

Chapter 18

STREETS AND SIDEWALKS*

- Art. I.** In General, Secs. 18-1 - 18-27
Art. II. Construction and Excavations, Secs. 18-28 - 18-77
 Div. 1. Generally, Secs. 18-28 - 18-36
 Div. 2. Construction and Repair, Secs. 18-37 - 18-46
 Div. 3. Excavations, Secs. 18-47 - 18-59
 Div. 4. Driveways, Secs. 18-60 - 18-77
Art. III. Parking Lots, Secs. 18-78-18 - 88
Art. IV. Municipal Infrastructure Maintenance Fee, Sec. 18-95--18-100
Art. V. Construction Of Utility Facilities In The Public Rights-Of-Way,
 Sec. 18-101--124

ARTICLE I. IN GENERAL

Sec. 18-1. Supervision generally, enforcement.

All public streets, alleys, sidewalks and other public ways shall be under the supervision of the Superintendent of Streets & Parks. He shall have supervision over all work thereon, and the cleaning thereof, and shall be charged with the enforcement of all provisions of this Code and other ordinances relating to such public places, except traffic ordinances, and is hereby authorized to enforce such provisions. (Ord. No. 88-24, Sec. 6, 12-15-88)

Sec. 18-2. Injury to pavements.

It shall be unlawful to walk upon or drive any vehicle or animal upon, or injure any newly laid street or alley pavement while the same is guarded by a warning sign or barricade or to knowingly injure any street, sidewalk or alley pavement. (Code 1958, Sec. 9.105)

Sec. 18-3. Pavement to be kept in good repair; supervision of work.

All public streets, alleys and sidewalks shall be kept in good repair. All repair work, whether done by the Village or the abutting owner, shall be under the supervision of the Superintendent of Streets & Parks.

* Cross references--Street and sidewalk defined, Sec. 1-2; Superintendent of Streets & Parks, Sec. 2-171 et seq.; buildings and building regulations, Sec. 6-1 et seq.; use of public ways during construction operations, Sec. 6-54 et seq.; motor vehicles and traffic, Sec. 15-1 et seq.; subdivisions, Sec. 19-1 et seq.
State law reference--General power of village over streets and public ways, 65 ILCS 5/ 11-80-1 et seq.

Sec. 18-4. Duty of Village employees to report defects.

It shall be the duty of every Village officer or employee becoming cognizant of any defect in any street, alley or sidewalk, or any obstruction thereof, to report the same to the Superintendent of Streets & Parks as soon as possible.

Sec. 18-5. Obstructions generally.

It shall be unlawful and is hereby declared a nuisance for any person to cause, create or maintain any obstruction of any street, alley, sidewalk or other public property, except as may be specifically authorized by Ordinance or by the Superintendent of Streets & Parks.

Sec. 18-6. Obstructing drains.

It shall be unlawful to obstruct any drain or culvert in any public street or alley. (Code 1958, Sec. 9.113)

Sec. 18-7. Scaffolds and ladders over public ways.

Any scaffold or ladders placed in such a position that they overhang or can fall onto any public street, alley or other public place in the Village, shall be firmly and properly constructed and safeguarded. (Code 1958, Sec. 28.321)

Sec. 18-8. Placing articles on windows, ledges abutting public ways.

It shall be unlawful to place any moveable article on any window ledge, or other place abutting on a public street, alley or other place at a height above four (4) feet from the ground, in such a manner that the same can be or is in danger of falling onto such sidewalk, street, alley or other public place. (Code 1958, Sec. 28.322)

Sec. 18-9. Sidewalk sales.

It shall be unlawful for any person to use any street, sidewalk or other public place as space for the display of goods or merchandise for sale or otherwise without first obtaining written permission from the Chief of Police. (Code 1958, Sec. 9.111)

Cross reference--For settlement and compromise of violations of this section, see Sec. 13-96 et seq.

Sec. 18-10. Encroachments generally.

- (a) It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property unless there is a written agreement with the Village that has been approved by the Village's Corporate Authorities which allows the building or structure to encroach upon the public street or property. (Code 1958, Sec. 9.112, Ord. No. 2003-17, Sec. 1, 6-26-03)

STREETS AND SIDEWALKS

- (b) The Village's Corporate Authorities may enter into agreements with the owner of land adjacent to a public street or property to allow the owner to construct or maintain a building or structure which encroaches upon the public street or property, provided that the Corporate Authorities find that allowing the building or structure to encroach on the public street or property is in the public interest and that allowing the building or structure to encroach upon a public street or property will not have a material adverse effect on the ability of the public to use the public street or property for its intended purpose. (Ord. No. 2003-17, Sec. 1, 6-26-03)

Sec. 18-11. Erection of poles and wires.

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permission from the Superintendent of Streets & Parks.

Sec. 18-12. Erection of gas pumps.

It shall be unlawful to maintain or erect any gasoline pump or tank in any public street, alley or sidewalk. (Code 1958, Sec. 9.115)

Sec. 18-13. Stairways and other openings.

It shall be unlawful to construct or maintain any opening or stairway in any public street or alley or sidewalk or other public place without a permit from the Village President and Board of Trustees. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing, to the approval of the Superintendent of Streets & Parks. (Code 1958, Sec. 9.119)

Sec. 18-14. Deposits on sidewalks.

- (a) It shall be unlawful to deposit on any public sidewalk any material which may be harmful to the pavement thereof, or any waste material or any glass or other article which might cause injury to persons, animals or property.
- (b) Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width of the sidewalk is not thereby reduced to less than two (2) feet; and provided that no such article shall remain on such walk for more than one-half (1/2) hour. (Code 1958, Sec. 9.122)

Sec. 18-15. Deposits on streets.

- (a) It shall be unlawful to deposit on any street any material which may be harmful to the pavement thereof, or any waste material or any glass, or other articles which may cause injury to any person, animal or property.

STREETS AND SIDEWALKS

- (b) Coal or other materials may be deposited in streets preparatory to delivery for use, provided, that such deposit does not reduce the usable width of the street or roadway at that point to less than eighteen (18) feet, and provided that such material or coal other than material used in actual building construction, shall not be permitted to remain in such street for more than three (3) hours.
- (c) Any such material or coal shall be guarded by lights if the same remains upon any streets during nighttime. (Code 1958, Sec. 9.121)

Sec. 18-16. Depositing gravel on parkways and other public property.

It shall be unlawful for any person to deposit any gravel or similar material on any parkway or other public property without first obtaining permission from the Village Superintendent of Streets & Parks.

Sec. 18-17. Mud and debris on streets.

It shall be unlawful for any contractor, subcontractor, equipment operator, truck driver, or landowner of any building or construction project, or any land excavation or landfill project, to permit sand, earth, clay, stones, debris, rubbish or building materials to accumulate or remain on the sidewalk or paved portion of any street, road, highway, or easement for public right-of-way. Mud, earth, sand and clay shall be considered to have unlawfully accumulated when allowed to remain more than four (4) hours. Stones, debris, rubbish or building materials shall be considered to have unlawfully accumulated when allowed to remain more than two (2) hours. (Ord. No. 78-11, Sec. 1, 8-16-78)

Secs. 18-18. Deposit of snow on streets and sidewalks prohibited.

