing principle structure on the same lot.
 - (5) Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage.

- (6) All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation.
- (7) The garage or shed must have at least one permanent opening on each wall not more than one foot above grade with one square inch of opening for every one square foot of floor area.
- (8) The garage or shed must be less than \$15,000.00 in market value or replacement cost whichever is greater or less than 576 square feet.
- (9) The structure shall be anchored to resist floatation and overturning.
- (10) All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation.
- (11) The lowest floor elevation should be documented and the owner advised of the flood insurance implications.

Sec. 23-8. - Subdivision requirements.

The Village of New Milford shall take into account hazards, to the extent that they are known, in all official actions related to land management use and development.

- (a) New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protections standards of Sections 23-6 and 23-7 of this Chapter. Any proposal for such development shall include the following data:
 - (1) The base flood elevation and the boundary of the floodplain, where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation;
 - (2) The boundary of the floodway when applicable, and
 - (3) A signed statement by a registered professional engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (765 ILCS 205/2).

Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

Sec. 23-9. - Public health and other standards.

(a) Public health standards must be met for all floodplain development. In addition to the requirements of Sections 23-6 and 23-7 of this Chapter the following standards apply:

- (1) No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of Section 23-7 of this Chapter.
- (2) Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.
- (3) Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (4) New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight.
- (5) Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or three feet above the level of the 100-year flood frequency elevation whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.

(b) All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

Sec. 23-10. - Carrying capacity and notification.

For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained.

In addition, the Village of New Milford shall notify adjacent communities in writing 30 days prior to the issuance of a permit for the alteration or relocation of the watercourse.

Sec. 23-11. - Variances.

Whenever the standards of this Chapter place undue hardship on a specific development proposal, the applicant may apply to the Zoning Board of Appeals for a variance. The Zoning Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the Village Board. The Village Board may attach such conditions to granting of a variance as it deems necessary to further the intent of this Chapter.

- (a) No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:
 - (1) The development activity cannot be located outside the floodplain.
 - (2) An exceptional hardship would result if the variance were not granted.
 - (3) The relief requested is the minimum necessary.
 - (4) There will be no additional threat to public health, safety or creation of a nuisance.
 - (5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
 - (6) The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP, and
 - (7) All other state and federal permits have been obtained.
- (b) The Zoning Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protections standards of Section 23-7 that would lessen the degree of protection to a building will:
 - (1) Result in increased premium rates for flood insurance up to \$25.00 per \$100.00 of insurance coverage;
 - (2) Increase the risk to life and property, and
 - (3) Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

(c) Historic Structures

a. Variances to the building protection requirements of Section 23-7 of this Chapter which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in historic structures, may be granted using criteria more permissive than the requirements of Sections 23-6 and 23-7 of this Chapter subject to the conditions that:

(1) The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.

(2) The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

(d) Agriculture

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

a. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures or animal confinement facilities, such as farm houses, cannot be considered agricultural structures.

b. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

c. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 7 of this ordinance.

- d. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 7 of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 7 of this ordinance.
- e. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 7(B) this ordinance.
- f. The agricultural structures must comply with the floodplain management floodway provisions of Section 6 of this ordinance. No variances may be issued for agricultural structures within any designated floodway.
- g. Wet-floodproofing construction techniques must be reviewed and approved by the floodplain administrator and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

Sec. 23-12. - Disclaimer of liability.

The degree of protection required by this Chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Chapter does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Chapter does not create liability on the part of the Village of New Milford or any officer or employee thereof for any flood damage that results from proper reliance on this Chapter or any administrative decision made lawfully thereunder.

Sec. 23-13. - Penalty.

Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance

shall be deemed to be a violation of this Chapter. Upon due investigation, the Village Engineer may determine that a violation of the minimum standards of this Chapter exists. The Village Engineer shall notify the owner in writing of such violation.

- (a) If such owner fails after ten days' notice to correct the violation:
 - (1) The Village of New Milford shall make application to the circuit court for an injunction requiring conformance with this Chapter or make such other order as the court deems necessary to secure compliance with the ordinance.
 - (2) Any person who violates this Chapter shall upon conviction thereof be fined not less than \$50.00 or more than \$750.00 for each offense.
 - (3) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues, and
 - (4) The Village of New Milford shall record a notice of violation on the title of the property.
- (b) The Board of Trustees for the Village of New Milford shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

The Board of Trustees for the Village of New Milford is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

No site development permit shall be permanently suspended or revoked until a hearing is held by the New Milford Zoning Board of Appeals. Written notice of such hearing shall be served on the permittee and shall state:

- (1) The grounds for the complaint, reasons for suspension or revocation, and
- (2) The time and place of the hearing.