- (a) No person, who removes or causes to be removed, snow or ice from any building, parking lot, driveway, driveway apron, driveway approach, other private property or a public sidewalk shall sweep, blow, plow, shovel, scrap, drag or in any other manner move or deposit such snow or ice in a manner that either (i) decreases the driveable width of any public street or public alley; (ii) blocks the vision of motorists at any intersection of two or more public streets or any intersection of a public street and alley; (iii) prevents the parking of motor vehicles along the curb of a public street; (iv) covers any fire hydrant or otherwise interferes with the use of any fire hydrant; (v) blocks any public sidewalk or public driveway; (vi) damages any tree, sod or other public improvement located within a public right-of-way; or (vii) otherwise creates a traffic hazard or destroys a public property.
- (b) It shall be unlawful for any person to obstruct, harass, prevent or otherwise interfere with any employee or contractor of the Village who is engaged in the removal of snow from any public right- of- way or from public property or to obstruct, cause damage to or otherwise

STREETS AND SIDEWALKS

interfere with any Village owned or leased vehicle which is used by the Village to provide snow and ice removal.

- (c) Any person who violates any provision contained in Section 18-18 of this Chapter, shall, upon conviction, be fined not less than seventy-five (\$75.00) dollars. Each day in which any violations shall continue shall be deemed a separate offense for which a fine may be imposed. (Ord. No. 99-01, Sec. 1, 1-19-99; Ord. No. 2012-02, Sec. 1, 1-19-2012)

Sec. 18-19. Removal of snow and ice from sidewalks in business areas.

- (a) Each owner of property within a B-1 “Retail / Service District”, B-2 “General Business District,” B-4 “Community Shopping Center”, or B-5 “Light Assembly – Marinas” zoning district as shown on the Village of Fox River Grove’s most recent zoning map, shall, within twenty-four (24) hours after a snow fall or freezing precipitation, remove, or cause to be removed, from any sidewalks abutting the owner’s property, all snow and ice which has accumulated on the sidewalk or, if the snow and ice on a sidewalk are too hard for removal, to cover them, or cause them to be covered, with abrasive materials. (Ord. No. 00-13, Sec. 1, 2-17-00)
- (b) Any person who violates any provision of Section 18-19 shall, upon conviction, be fined in an amount not less than seventy-five (\$75.00) dollars. Each day in which any violations shall continue shall be deemed a separate offense for which a fine may be imposed. (Ord. No. 2012-02, Sec. 2, 1-19-2012)

Sec: 18-20. Mailboxes on Parkway

- (a) Mailboxes shall be permitted to be installed in the parkway adjacent to a single family home or townhouse, provided the following conditions are met:
 1. The mailbox shall be set upon wood, hollow metal or plastic posts which have a diameter above ground which does not exceed six (6) inches.
 2. The supports for the mailbox shall be of sufficient strength and size to properly support the mailbox.
 3. The mailbox shall comply with all applicable rules and regulations of the United States Postal Service, including, but not limited to rules and regulations relating to the location or placement of mailboxes.
 4. The Superintendent of Streets and Parks has determined that the location of the mailbox will not create a hazard to persons or property, will not endanger any trees and will not interfere with or inhibit the use of any roadway or sidewalk that

STREETS AND SIDEWALKS

may be located in the right of way and has issued a written permit for the mailbox.

- (b) The Superintendent of Streets and Parks shall have the right to require the owner or user of any mailbox that is located in a parkway to relocate or remove the mailbox from the parkway in the event that the Superintendent of Streets and Parks determines that the mailbox in its current location constitutes a hazard or danger to persons or property or interferes with or inhibits the use of any roadway or sidewalk.
- (c) The use of concrete posts or bricks to support a mailbox located in a parkway is prohibited unless the owner of the mailbox obtains a permit to maintain a non-conforming mailbox as provided in Subsection (d) of this Section.
- (d) A mailbox which is located in the parkway as of April 1, 2007 that does not meet the requirements of Subsection (a) of this Section may continue to be located in such location, provided each of the following conditions are met:
 - (1) The owner of the mailbox must obtain a permit from the Village which allows the owner to maintain a non-conforming mailbox.
 - (2) The owner must execute an agreement indemnifying the Village against any and all claims, losses and damage made or incurred by third parties (including legal fees incurred in the defense of any claims against the Village) arising out of or resulting from the non-conforming mailbox being located on the parkway; and
 - (3) The owner must either:
 - (a) deliver and maintain on file with the Village a certificate of insurance showing that the owner has in force a general liability insurance policy with policy limits per occurrence of not less than three hundred thousand (\$300,000) dollars which insures the Village as either a named or additional insured against any claims, losses or damage arising out of or resulting from the non-conforming mailbox being located on the parkway. The certificate of insurance shall indicate that the insurance policy described in the certificate cannot be cancelled unless at least ten (10) days written notice is given to the Village.

OR

STREETS AND SIDEWALKS

- (b) execute an agreement which holds the Village of Fox River Grove and its employees, officers and agents harmless for the damage or destruction to the non-conforming mailbox or for any damage or injury to property owned by the Village of Fox River Grove arising out of or resulting from the non-conforming mailbox being located on the parkway.
- (4) The Superintendent of Streets and Parks determines that the mailbox in its current position does not constitute a hazard to persons or vehicles using any roadway or sidewalk.
- (5) The mailbox must comply with all applicable rules and regulations of the United States Postal Service, including, but not limited to rules and regulations relating to the location or placement of mailboxes.

The Village Administrator shall maintain a list identifying all mailboxes which do not meet the requirements of Subsection (a) of this Section which are permitted to be located in the parkway.

- (e) If a mailbox which does not meet the requirements of Subsection (a) of this Section is removed, destroyed or damaged and repair of the damage will cost fifty (50%) percent or more of the value of the mailbox, then the mailbox shall not be rebuilt or replaced unless the rebuilt or replacement mailbox meets all of the requirements of Subsection (a) of this Section. (Ord. 2007-06, Sec. 1, 3-15-07)

Sec. 18-21--18-27. Reserved.

ARTICLE II. CONSTRUCTION AND EXCAVATIONS

DIVISION 1. GENERALLY

Sec. 18-28. Barricades and lighting.

- (a) Any person laying or repairing any pavement on a street, sidewalk or other public place or making an excavation in the same shall maintain suitable barricades to prevent injury of any person or vehicle by reason of the work; such barricades shall be protected by suitable lights at nighttime.
- (b) Any defect in any such pavement shall be barricaded to prevent injury; and any person properly maintaining any opening or excavation in any such place shall guard such opening or excavation while the same remains open by proper barricades and lights. (Code 1958, Sec. 9.109)

Sec. 18-29. Disturbing barricades.

It shall be unlawful to disturb or interfere with any barricades or lights lawfully placed to protect or mark any new pavement or excavation or opening in any public street, alley or sidewalk. (Code 1958, Sec. 9.110)

Sec. 18-30. Street and sidewalk specifications.

All street and sidewalk pavement shall be made in conformity with specifications approved from time to time by the Village President and Board of Trustees. (Code 1958, Sec. 9.104)

Secs. 18-31--18-36. Reserved.

DIVISION 2. CONSTRUCTION AND REPAIR

Sec. 18-37. Permit required.

It shall be unlawful to construct or lay any pavement on any public street, sidewalk, alley or other public way or to repair the same without having first secured a permit therefore. (Code 1958, Sec. 9.102)

Cross reference--Permits generally, Sec. 12-1 et seq.

Sec. 18-38. Application for permit; contents.

Applications for a permit required by this division shall be made to the Village Clerk and shall state the location of the intended pavement or repair, the extent thereof, and the person or firm who is to do the actual work. (Code 1958, Sec. 9.102)

Sec. 18-39. Order authorizing issuance of permit.

No permit required by this division shall be issued except on order of the Village Superintendent of Streets & Parks. (Code 1958, Sec. 9.102)

Sec. 18-40. Bond or insurance policy required.

Each applicant for a permit required by this division shall file a bond or insurance policy, in the amount of fifty thousand (\$50,000) dollars with sureties to be approved by the Village President and Board of Trustees, conditioned to indemnify the Village from any loss or damage resulting from the work undertaken or the manner of doing the same. (Code 1958, Sec. 9.103)

Secs. 18-41--18-46. Reserved.

DIVISION 3. EXCAVATIONS

Sec. 18-47. Supervision of work.

All excavations, tunneling, backfills or refills, restorations and resurfacing made pursuant to this division shall be made subject to the review and approval of the Superintendent of Streets & Parks. (Code 1958, Sec. 9.116, Ord. No. 2005-12, Sec. 1, 4-21-05)

Sec. 18-48. Permit required.

It shall be unlawful for any person, other than (i) employees of the Village, (ii) utility companies which have a franchise agreement with the Village, (iii) utility or telecommunications companies subject to Article V of this Chapter 18, or (v) a contractor retained by the Village, to make any excavation in or tunnel under any public street, public alley, public sidewalk, public right of way or under any real property owned by the Village, for any purpose, including, but not limited to, the installation of water, sewer and utility lines, without having first secured a permit therefore in accordance with the provisions of this division. (Code 1958, Sec. 9.116, Ord. No. 2005-12, Sec. 1, 4-21-05)

Cross reference--Permits generally, Sec. 12-1 et seq.

Sec. 18-49. Application for permit; contents; reimbursement of Village engineering review costs.

Application for a permit required by this division shall be made to the Village Clerk and shall specify the intended location and purpose of the excavation or tunnel. The Village Clerk shall not issue any permit required by this division unless the issuance of the permit is approved by the Village's Superintendent of Streets & Parks. The permit must also be approved by the Chief of Police if the excavation work or tunneling will require the closing of a street, roadway or alley or require the re-routing or detouring of motor vehicle traffic. Prior to, or as a condition to, the issuance of a permit required by this division, the Superintendent of Streets & Parks may require the permit applicant and representatives of the contractor retained by the applicant to perform the excavation or tunneling work to attend a pre-construction meeting convened by the Superintendent. In addition to any permit fee which the applicant may be required to pay, the applicant shall also be required to reimburse the Village for any costs incurred by the Village in having the application and any accompanying plans reviewed by the Village engineer or an engineering firm retained on behalf of the Village. The applicant may be required to make a cash deposit with the Village to cover the anticipated cost of any engineering review. Any such deposit shall be held in escrow by the Village until the engineering costs are actually incurred, with the unused balance of the cash deposit being returned to the applicant upon completion of all required restoration work. The cash deposit provided for in this Section 18-49 shall be in addition to, not in lieu of, the letter of credit or cash deposit required under Section 18-51. (Code 1958, Sec. 9.116, Ord. No. 2005-12, Sec. 1, 4-21-05)

Sec. 18-50. Completion and Restoration of Surface.

Any person making any excavation or tunneling pursuant to a permit required by this division shall perform the excavation or tunneling work diligently so that the work is completed promptly. All excavation, tunneling and restoration work shall be performed in compliance with all applicable statutes, codes, rules and regulations, including to the extent applicable any rules and regulations of the Illinois Department of Transportation. The permit may specify a deadline for the completion of the work, with the deadline being determined by the Superintendent of Streets & Parks. Any person making any excavation or performing any tunneling pursuant to a permit required by this division shall, as soon as reasonably possible, but no later than seven (7) days after the completion of the excavation or tunneling work, promptly and properly refill the excavation or tunnel and restore the surface where the excavation or tunnel was located to the same or a better condition than existed before the excavation was made or the tunneling work performed. (Code 1958, Sec. 9.117, 9.118; Ord. No. 77-13, Sec. 1, 4-27-77; Ord. No. 82-07, Sec. 1, 6-16-82; Ord. No. 92-20, Sec. 1, 7-15-92; Ord. No. 94-33, Sec. 1, 10-20-94, Ord. No. 2005-12, Sec. 1, 4-21-05)

Sec. 18-51. Letter of Credit or cash deposit required to guarantee completion and restoration; refund.

- (a) No permit required by this division shall be issued unless the applicant has also filed with the Village Clerk a cash deposit or a letter of credit in an amount of not less than one hundred fifteen (115%) percent of the estimated cost of restoring the location of the excavation or tunnel to a condition equal to or better than the conditions that existed prior to the excavation or tunneling work as determined by the Village's Engineer. If a letter of credit is filed, the letter of credit shall have an expiration date of not less than fifteen (15) months after the estimated date of completion of all restoration work as determined by the Village Engineer. The form of the letter of credit shall be subject to the approval of the Superintendent of Streets & Parks.
- (b) If (i) the excavation or tunneling work is abandoned, (ii) the excavation or tunneling work is not completed by the deadline specified in the permit, (iii) the completion of the excavation or tunneling work is not pursued diligently, or (iv) the surface of the location where the excavation or tunneling work occurred is not properly and completely restored within one (1) week after the completion of the excavation work or such other longer time period as may be designated in writing by the Superintendent of Streets & Parks, the Village shall proceed to backfill the site where the excavation or tunneling occurred, if necessary, and restore the surface, drawing on the letter of credit or using the cash deposit to pay the costs thereof. If within one (1) year after the completion of the work, a defect in the surface of the location where the excavation or tunneling occurred becomes apparent which results in the surface being in worse condition than it was in prior to the start of the work, the permit applicant shall proceed to perform whatever repair work may be necessary to correct the defect. If the defect is not repaired within thirty (30) days after the Village sends a notice informing the

STREETS AND SIDEWALKS

permit applicant of the defect, the Village may proceed to correct the defect and restore the surface to its original condition or to retain a contractor to correct the defect and restore the surface, drawing on the letter of credit or using the deposit to pay the costs thereof. If the letter of credit or cash deposit is insufficient to either restore the surface to its original condition and/or to correct a defect in the surface as provided in this Section, the permit applicant shall be liable to the Village for the full cost of completing the work and/or correcting any defects in the surface and the agreement of the applicant to be so liable shall be part of each permit. The letter of credit, if not completely drawn down, shall be returned to the permit applicant or the balance, if any, of the deposit shall be returned to the applicant either twelve (12) months after the initial restoration of the surface to its original condition or thirty (30) days after any defects in the surface have been corrected, whichever occurs last. (Ord. No. 89-16, Sec. 1, 7-13-89, Ord. No. 2005-12, Sec. 1, 4-21-05)

Sec. 18-52. Proof of insurance required to be filed.