At such hearing the permittee shall be given an opportunity to present evidence on their behalf. At the conclusion of the hearing, the New Milford Zoning Board of Appeals shall determine whether the permit shall be suspended or revoked.

(c) Nothing herein shall prevent the Village of New Milford from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Sec. 23-14. - Abrogation and greater restrictions.

This Chapter repeals and replaces other ordinances adopted by the Village Board to fulfill the requirements of the National Flood Insurance Program. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this Chapter repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Chapter and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

CHAPTER 23

**Land Use Regulations
Article I Soil Erosion and Sediment Control**

Sec. 23-100. Definitions

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

BUILDING PERMIT: A permit issued by the County of Winnebago on behalf of the Village of New Milford for the construction, erection or alteration of a structure or building.

CERTIFY OR CERTIFICATION: Formally attesting that the specific inspections and tests where required have been performed, and that such tests comply with the applicable requirements of this Ordinance.

CLEARING: Any activity which removes vegetative ground cover.

CUBIC YARDS: The amount of material in excavation and/or fill measured by the method of "average end areas."

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

EXISTING GRADE: The vertical location of the existing ground surface prior to excavation or filling.

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

FINAL GRADE: The vertical location of the ground or pavement surface after the grading work is completed in accordance with the subsidiary drainage plat and the site development plan.

GRADING: Excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

NATURAL DRAINAGE: Channels formed in the existing surface topography of the earth prior to changes made by unnatural causes.

PARCEL: All contiguous land in one ownership.

PERMITTEE: Any person who has obtained an approval of a subsidiary drainage plat and a site development permit has been issued.

PERSON: Any individual, firm or corporation, public or private, the State of Illinois and its agencies or political subdivisions, and the United States, of America, its agencies and instrumentalities, and any agent, servant, officer or employee of any of the foregoing.

REMOVAL: Cutting vegetation to the ground or stumps, complete extraction, or killing by spraying.

SITE: A lot or parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT: Altering terrain and/or vegetation and constructing improvements.

SITE DEVELOPMENT PERMIT: A permit issued by the Village of New Milford for the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

STREAM: Any river, creek, brook, branch, flowage, ravine, or natural or man-made drainageway which has a definite bed and banks or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

STRIPPING: Any activity which removes the vegetative surface cover including tree removal, clearing, and storage or removal of top soil.

VACANT: Land on which there are no structures or only structures which are secondary to the use or maintenance of the land itself.

VILLAGE: The Village of New Milford, Winnebago County, Illinois.

WETLANDS: Areas that are inundated or saturated by surface water or groundwater 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.

In the context of this ordinance, wetlands are intended to refer to areas which are subject to regulations of the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act.

Sec. 23-200. General Principals

It is the objective of this ordinance to control soil erosion and sedimentation caused by development activities, including clearing, grading, stripping, excavating, and filling of land, in the Village of New Milford. Measures taken to control soil erosion and offsite sediment runoff should be adequate to assure that sediment is not transported from the site by a storm event of ten-year frequency or less. The following principles shall apply to **all** development activities within the Village of New Milford and to the preparation of the submissions required under Section 23-300 of this ordinance:

Sec. 23-201. Development should be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required should be avoided wherever possible, and natural contours should be followed as closely as possible.

Sec. 23-202. Natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to natural watercourses, lakes, ponds, and wetlands should be left undisturbed wherever possible. Temporary crossings of watercourses, when permitted, must include appropriate stabilization measures.

Sec. 23-203. Special precautions should be taken to prevent damages resultant from any necessary development activity within or adjacent to any stream, lake, pond, or wetland. Preventative

measures should reflect the sensitivity of these areas to erosion and sedimentation.

Sec. 23-204. The smallest practical area of land should be exposed for the shortest practical time during development.

Sec. 23-205. Sediment basins or traps, filter barriers, diversions, and any other appropriate sediment or runoff control measures should be installed prior to site clearing and grading and maintained to remove sediment from run-off waters from land undergoing development.

Sec. 23-206. The selection of erosion and sedimentation control measures should be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on evaluation of the risks, costs, and benefits involved.

Sec. 23-207. In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance should be considered.

Sec. 23-208. Provision should be made to accommodate the increased run-off caused by changed soil and surface conditions before, during and after development. Drainageways should be designed so that their final gradients and the resultant velocities and rates of discharge will not create additional erosion onsite or downstream.

Sec. 23-209. Permanent vegetation and structures should be installed and functional as soon as practical during development.