No permit required by this division shall be issued unless there shall first be filed with the Village Clerk evidence that a public liability insurance policy has been obtained and is in full force. Such public liability insurance policy must name the Village and any persons who may have been retained by the Village to review, approve or inspect the excavation or tunneling work as an insured or additional insured, have a policy limit of not less than two million (\$2,000,000) dollars general aggregate coverage and one million (\$1,000,000) dollars per occurrence and indemnify the Village against any claim for injury or damages caused by the making of such excavation or tunnel or the existence thereof. (Ord. No. 2005-12, Sec. 1, 4-21-05)

Sec. 18-53. Trees or shrubs not to be injured.

In making excavations in streets or other public places of the Village, proper care shall be taken to avoid injury, wherever possible, to any tree or shrub, including the root structure. (Code 1958, Sec. 9.308, Ord. No. 2005-12, Sec. 1, 4-21-05)

Secs. 18-54--18-59. Reserved.

DIVISION 4. DRIVEWAYS

Sec. 18-60. Permit required.

No person shall construct a driveway for vehicles or animals across any sidewalk in the Village without first having obtained a permit therefore. (Code 1958, Sec. 9.201)

Cross reference--Permits generally, Sec. 12-1 et seq.

Sec. 18-61. Application for permit.

Application for a permit required by this division shall be made to the Village Clerk and shall be

STREETS AND SIDEWALKS

accompanied by the required fee. (Code 1958, Sec. 9.201)

Sec. 18-62. Permit fee.

The fee for a permit required by this division shall be five (\$5.00) dollars. (Code 1958, Sec. 9.202)

Sec. 18-63. Permits not to issue for certain driveways; approval of permits.

No permit for construction of a driveway for commercial use, or for the habitual use of other than the owner or occupant of the premises served, shall be issued. All driveway permits shall be subject to approval of the Superintendent of Streets & Parks. (Code 1958, Sec. 9.201)

Sec. 18-64. Specifications generally.

Driveways across sidewalks shall be constructed in compliance with specifications adopted by the Village Board of Trustees. (Code 1958, Sec. 9.204)

Sec. 18-65. Grade and surface requirements.

- (a) No driveway shall be so constructed or graded as to leave a step, sharp depression or other obstruction on the sidewalk. The grade shall be as nearly as possible the same as that of the adjoining sidewalk.
- (b) It shall be unlawful to have the surface finish of any driveway where the driveway crosses the sidewalk constructed of such materials as to render it slippery or hazardous to pedestrians, or to have the grade of such portion vary from the grade of the sidewalk or be other than level. (Code 1958, Sec. 9.203)

Sec. 18-66. Duty of person maintaining driveway to keep driveway repaired and free from obstructions.

It shall be the duty of any person maintaining a driveway in the Village to keep the same in good repair where it crosses the sidewalk, and free from obstruction and openings. (Code 1958, Sec. 9.205)

Secs. 18-67--18-77. Reserved.

ARTICLE III. PARKING LOTS

Sec. 18-78. Location.

No parking lot shall be established or operated in any place where such establishment or operation

STREETS AND SIDEWALKS

would be in violation of the Zoning Ordinance or any other Ordinance of the Village. (Code 1958, Sec. 14.501)

Sec. 18-79. Number of vehicles per square feet; spaces to be marked.

Not more than one (1) vehicle for each two hundred (200) square feet of area shall be accepted for parking in any parking lot located in the Village. Each parking lot shall be marked so as to show the parking place allotted for each vehicle. (Code 1958, Sec. 14.501)

Sec. 18-80. Entrances and exits.

Each parking lot located in the Village shall have sufficient entrances and exits to permit the entrance and egress of vehicles without obstruction to traffic. (Code 1958, Sec. 14.501)

Sec. 18-81. Requirements for driveways.

No driveway to a parking lot shall be constructed except in full compliance with the provisions of this Chapter relative to the issuance of permits for driveways. It shall be the duty of the operator of each parking lot to maintain the sidewalk and parkway over which the driveway passes in good condition. (Code 1958, Sec. 14.502)

Sec. 18-82. Surface requirements.

It shall be unlawful to operate a parking lot unless the surface is covered with concrete, asphalt, macadam or similar paving. (Code 19-58 Sec. 14.50(6))

Sec. 18-83. Rates and closing hours to be posted.

At the entrance of each parking lot there shall be posted in words and figures large enough to be read by prospective patrons a statement of the rates to be charged and of the closing hours. (Code 1958, Sec. 14.504)

Sec. 18-84. Reserved.

Sec. 18-85. General cleanliness.

Each parking lot located in the Village shall at all times be kept clean and free from dust or refuse and shall be adequately drained. (Code 1958, Sec. 14.506)

Sec. 18-86. Construction of buildings on premises.

Any buildings constructed on a parking lot shall be constructed in full compliance with the

STREETS AND SIDEWALKS

provisions of this Code and other Ordinances pertaining thereto. The exterior walls of such buildings shall be constructed of nonflammable material. Any structure used or to be used for office purposes only may have less than the minimum area requirements prescribed for residential or commercial buildings. (Code 1958, Sec. 14.507)

Sec. 18-87. Conducting other businesses on premises.

If any business other than that of operating a parking lot is conducted on the same premises with a parking lot, such business shall be conducted in full compliance with all provisions of this Code and other Ordinances pertinent thereto, and any license required for the operation of such business must be procured and the fee therefor required must be paid prior to the operation of such business. (Code 1958, Sec. 14.503)

Sec. 18-88. Certain vehicles not to be parked on premises.

It shall be unlawful to park or store in any parking lot, any vehicle which is not in a condition ready for use, or to permit the parking of any abandoned, junked or partially disabled vehicle in any such lot. It shall be unlawful to use any parking lot for storage or parking of any vehicle for the purpose of displaying the same for sale, or to use any parking lot or portion thereof as an automobile repair shop. (Code 1958, Sec. 14.508)

ARTICLE IV. MUNICIPAL INFRASTRUCTURE MAINTENANCE FEE

Section 18-95: Definitions:

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

- (a) “Gross Charges” means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the Village, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or 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 point within the Village, charges for the channel mileage between each channel point within the Village, and charges for that portion of the interstate inter-office channel provided within the Village. However, “gross charges” shall not include:
 - (1) any amounts added to a purchaser’s bill because of a charge made under: (i) the fee imposed by this Section, (ii) additional charges added to a purchaser’s bill under Section 9-221 or 9-222 of the Public Utilities Act, (iii) amounts collected

STREETS AND SIDEWALKS

under Section 8-11-17 of the Illinois Municipal Code, (iv) the tax imposed by the Telecommunications Excise Tax Act, (v) 911 surcharges, or (vi) the tax imposed by Section 4251 of the Internal Revenue Code;

- (2) charges for a sent collect telecommunication received outside the Village;
- (3) charges for leased time on equipment or charges for the storage of data or information or 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 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 Village;
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;
- (7) bad debts (“bad debt” means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or un-collectible, as determined under applicable Federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);
- (8) charges paid by inserting coins in coin-operated telecommunications devices; or
- (9) charges for telecommunications and all services and equipment provided to the Village.

STREETS AND SIDEWALKS

- (b) "Public Right-of-Way" means any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the Village has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. "Public Right-of-Way" shall not include any real or personal Village property that is not specifically described in the previous sentence and shall not include Village buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.
- (c) "Retailer maintaining a place of business in this State", or any like term, means and includes any retailer having or maintaining within the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.
- (d) "Sale of telecommunications at retail" means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.
- (e) "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, "service address" shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.
- (f) "Telecommunications" includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as hereinafter defined. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications"

STREETS AND SIDEWALKS

shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision and used as a component of or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

- (g) "Telecommunications provider" means (1) any telecommunications retailer; and (2) any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.
- (h) "Telecommunications retailer" or "retailer" or "carrier" means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The Village may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Village, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business within the Village.
- (i) "Wireless telecommunications" includes cellular mobile telephone services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 U.S.C. §332(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

Section 18-96. Registration of Telecommunications Providers:

- (a) Every telecommunications provider as defined by this Chapter shall register with the Village within thirty (30) days after the effective date of this Chapter or becoming a telecommunications provider, whichever is later, on a form to be provided by the Village, provided, however, that any telecommunications retailer that has filed a return pursuant to Subsection 18-98(c) of this Chapter shall be deemed to have registered in accordance with this Section.

STREETS AND SIDEWALKS

- (b) Every telecommunications provider who has registered with the Village pursuant to Subsection 18-96(a) has an affirmative duty to submit an amended registration form or current return as required by Subsection 18-98(c), as the case may be to the Village within thirty (30) days from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the Village.

Section 18-97. Municipal Telecommunications Infrastructure Maintenance Fee:

- (a) A Village telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of one (1%) percent of all gross charges charged by the telecommunications retailer to service addresses within the Village for telecommunications originating or received in the Village.
- (b) Upon the effective date of the infrastructure maintenance fee authorized in this Article, the Village infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the Village by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Article does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.
- (c) The Village telecommunications infrastructure maintenance fee authorized by this Section shall be collected, enforced, and administered as set forth in Section 18-98 of this Article.

Section 18-98. Collection, Enforcement, and Administration of Village Telecommunications Infrastructure Maintenance Fees:

- (a) A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the Village infrastructure maintenance fee attributable to that customer's service address.
- (b) Unless otherwise approved by the Village's Director of Finance the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the Village not later than the last day of the month subsequent to the month in which a bill is issued to the customer; provided, however, that the telecommunications retailer may retain an amount not to exceed two (2%) percent of the Village infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.
- (c) Remittance of the municipal infrastructure maintenance fee to the Village shall be accompanied by a return, in a form to be prescribed by the Village's Director of Finance, which shall contain such information as the Village Director of Finance may reasonably

STREETS AND SIDEWALKS

require.

- (d) Any infrastructure maintenance fee required to be collected pursuant to this Article and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the Village. The charge imposed under Subsection 18-98(a) by the telecommunications retailer pursuant to this Article shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.
- (e) If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Article, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Article, from the telecommunications retailer who made the erroneous payment; provided, however, the Village Director of Finance may request, and telecommunications retailer shall provide, written substantiation for such credit.
- (f) Amounts paid under this Article by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:
 - (1) “gross charges” for purposes of the Telecommunications Excise Tax Act;
 - (2) “gross receipts” for purposes of the municipal utility tax as prescribed in Section 8-11-2 of the Illinois Municipal Code;
 - (3) “gross charges” for purposes of the municipal telecommunications tax as prescribed in Section 8-11-17 of the Illinois Municipal Code;
 - (4) “gross revenue” for purposes of the tax on annual gross revenue of public utilities prescribed in Section 2-202 of the Public Utilities Act.
- (g) The Village shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Article to determine whether the telecommunications retailer has properly accounted to the Village for the Village infrastructure maintenance fee. Any underpayment of the amount of the Village infrastructure maintenance fee due to the Village by the telecommunications retailer shall be paid to the Village plus five (5%) percent of the total amount of the underpayment determined in an audit. If the audit indicates that the underpayment was more than three (3%) percent of the amount remitted to the Village in a timely manner as provided in this Ordinance, then the telecommunications retailer shall reimburse the Village for any costs incurred by the Village in conducting the audit. Any amounts payable to the Village pursuant to this Subsection (g) shall be paid to the Village within twenty-one (21) days after the date

STREETS AND SIDEWALKS

of issuance of an invoice for same.

- (h) The Village's Director of Finance, or his or her designee, may promulgate such further or additional regulations concerning the administration and enforcement of this Article, consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to Section 18-96.

Section 18-99. Compliance With Other Laws.

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

- (a) generally applicable taxes; and
- (b) standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and
- (c) any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and
- (d) compliance with any Ordinance or provision of this Village Code concerning uses or structures not located on, over, or within the rights-of-way.

Section 18-100. Existing Franchises and Licenses.

Any franchise, license, or similar agreements between telecommunications retailers and the Village entered into before the effective date of this Article regarding the use of public rights-of-way shall remain valid according to and for their stated terms, except for any fees, charges or other compensation to the extent waived. (Ord. No. 97-35, Sec. 2, 10-16-97)

ARTICLE V. CONSTRUCTION OF UTILITY FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

Sec. 18-101. Purpose and Scope.

- (a) Purpose. The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the Village of Fox River Grove's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the Village of Fox River Grove rights-of-way and the Village of Fox River Grove as a whole.

STREETS AND SIDEWALKS

- (b) Intent. In enacting this Article, the Village of Fox River Grove intends to exercise its authority over the rights-of-way in the Village of Fox River Grove and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues present by utility facilities, including without limitation:
- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
 - (2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
 - (3) prevent interference with the facilities and operations of the Village of Fox River Grove's utilities and of other utilities lawfully located in rights-of-way or public property;
 - (4) protect against environmental damage, including damage to trees, from the installation of utility facilities;
 - (5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
 - (6) preserve the character of the neighborhoods in which facilities are installed;
 - (7) preserve open space, particularly the tree-lined parkways that characterize the Village of Fox River Grove's residential neighborhoods;
 - (8) prevent visual blight from the proliferation of facilities in the rights-of-way; and
 - (9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.
- (c) Facilities Subject to This Article. This Article applies to all facilities on, over, above, along, upon, under, across, or within the public rights-of-way within the jurisdiction of the Village of Fox River Grove. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.
- (d) Franchises, Licenses, or Similar Agreements. The Village of Fox River Grove, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon,

STREETS AND SIDEWALKS

under, across, or within the Village of Fox River Grove rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the Village of Fox River Grove enter into such an agreement. In such an agreement, the Village of Fox River Grove may provide for terms and conditions inconsistent with this Article.