Sec. 23-210. Those areas being converted from agricultural purposes to other land uses should be vegetated with an appropriate protective cover prior to development.

Sec. 23-211. All waste generated as a result of site development activity should be properly disposed of and should be prevented from being carried off the site by either wind or water.

Sec. 23-212. All construction sites should provide measures to prevent sediment from being tracked onto public or private roadways or property.

Sec. 23-300. Site Development Permit

Sec. 23-301. Permit Required.

Except as otherwise provided in this ordinance, no person shall commence or perform any clearing, grading, stripping, excavating, or filling of land which meets the following provisions without having first obtained a site development permit from the designated engineer of the Village.

Sec. 23-302. Any land disturbing activity (i.e., clearing, grading, stripping, excavation, fill, or any combination thereof) that will affect an area in excess of 5000 square feet;

Sec. 23-303. Any land disturbing activity that will affect an area in excess of 500 square feet if the activity is within 25 feet of a lake, pond, stream, or wetland; or

Sec. 23-304. Excavation, fill, or any combination thereof that will exceed 100 cubic yards.

Sec. 23-305. Exceptions

A permit shall not be required for any of the following provided that the person responsible for any such development shall implement necessary soil erosion and sediment control measures to satisfy the principles set forth in Section 200.0 of this Ordinance:

Sec. 23-306. Excavation below final grade for the basement and footings of a single-family residence and appurtenant structures on a site in excess of two (2) acres for which a building permit has been issued by the County of Winnebago on behalf of the Village of New Milford, Illinois.

Sec. 23-307. Agricultural use of land, including the implementation of conservation measures included in a farm conservation plan approved by the Soil and Water Conservation District, and including the construction of agricultural structures;

Sec. 23-308. Installation, renovation, or replacement of a septic system or water line installation to serve an existing dwelling or structure.

Sec. 23-309. Application for Permit.

Application for a site development permit shall be made by the owner of the property or his authorized agent to the Village on

a form furnished for that purpose. Each application shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee based upon the zoning classification of the property under Village ordinances as follows:

AG - Agricultural District	\$250.00
RA - Rural Agricultural District	\$250.00
RR - Rural Residential District	\$250.00
R1 - One-Family Residential District	\$250.00
R2 - Two-Family Residential District	\$250.00
R3 - Multi-Family Residential District	\$250.00
R4 - Multi-Family Residential District	\$250.00
CN - Commercial Neighborhood District	\$250.00
CC - Commercial Community District	\$250.00
CG - Commercial General District	\$250.00
OF - Office District	\$250.00
IL - Industrial District	\$250.00
IG - Industrial District	\$250.00
IH - Heavy Industrial District	\$250.00
Parks	\$250.00

Contemporaneously with submitted the permit for site development, the applicant shall deposit a fee of \$100.00 payable to the Village of New Milford, Illinois to offset administrative expenses in processing said permit application. This \$100.00 application fee is in addition to engineering expenses incurred in reviewing the application for the permit. (Ordinance No. 2021-3)

In the event that the Village incurs engineering expenses in reviewing the application for permit in excess of \$250.00, the applicant shall reimburse the Village for the overage prior to the permit being issued.

Each application shall include certification that any land clearing, construction, or development involving the movement of earth shall be in accordance with the plans approved upon issuance of the permit.

Sec. 23-310. Submissions

Each application for a site development permit shall be accompanied by the following information:

- a. A vicinity map in sufficient detail to enable easy location in the field of the site for which the permit is sought, and including the boundary line and approximate acreage of the site, existing zoning, and a legend and scale.
- b. A development plan of the site showing:
 1. Existing topography of the site and adjacent land within approximately 100 feet of the boundaries, drawn at no greater than two-foot contour intervals and clearly portraying the conformation and drainage pattern of the area.
 2. The location of existing buildings, structures, utilities, streams, lakes, floodplains, wetlands and depressions, drainage facilities, vegetative cover, paved areas, and other significant natural or man-made features on the site and adjacent land within 100 feet of the boundary.
 3. A general description of the predominant soil types on the site, their location, and their limitations for the proposed use.
 4. Proposed use of the site, including present development and planned utilization; areas of clearing, stripping, grading, excavation, and filling; proposed contours, finished grades, and street profiles; provisions for storm drainage, including storm sewers, swales, detention basins and any other measures to control the rate of runoff, with a drainage area map, indications of flow directions, and computations; kinds and locations of utilities; and areas and acreages proposed to be paved, covered, sodded or seeded, vegetatively stabilized, or left undisturbed.