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

(1) Utilities Other Than Telecommunications Providers. In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the Village of Fox River Grove, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof to the extent that the franchise, license or similar agreement conflicts with a provision of this Article.

(2) Telecommunications Providers. In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the Village of Fox River Grove and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(f) Conflicts with Other Articles. This Article supersedes all Articles or parts of Articles adopted prior hereto that are in conflict herewith to the extent of such conflict.

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

(h) Sound Engineering Judgment. The Village of Fox River Grove shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the Village of Fox River Grove so determines. Nothing herein shall be construed to limit the ability of the Village of Fox River Grove to regulate its rights-of-way for the protection of the public health, safety and welfare. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-102. Definitions.

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

STREETS AND SIDEWALKS

“AASHTO” – American Association of State Highway and Transportation Officials.

“ANSI” – American National Standards Institute.

“Applicant” – A person applying for a permit under this Article.

“ASTM” – American Society for Testing and Materials.

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

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

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

“Cable service” – The term as defined in 47 U.S.C. 522(6).

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

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

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

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

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

“Code” – The Code of Ordinances of the Village of Fox River Grove.

“Conductor” – Wire carrying electrical current.

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

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

STREETS AND SIDEWALKS

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

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

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

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

“Encasement” – Provision of a protective casing.

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

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

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

“Facility” – All structures, devices, objects, and materials (including, but not limited to track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article. For purposes of this Article, the term “facility” shall not include any facility owned or operated by the Village of Fox River Grove.

“Freestanding Facility” – A facility that is not a crossing facility or a parallel facility. Freestanding Facilities include, but are not limited to a vault, box, an antenna, transformer, pump, or meter station.

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

“Hazardous Materials” – Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the Streets and Parks Superintendent to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment including but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any

STREETS AND SIDEWALKS

substance determined to be hazardous or toxic under any Federal or State law, statute or regulation.

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

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

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

“IDOT” – Illinois Department of Transportation.

“ICC” – Illinois Commerce Commission.

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

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

“Joint Use” – The use of pole lines, trenches or other facilities by two (2) or more utilities.

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

“Major Intersection” – The intersection of two (2) or more major arterial highways.

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

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

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

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

“Permittee” – That entity to which a permit has been issued pursuant to Sections 18-104 and 18-105 of this Article.

STREETS AND SIDEWALKS

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

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

“Petroleum Products Pipelines” – Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

“Prompt” – That which is done within a period of time specified by the Village of Fox River Grove. If no time period is specified, the period shall be thirty (30) days.

“Public Entity” – A legal entity that constitutes or is part of the government, whether at local, State or Federal level.

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

“Right-of-Way” or “Rights-of-Way” – Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements in which the Village of Fox River Grove has the right and authority to authorize, regulate or permit the location of facilities other than those of the Village of Fox River Grove. “Right-of-way” or “Rights-of-way” shall not include any real or personal Village of Fox River Grove property that is not specifically described in the previous two (2) sentences and shall not include Village of Fox River Grove buildings, fixtures, and other structures or improvements, regardless of whether they are situated in the right-of-way.

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

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

“Security Fund” – That amount of security required pursuant to Section 18-110.

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

“Sound Engineering Judgment” – A decision(s) consistent with generally accepted engineering

STREETS AND SIDEWALKS

principles, practices and experience.

“Streets & Parks Superintendent” – The head of the Village of Fox River Grove Department that has the primary responsibility for maintaining streets and other public rights-of-way or his or her designee

“Telecommunications” – This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points or wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. “Private line” means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. “Telecommunications” shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. “Telecommunications” shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. “Telecommunications” shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the Village of Fox River Grove through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

“Telecommunications Provider” – Means any person that installs, owns, operates or controls facilities in the public right-of-way used or designed to be used to transmit telecommunications in any form.

“Telecommunications Retailer” – Means and includes every person engaged in making sales of telecommunications at retail as defined herein.

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

“Utility” – The individual or entity owning or operating any facility as defined in this Article.

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

“Video Service” – That term as defined in Section 21-201(v) of the Illinois Cable and Video

Competition Law of 2007, 220 ILCS 21-201(v).

“Village Engineer” – The person or firm appointed or otherwise designated by the Village President as the Village’s civil engineer.

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

“Wet Boring” – Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material. (Ord. No. 07-24, Sec. 1, Sec. 2, 6-21-07; Ord. No. 07-32, Sec. 1, 10-18-07)

Sec. 18-103. Annual Registration Required.

Every utility that occupies a right-of-way within the Village of Fox River Grove shall register on January 1 of each year with the Streets & Parks Superintendent, providing the utility’s name, address and regular business telephone and telecopy numbers, the name of one (1) or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility’s facilities in the right-of-way and a twenty-four (24) hour telephone number for each such person, and evidence of insurance as required in Section 18-108 of this Article, in the form of a certificate of insurance. A telecommunications provider that has registered under this Section, shall be deemed to have satisfied the registration requirement under Section 18-96 of this Code. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-104. Permit Required; Applications and Fees.

- (a) Permit Required. No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any Village of Fox river Grove right-of-way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this Article), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right-of-way, without first filing an application with the Streets and Park Superintendent and obtaining a permit from the Village of Fox River Grove therefor, except as otherwise provided in this Article. No permit shall be required for installation and maintenance of service connections to customers’ premises where there will be no disruption of the right-of-way.
- (b) Permit Application. All applications for permits pursuant to this Article shall be filed on a form provided by the Village of Fox River Grove and shall be filed in such number of duplicate copies as the Village of Fox River Grove may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page of such materials accordingly.
- (c) Minimum General Application Requirements. The application shall be made by the utility or

STREETS AND SIDEWALKS

its duly authorized representative and shall contain, at a minimum, the following:

- (1) The utility's name and address and telephone and telecopy numbers;
- (2) The applicant's name and address, if different than the utility, its telephone, telecopy numbers, e-mail address, and its interest in the work;
- (3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
- (4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- (5) Evidence that the utility has placed on file with the Village:
 - (i) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - (ii) An emergency contingency plan which shall specify the nature of potential emergencies including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the Village of Fox River Grove and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Section unless the Village of Fox River Grove finds that additional information or assurances are needed;
- (6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- (7) Evidence of insurance as required in Section 18-108 of this Article;
- (8) Evidence of posting of the security fund as required in Section 18-110 of this Article;
- (9) Any request for a variance from one or more provisions of this Article (See Section

STREETS AND SIDEWALKS

18-121); and

- (10) Such additional information as may be reasonably required by the Village of Fox River Grove.
- (d) Supplemental Application Requirements for Specific Types of Utilities. In addition to the requirements of Subsection (c) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:
 - (1) In the case of installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any “Certificate of Public Convenience and Necessity” or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain has been issued by the ICC or other jurisdictional authority;
 - (2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
 - (3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
 - (4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control and the Metropolitan Water Reclamation District (other local or State entities with jurisdiction) have been satisfied; or
 - (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.
- (e) Applicant’s Duty to Update Information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the Village of Fox River Grove within thirty (30) days after the change necessitating the amendment.
- (f) Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a fee in the amount of twenty (\$20.00) dollars per one hundred (100) linear feet of the facility within Village right-of-way, or one hundred (\$100.00) dollars whichever is less, provided no application fee is required to be paid by any telecommunications retailer that is paying the municipal

STREETS AND SIDEWALKS

telecommunications infrastructure maintenance fee or the optional state telecommunications infrastructure maintenance fee pursuant to the Telecommunications Municipal Infrastructure Maintenance Fee Act, or by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-105. Action on Permit Applications.

- (a) Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the Streets & Parks Superintendent within a reasonable time after filing. If the application does not conform to the requirements of all applicable Ordinances, codes, laws, rules, and regulations, the Streets & Parks Superintendent shall reject such application in writing, stating the reasons therefor. If the Streets & Parks Superintendent is satisfied that the proposed work conforms to the requirements of this Article and all applicable Ordinances, codes, laws, rules, and regulations, the Streets & Parks Superintendent shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Streets and Parks Superintendent, that the construction proposed under the application shall be in full compliance with the requirements of this Article.
- (b) Additional Review of Applications of Telecommunications Retailers.
 - (1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the Village of Fox River Grove that it intends to commence work governed by this Article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the Village of Fox River Grove not less than ten (10) days prior to the commencement of work requiring no excavation and not less than thirty (30) days prior to the commencement of work requiring excavation. The Streets & Parks Superintendent shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.
 - (2) In the event that the Streets & Parks Superintendent fails to provide such specification of location to the telecommunications retailer within either (i) ten (10) days after service of notice to the Village of Fox River Grove by the telecommunications retailer in the case of work not involving excavation for new construction or (ii) twenty-five (25) days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.

STREETS AND SIDEWALKS

- (3) Upon the provision of such specification by the Village of Fox River Grove, where a permit is required for work pursuant to Section 18-104 of this Article the telecommunications retailer shall submit to the Village of Fox River Grove an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of Subsection (a) of this Section.
- (c) Additional Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007. Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted forty-five (45) days after submission to the Village of Fox River Grove, unless otherwise acted upon by the Village of Fox River Grove, provided the holder has complied with applicable Village of Fox River Grove codes, ordinances and regulations. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-106. Effect of Permit.

- (a) Authority Granted; No Property Right or Other Interest Created. A permit from the Village of Fox River Grove authorizes a permittee to undertake only certain activities in accordance with this Article on Village of Fox River Grove rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the rights-of-way.
- (b) Duration. No permit issued under this Article shall be valid for a period longer than six (6) months unless construction is actually begun within that period and is thereafter diligently pursued to completion.
- (c) Pre-construction meeting required. No construction shall begin pursuant to a permit issued under this Article prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the Village of Fox River Grove with such Village of Fox River Grove representatives in attendance as the Village of Fox River Grove deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.
- (d) Compliance with All Laws Required. The issuance of a permit by the Village of Fox River Grove does not excuse the permittee from complying with other requirements of the Village of Fox River Grove and applicable statutes, laws, ordinances, rules, and regulations. (Ord. 07-32, Sec. 1, 10-18-07)

Sec. 18-107. Revised Permit Drawings.

In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the Village of Fox River Grove within ninety (90) days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with Section 18-121 of this Article. If the Village of Fox River Grove denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-108. Insurance.

- (a) Required Coverages and Limits. Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the Village of Fox River Grove, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs (1) and (2) below:
- (1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as “X”, “C”, and “U” coverages) and products-completed operations coverage with limits not less than:
 - (i) Five million (\$5,000,000) dollars for bodily injury or death to each person;
 - (ii) Five million (\$5,000,000) dollars for property damage resulting from any one accident; and
 - (iii) Five million (\$5,000,000) dollars for all other types of liability;
 - (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of one million (\$1,000,000) dollars for personal injury and property damage for each accident;
 - (3) Worker’s compensation with statutory limits; and
 - (4) Employer’s liability insurance with limits of not less than one million (\$1,000,000) dollars per employee and per accident.

STREETS AND SIDEWALKS

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

- (b) Excess or Umbrella Policies. The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.
- (c) Copies Required. The utility shall provide copies of any of the policies required by this Section to the Village of Fox River Grove within ten (10) days following receipt of a written request therefor from the Village of Fox River Grove.
- (d) Maintenance and Renewal of Required Coverages. The insurance policies required by this Section shall contain the following endorsement:

“It is hereby understood and agreed that this policy may not be cancelled nor the intention not to renew be stated until thirty (30) days after receipt by the Village of Fox River Grove, by registered mail or certified mail, return receipt requested, of a written notice addressed to the Village of Fox River Grove Administrator of such intent to cancel or not to renew.”

Within ten (10) days after receipt by the Village of Fox River Grove of said notice, and in no event later than ten (10) days prior to said cancellation, the utility shall obtain and furnish to the Village of Fox River Grove evidence of replacement insurance policies meeting the requirements of this Section.

- (e) Self-Insurance. A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection (a) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection (a) or the requirements of Subsections (b), (c) and (d) of this Section. A utility that elects to self-insure shall provide to the Village of Fox River Grove evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection (a) of this Section, such as evidence that the utility is a “private self insurer” under the Workers Compensation Act.
- (f) Effect of Insurance and Self-Insurance on Utility’s Liability. The legal liability of the utility to the Village of Fox River Grove and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

STREETS AND SIDEWALKS

- (g) Insurance Companies. All insurance provided pursuant to this Section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. [All insurance carriers and surplus line carriers shall be rated “A-“ or better and of a class size “X” or higher by A.M. Best Company.] (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-109. Indemnification.

By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the Village of Fox River Grove and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney’s fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility’s indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the Village of Fox River Grove, its officials, officers, employees, agents or representatives. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-110. Security.

- (a) Purpose. The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee’s sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:
- (1) The faithful performance by the permittee of all the requirements of this Article;
 - (2) Any expenditure, damage, or loss incurred by the Village of Fox River Grove occasioned by the permittee’s failure to comply with any codes, rules, regulations, orders, permits and other directives of the Village of Fox River Grove issued pursuant to this Article; and
 - (3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the Village of Fox River Grove may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the Village of Fox River Grove must perform itself or have

STREETS AND SIDEWALKS

completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the Village of Fox River Grove from the permittee pursuant to this Article or any other applicable law.