Sec. 23-311. An erosion and sediment control plan showing all measures necessary to meet the objectives of this ordinance throughout all phases of construction and permanently after completion of development of the site, including:

- a. Location and description, including standard details, of all sediment control measures and design specifics of sediment basins and traps, including outlet details.
- b. Location and description of all soil stabilization and erosion control measures, including seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, kind and quantity of mulching for both temporary and permanent vegetative control measures, and types of non-vegetative stabilization measures.
- c. Location and description of all runoff control measures, including diversions, waterways, and outlets.
- d. Location and description of methods to prevent tracking of sediment offsite, including construction entrance details, as appropriate.
- e. Locations of stockpiles and description of stabilization methods.
- f. Description of off-site fill or borrow volumes, locations, and methods of stabilization.
- g. Provisions for maintenance of control measures, including type and frequency of maintenance, easements, and estimates of the cost of maintenance.
- h. Identification (name, address, and telephone) of the person(s) or entity which will have legal responsibility for maintenance of erosion control structures

and measures during development and after development is completed.

Sec. 23-312. The proposed phasing of development of the site, including stripping and clearing, rough grading and construction, and final grading and landscaping. Phasing should identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, and the sequence of installation of temporary sediment control measures (including perimeter controls), clearing and grading, installation of temporary soil stabilization measures, installation of storm drainage, paving streets and parking areas, final grading and the establishment of permanent vegetative cover, and the removal of temporary measures. It shall be the responsibility of the applicant to notify the Village of any significant changes which occur in the site development schedule after the initial erosion and sediment control plan has been approved.

These submissions shall be prepared in accordance with the requirements of this ordinance and the standards and requirements contained in "Standards and Specifications for Soil Erosion and Sediment Control" published by the Illinois Environmental Protection Agency and the "Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control" prepared by the Northeastern Illinois Soil Erosion and Sedimentation Control Steering Committee and adopted by the Winnebago County Soil and Water Conservation District, which standards and requirements are hereby incorporated into this ordinance by reference.

The Village may waive specific requirements for the content of submissions upon finding that the information submitted is sufficient to show that the work will comply with the objectives and principles of this ordinance.

Sec. 23-313. Reserved.

Sec. 23-314. Reserved.

Sec. 23-315. Review and Approval

Each application for a site development permit shall be reviewed and acted upon according to the following procedures:

Sec. 23-316. The Village will review each application for a site development permit to determine its conformance with the

provisions of this ordinance. The Village may also refer any application to the Winnebago County Soil and Water Conservation District and/or any other local government or public agency within whose jurisdiction the site is located for review and comment. Within ninety (90) days after receiving an application, the Village shall in writing:

- a. Approve the permit application if it is found to be in conformance with the provisions of this ordinance, and issue the permit;
- b. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
- c. Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

Sec. 23-317. No site development permit shall be issued for an intended development site unless:

- a. the development, including but not limited to subdivisions and planned unit development, has been approved by the Village where applicable, or
- b. such permit is accompanied by or combined with a valid building permit issued by the Village, or
- c. the proposed earth moving is coordinated with any overall development program previously approved by the Village for the area in which the site is situated; and
- d. all relevant federal, state and county permits (i.e., for floodplains and wetlands) have been received for the portion of the site subject to soil disturbance; and

Sec. 23-318. Failure of the Village to act on an original or revised application within ninety (90) days of receipt shall

authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the Village and the applicant. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Village.

Sec. 23-319. Expiration of Permit

Every site development permit shall expire and become null and void if the work authorized by such permit has not been commenced within one hundred and eighty (180) days, or is not completed by a date which shall be specified in the permit; except that the Village may, if the permittee presents satisfactory evidence that unusual difficulties have prevented work being commenced or completed within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit. The Village may require modification of the erosion control plan to prevent any increase in erosion or offsite sediment runoff resulting from any extension.

Sec. 23-320. Appeals

The applicant, or any person or agency which received notice of the filing of the application, may appeal the decision of the Village to a special Soil Erosion and Sediment Control Committee consisting of the President and two Trustees who are appointed by the President of the Village of New Milford with the advice and consent of the Board of Trustees as provided in Section 23-315, to the Soil Erosion and Sediment Control Committee. Upon receipt of an appeal, the Soil Erosion and Sediment Control Committee shall schedule and hold a public hearing, after giving 15 days notice thereof. The Soil Erosion and Sediment Control Committee shall render a decision within thirty (30) days after the hearing. Factors to be considered on review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands, any comprehensive watershed management plans, or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainageways; nature and type of soil or rock which when disturbed by the proposed development activities may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

Sec. 23-321. Retention of Plans

Plans, specifications, and reports for all site developments shall be retained in original form or on microfilm by the Village.

Sec. 23-400. Design and Operation Standards and Requirements

Sec. 23-401. Applicability

All clearing, grading, stripping, excavating, and filling which are subject to the permit requirements of this ordinance shall be subject to the applicable standards and requirements set forth in this Section 23-400.

Sec. 23-402. Responsibility

The permittee shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and the Village or its officers or agents will not be made liable for such damage, by (1) the issuance of a permit under this ordinance, (2) compliance with the provisions of that permit or with conditions attached to it by the (permitting authority), (3) failure of Village officials to observe or recognize hazardous or unsightly conditions, (4) failure of Village officials to recommend denial of or to deny a permit, or (5) exemptions from the permit requirements of this ordinance.

Sec. 23-403. Site Design Requirements

On-site sediment control measures, as specified by the following criteria, shall be constructed and functional prior to initiating clearing, grading, stripping, excavating or fill activities on the site.

- a. For disturbed areas draining less than 1 acre, filter barriers (including filter fences, straw bales, or equivalent control measures) shall be constructed to control all offsite runoff. Vegetated filter strips, with a minimum width of 25 feet, may be used as an alternative only where runoff in sheet flow is expected.
- b. For disturbed areas draining more than 1 but less than 5 acres, a sediment trap or

equivalent control measure shall be constructed at the downslope point of the disturbed area.

- c. For disturbed areas draining more than 5 acres, a sediment basin or equivalent control measure shall be constructed at the downslope point of the disturbed area.
- d. Sediment basins and sediment traps designs shall provide for both detention storage and sediment storage. The detention storage shall be composed of equal volumes of "wet" detention storage and "dry" detention storage and each shall be sized for the 2-year, 24-hour runoff from the site under maximum runoff conditions during construction. The release rate of the basin shall be that rate required to achieve minimum detention times of at least 10 hours. The elevation of the outlet structure shall be placed such that it only drains the dry detention storage.
- e. The sediment storage shall be sized to store the estimated sediment load generated from the site over the duration of the construction period with a minimum storage equivalent to the volume of sediment generated in one year. For construction periods exceeding 1 year, the 1-year sediment load and a sediment removal schedule may be substituted.

Sec. 23-404. Stormwater conveyance channels, including ditches, swales, and diversions, and the outlets of all channels and pipes shall be designed and constructed to withstand the expected flow velocity from the 10-year frequency storm without erosion. All constructed or modified channels shall be stabilized within 48 hours, consistent with the following standards:

- a. For grades up to 4 percent, seeding in combination with mulch, erosion blanket, or an equivalent control measure shall be applied. Sod or erosion blanket or mat

shall be applied to the bottom of the channel.

- b. For grades of 4 to 8 percent, sod or an equivalent control measure shall be applied in the channel.
- c. For grades greater than 8 percent, rock, riprap, or an equivalent control measure shall be applied, or the grade shall be effectively reduced using drop structures.
- d. The requirements set forth in sub-paragraphs a through c above are requiring the planting of sod or equivalent control methods for erosion blankets shall be met by the developer and/or contractor planting low maintenance type of grasses. The type of grass, sod or erosion blanket shall be approved by the Village of New Milford prior to its installation and prior to the developer and/or contractor stripping the land of vegetation.

Sec. 23-405. Disturbed areas shall be stabilized with temporary or permanent measures within 7 calendar days following the end of active disturbance, or redisturbance, consistent with the following criteria:

- a. Appropriate temporary or permanent stabilization measures shall include seeding, mulching, sodding, and/or non-vegetative measures.
- b. Areas having slopes greater than 12 percent shall be stabilized with sod, mat or blanket in combination with seeding, or equivalent.

Sec. 23-406. Land disturbance activities in stream channels shall be avoided, where possible. If disturbance activities are unavoidable, the following requirements shall be met:

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

- b. The time and area of disturbance of stream channels shall be kept to a minimum. The stream channel, including bed and banks, shall be restabilized within 48 hours after channel disturbance is completed, interrupted or stopped.
- c. Whenever channel relocation is necessary, the new channel shall be constructed in the dry and fully stabilized before flow is diverted.

Sec. 23-407. Storm sewer inlets and culverts shall be protected by sediment traps or filter barriers meeting accepted design standards and specifications.

Sec. 23-408. Soil storage piles containing more than 10 cubic yards of material shall not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. Filter barriers, including straw bales, filter fence or equivalent, shall be installed immediately on the downslope side of the piles.

Sec. 23-409. If dewatering devices are used, discharge locations shall be protected from erosion. All pumped discharges shall be routed through appropriately designed sediment traps or basins, or equivalent.

Sec. 23-410. Each site shall have graveled (or equivalent) entrance roads with culverts, as necessary, access drives and parking areas of sufficient length and width to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by shoveling or street cleaning (not flushing) before the end of each workday and transported to a controlled sediment disposal area. In the event that the Village is required to remove sediment from a public or private road, the Village shall be entitled to recover all costs and expenses associated with said activity from the violator, which includes the subdivision developer as well as any builder and/or subcontractor causing the remedial action by the Village.

Sec. 23-411. All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure effective performance of their intended function.

Sec. 23-412. All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved with permanent soil stabilization measures. Trapped sediment and other disturbed soils resulting from the disposition of temporary measures should be permanently stabilized to prevent further erosion and sedimentation.

Sec. 23-413. Maintenance of Control Measures

All soil erosion and sediment control measures necessary to meet the requirements of this ordinance shall be maintained periodically by the applicant or subsequent land owner during the period of land disturbance and development of the site in a satisfactory manner to ensure adequate performance.

Sec. 23-414. Inspection

The Village shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the site development or erosion and sedimentation control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Village shall be maintained at the site during progress of the work. In order to obtain inspections and to ensure compliance with the approved erosion and sediment control plan, the grading or building permit, and this Ordinance, the permittee shall notify the Village within two (2) working days of the completion of the construction stages specified below:

1. Upon completion of installation of sediment and runoff control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading,
2. After stripping and clearing,
3. After rough grading,
4. After final grading,
5. After seeding and landscaping deadlines, and
6. After final stabilization and landscaping, prior to removal of sediment controls.

If stripping, clearing, grading and/or landscaping are to be done in phases or areas, the permittee shall give notice and request inspection at the completion of each of the above work stages in each phase or area. If an inspection is not made and notification of the results given within ten (10) working days after notice is received by the Village from the permittee, the permittee may continue work at his/her own risk, without presuming acceptance by the Village. Notification of the results of the inspection shall be given in writing at the site.

Sec. 23-415. Special Precautions

Sec. 23-415(a). If at any stage of the grading of any development site the Village determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, stream, lake, wetland, or drainage structure, the Village may require, as a condition of allowing the work to be done, that such reasonable special precautions to be taken as is considered advisable to avoid the likelihood of such peril. "Special precautions" may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing, installation of plant materials for erosion control, and recommendations of a registered soils engineer and/or engineering geologist which may be made requirements for further work. In the event that the Village authorities deem it necessary to obtain reports under this Section to determine the affect of the development on streams, lakes, rivers, waterways, wetlands or drainage structures, the proponent for the development shall be responsible for obtaining those reports, and shall bear the expense for obtaining said reports.

Sec. 23-415(b). Where it appears that storm damage may result because the grading on any development site is not complete, work may be stopped and the permittee required to install temporary structures or take such other measures as may be required to protect adjoining property or the public safety. On large developments or where unusual site conditions prevail, the Village may specify the time of starting grading and time of completion or may require that the operations be conducted in specific stages so as to insure completion of protective measures or devices prior to the advent of seasonal rains.

Sec. 23-416. Amendment of Plans

Major amendments of the site development or erosion and sedimentation control plans shall be submitted to the Village and shall be processed and approved or disapproved in the same manner as the original plans. Field modifications of a minor nature may be authorized by the Village by written authorization to the permittee.

Sec. 23-500. Enforcement

Sec. 23-500(a). Exceptions

The Village Board may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this ordinance:

Sec. 23-500(b). Application for any exception shall be made by a verified petition of the applicant for a site development permit, stating fully the grounds of the petition and the facts relied upon by the applicant. Such petition shall be filed with the site development permit application. In order for the petition to be granted, it shall be necessary that the Village Board find all of the following facts with respect to the land referred to in the petition:

- i. That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations of record, that it is impossible or impractical for the applicant to comply with all of the requirements of this ordinance;
- ii. That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- iii. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.

Sec. 23-500(c). Upon review of the application for exception, the Village Board may approve the site development permit application with the exceptions and conditions it deems necessary or it may disapprove such site development permit application and exception application or it may take such other action as appropriate.

Sec. 23-501. Stop-Work Order; Revocation of Permit

In the event any person holding a site development permit pursuant to this ordinance violates the terms of the permit, or carries on site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood of the development site or so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Village may suspend or revoke the site development permit.

Sec. 23-502. Suspension of a permit shall be by a written stop-work order issued by the Village and delivered to the permittee or his agent or the person performing the work. The stop-work order shall be effective immediately, shall state the specific violations cited, and shall state the conditions under which work may be resumed. A stop-work order shall remain in effect until the next regularly scheduled meeting of the Soil Erosion and Sediment Control Committee at which the conditions of paragraph 23-503 below can be met.

Sec. 23-503. No site development permit shall be permanently suspended or revoked until a hearing is held by the Soil Erosion and Sediment Control Committee. Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state:

1. the grounds for complaint or reasons for suspension or revocation, in clear and concise language; and
2. the time when and place where such hearing will be held.

Such notice shall be served on the permittee at least five (5) days prior to the date set for the hearing. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing the Soil Erosion and Sediment Control Committee shall determine whether the permit shall be suspended or revoked.

Sec. 23-504. Violations and Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any

person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this ordinance 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 seven hundred fifty (\$750) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to restore the site to the condition existing prior to commission of the violation, or to bear the expense of such restoration.

CHAPTER 24

PARKS AND RECREATION

Article I. General Provisions

Sec. 24-1. Hours Established. Village parks shall be open from sunrise to sunset.

Sec. 24-2. Rental of Village Park Pavilion at "Upper Village Park". Any one desiring to reserve and rent the Village park pavilion may do so by obtaining a rental permit from the Village Clerk in conformance with the following:

- A. A resident of the Village shall file with the Village Clerk an application for the rental of the park pavilion along with a rental fee in the amount of Twenty-five Dollars (\$25.00) per day. Upon approval of the application by the Village Board, such permit shall be issued to the applicant. To the extent the Village Board does not approve the application, the rental fee shall be returned to the applicant.
- B. A nonresident of the Village shall file with the Village Clerk an application for the rental of the park pavilion along with a rental fee in the amount of Thirty-five Dollars (\$35.00) per day. Upon approval of the application by the Village Board, such permit shall be issued to the applicant. To the extent the Village Board does not approve the application, the rental fee shall be returned to the applicant.
- C. All renters must post their permit at the pavilion during the times in which they are renting the pavilion.
- D. Anyone without a pavilion rental permit may use the pavilion on a first come first serve basis but must relinquish use of the pavilion to any permitted renter.

Sec. 24-3. Cleaning/Damage Deposit. Upon approval of a rental permit by the Village Board, but as a condition to the actual issuance of the permit itself, the renter shall provide the Village Clerk with a cleaning/damage deposit in the amount of \$25.00 (cash only). To the extent the renter fails to reasonably clean the pavilion in accordance with this Chapter or

damages the pavilion/park in any manner, such deposit shall be forfeited to the Village. To the extent there are no cleaning/damage issues, the Village shall return the deposit to the renter.

- A. All renters and their guests and invitees must place all trash, garbage and debris in trash containers located at the pavilion/park.
- B. Renters are responsible for all clean-up and shall leave the pavilion in a clean and orderly condition. Renters are responsible for providing their own trash bags. Village personnel will pick up trash bags which should be left next to trash containers.

Sec. 24-4. Alcohol and Excessive Noise Prohibited. It shall be unlawful for anyone to possess or consume any alcoholic beverages in any Village parks. No intoxicated person shall enter or be permitted to remain in any Village parks. It shall be unlawful for anyone to make or maintain any noise, including, but not limited to, music or yelling at levels that are unreasonable or are otherwise in violation of Village ordinances.

Sec. 24-5. Use of Barbecue Grills. Open fires are expressly prohibited within the Village parks except for the designated barbecue grills. Parties using the barbecue grills shall be responsible for properly disposing of used or spent coals/ashes only in designated metal trash containers labeled for coals/ash. No coals/ashes may be placed in regular trash containers. All fires must be completely extinguished prior to user's departure from Village parks.

Sec. 24-6. Indemnification and Hold Harmless. Any person renting a Village park pavilion agrees to indemnify and hold harmless the Village of New Milford and its officers, agents and employees from and against any and all claims, damages, losses, and expenses, including reasonable attorneys' fees, arising out of or relating to the renter's rental and/or use of a pavilion.

CHAPTER 25

SMALL WIRELESS FACILITIES

Article I. General Provisions

Sec. 25-1. Purpose and Scope.

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

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

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

Sec. 25-2. Definitions.

For the purposes of this Ordinance, the following terms shall have the following meanings:

Antenna – communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

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

Applicant – any person who submits an application and is a wireless provider.

Application – a request submitted by an applicant to the Village for a permit to collocate small wireless facilities, and

a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

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

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

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

FCC – the Federal Communications Commission of the United States.

Fee – a one-time charge.

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

Law – a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

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

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

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

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

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

Rate – a recurring charge.

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

Small wireless facility – a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Utility pole – a pole or similar structure that is used in whole or in part by a communications service provider or for

electric distribution, lighting, traffic control, or a similar function.

Wireless facility – equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

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

Wireless provider – a wireless infrastructure provider or a wireless services provider.

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

Wireless services provider – a person who provides wireless services.

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

Sec. 25-3. **Regulation of Small Wireless Facilities.**

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

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

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

a. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;

b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;

c. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;

d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;

e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and

f. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.

g. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Village, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.

(2) Application Process. The Village shall process applications as follows:

a. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.

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

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

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

c. An application to collocate a small wireless facility that includes the installation of a new utility

pole shall be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within 120 days after the submission of a completed application.

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

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

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

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

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

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

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

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

e. Pole Attachment Agreement. Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a Master Pole Attachment Agreement, provided by the Village for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

(3) Completeness of Application. Within 30 days after receiving an application, the Village shall determine whether the application is complete and notify the applicant. If an application is incomplete, the Village must specifically identify the missing information. An application shall be deemed complete if the Village fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the Village's permit application form are submitted by the applicant to the Village.

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

(4) Tolling. The time period for applications may be further tolled by:

a. An express written agreement by both the applicant and the Village; or

b. A local, State or federal disaster declaration or similar emergency that causes the delay.

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

If an application includes multiple small wireless facilities, the Village may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The Village may issue separate permits for each collocation that is approved in a consolidated application.

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

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

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

Collocation Requirements and Conditions.

(1) Public Safety Space Reservation. The Village may reserve space on municipal utility poles for future public safety uses, for the Village's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the Village reasonably determines that the municipal utility pole cannot accommodate both uses.

(2) Installation and Maintenance. The wireless provider shall install, maintain, repair and modify its small wireless

facilities in safe condition and good repair and in compliance with the requirements and conditions of this Ordinance. The wireless provider shall ensure that its employees, agents or contracts that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.

(3) No interference with public safety communication frequencies. The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

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

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

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

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

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

However, the antenna and support equipment of the small wireless facility may be located in the communications space on

the Village utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

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

(5) The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.

(6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a Village ordinance, written policy adopted by the Village, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

(7) Alternate Placements. Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocation small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the Village may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

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

(8) Height Limitations. The maximum height of a small wireless facility shall be no more than 10 feet above the

utility pole or wireless support structure on which the small wireless facility is collocated.

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

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

b. 45 feet above ground level.

(9) Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a [SPECIAL USE PERMIT, VARIANCE OR ADMINISTRATIVE WAIVER] in conformance with procedures, terms and conditions set forth in [INSERT APPROPRIATE SECTION(S) OF ZONING ORDINANCE].

(10) Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by a contract between the Village and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

(11) Ground-mounted Equipment Spacing. The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.

(12) Undergrounding Regulations. The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility

poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.

(13) Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the Village and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the Village grants an extension in writing to the applicant.

Application Fees. Application fees are imposed as follows:

(1) Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.

(2) Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.

(3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.

(4) The Village shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:

- a. routine maintenance;
- b. the replacement of wireless facilities with wireless facilities that are substantially similar, the

same size, or smaller if the wireless provider notifies the Village at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with subsection d. under the Section titled Application Requirements; or

c. the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.

(5) Wireless providers shall secure a permit from the Village to work within rights-of-way for activities that affect traffic patterns or require lane closures.

Exceptions to Applicability. Nothing in this Ordinance authorizes a person to collocate small wireless facilities on:

(1) property owned by a private party or property owned or controlled by the Village or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;

(2) property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or

(3) property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Ordinance do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Ordinance shall be construed to

relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Ordinance.

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

A wireless provider that has an existing agreement with the Village on the effective date of the Act may accept the rates, fees and terms that the Village makes available under this Ordinance for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the Village that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the Village's utility poles pursuant to applications submitted to the Village before the wireless provider provides such notice and exercises its option under this paragraph.

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

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

Abandonment. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned.

The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the Village notifying the wireless provider of the abandonment.

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

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

Sec. 25-4. **Dispute Resolution.** The Circuit Court of Winnebago County shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the Village shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

Sec. 25-5. **Indemnification.** A wireless provider shall indemnify and hold the Village harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the Village improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Ordinance and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the Village or its employees or agents. A wireless provider shall further waive any claims that they may have against the Village with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

Sec. 25-6. **Insurance.** The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

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

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

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

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

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

(Ordinance No. 2018-12)