- (b) Form. The permittee shall provide the Security Fund to the Village of Fox River Grove in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the Village of Fox River Grove, or an unconditional letter of credit in a form acceptable to the Village of Fox River Grove. Any surety bond or letter of credit provided pursuant to this Subsection shall, at a minimum:
- (1) Provide that it will not be cancelled without prior notice to the Village of Fox River Grove and the permittee;
 - (2) Not require the consent of the permittee prior to the collection by the Village of Fox River Grove of any amounts covered by it; and
 - (3) Shall provide a location convenient to the Village of Fox River Grove and within the State of Illinois at which it can be drawn.
- (c) Amount. The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Streets & Parks Superintendent, and may also include reasonable, directly related costs that the Village of Fox River Grove estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the Village of Fox River Grove, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Streets & Parks Superintendent may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (c) for any single phase.
- (d) Withdrawals. The Village of Fox River Grove, upon fourteen (14) days advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the Village of Fox River Grove for such amount within the fourteen (14) day notice period. Withdrawals may be made if the permittee:
- (1) Fails to make any payment required to be made by the permittee hereunder;

STREETS AND SIDEWALKS

- (2) Fails to pay any liens relating to the facilities that are due and unpaid;
 - (3) Fails to reimburse the Village of Fox River Grove for any damages, claims, costs or expenses which the Village of Fox River Grove has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
 - (4) Fails to comply with any provision of this Article that the Village of Fox River Grove determines can be remedied by an expenditure of an amount in the Security Fund.
- (e) Replenishment. Within fourteen (14) days after receipt of written notice from the Village of Fox River Grove that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in Subsection (c) of this Section.
- (f) Interest. The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the Village, upon written request for said withdrawal to the Village of Fox River Grove, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in Subsection (c) of this Section.
- (g) Closing and Return of Security Fund. Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village of Fox River Grove for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund and any and all accrued interest therein, shall become the property of the Village of Fox River Grove to the extent necessary to cover any reasonable costs, loss or damage incurred by the Village of Fox River Grove as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.
- (h) Rights Not Limited. The rights reserved to the Village of Fox River Grove with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the Village of Fox River Grove may have. Notwithstanding the foregoing, the Village of Fox River Grove shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-111. Permit Suspension and Revocation.

- (a) Village's Right to Revoke Permit. The Village of Fox River Grove may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:

STREETS AND SIDEWALKS

- (1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
 - (2) Non-compliance with this Article;
 - (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
 - (4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.
- (b) Notice of Revocation or Suspension. The Village of Fox River Grove shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section 18-111.
- (c) Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension. Upon receipt of a written notice of revocation or suspension from the Village of Fox River, the permittee shall have the following options:
- (1) Immediately provide the Village of Fox River Grove with evidence that no cause exists for the revocation or suspension;
 - (2) Immediately correct, to the satisfaction of the Village of Fox River Grove, the deficiencies stated in the written notice, providing written proof of such correction to the Village of Fox River Grove within five (5) working days after receipt of the written notice of revocation; or
 - (3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the rights-of-way to the satisfaction of the Village of Fox River Grove providing written proof of such removal to the Village of Fox River Grove within ten (10) days after receipt of the written notice of revocation.

The Village of Fox River Grove may, in its discretion, for good cause shown, extend the time periods provided in this Subsection.

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

STREETS AND SIDEWALKS

- (e) Failure or Refusal of the Permittee to Comply. If the permittee fails to comply with the provisions of Subsection (c) of this Section, the Village of Fox River Grove or its designee may, at the option of the Village of Fox River Grove: (1) correct the deficiencies; (2) upon not less than twenty (20) days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than thirty (30) days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the Village of Fox River Grove. The permittee shall be liable in all events to the Village of Fox River Grove for all costs of removal. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-112. Change of Ownership or Owner's Identity or Legal Status.

- (a) Notification of Change. A utility shall notify the Village of Fox River Grove no less than thirty (30) days prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.
- (b) Amended Permit. A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the Village of Fox River Grove's right-of-way.
- (c) Insurance and Bonding. All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-113. General Construction Standards.

- (a) Standards and Principles. All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:
 - (1) Standard Specifications for Road and Bridge Construction;
 - (2) Supplemental Specifications and Recurring Special Provisions;
 - (3) Highway Design Manual;
 - (4) Highway Standards Manual;

STREETS AND SIDEWALKS

- (5) Standard Specifications for Traffic Control Items;
 - (6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
 - (7) Flagger's Handbook; and
 - (8) Work Site Protection Manual for Daylight Maintenance Operations.
- (b) Interpretation of Municipal Standards and Principles. If a discrepancy exists between or among differing principles and standards required by this Article, the Streets & Parks Superintendent shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Streets & Parks Superintendent shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-114. Traffic Control.

- (a) Minimum Requirements. The Village of Fox River Grove's minimum requirements for traffic protection are contained in IDOT's Illinois Manual of Uniform Traffic Control Devices and this Code.
- (b) Warning Signs, Protective Devices, and Flaggers. The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable Federal, State, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.
- (c) Interference with Traffic. All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.
- (d) Notice When Access is Blocked. At least forty-eight (48) hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided; however, that in cases involving emergency repairs pursuant to Section 18-120 of this Article, the utility shall provide such notice as is practicable under the circumstances.
- (e) Compliance. The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the Village of Fox River Grove. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-115. Location of Facilities.

STREETS AND SIDEWALKS

- (a) General Requirements. In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this Subsection.
- (1) No Interference with Village of Fox River Grove Facilities. No utility facilities shall be placed in any location if the Streets and Parks Superintendent determines that the proposed location will require the relocation or displacement of any of the Village of Fox River Grove's utility facilities or will otherwise interfere with the operation or maintenance of any of the Village of Fox River Grove's utility facilities.
 - (2) Minimum Interference and Impact. The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.
 - (3) No Interference with Travel. No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.
 - (4) No Limitations on Visibility. No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.
 - (5) Size of Utility Facilities. The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.
- (b) Parallel Facilities Located Within Highways.
- (1) Overhead Parallel Facilities. An overhead parallel facility may be located within the right-of-way lines of a highway only if:
 - (i) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
 - (ii) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two (2) feet (0.6 m) behind the face of the curb, where available;
 - (iii) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four (4) feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;

STREETS AND SIDEWALKS

- (iv) No pole is located in the ditch line of a highway; and
 - (v) Any ground-mounted appurtenance is located within one (1) foot (0.3 m) of the right-of-way line or as near as possible to the right-of-way line.
- (2) Underground Parallel Facilities. An underground parallel facility may be located within the right-of-way lines of a highway only if:
- (i) The facility is located as near the right-of-way line as practicable and not more than eight (8) feet (2.4 m) from and parallel to the right-of-way line;
 - (ii) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
 - (iii) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than five (5) feet (1.5 m) from the right-of-way line and any above grounded appurtenance shall be located within one (1) foot (0.3 m) of the right-of-way line or as near as practicable.
- (c) Facilities Crossing Roadways.
- (1) No Future Disruption. The construction and design of crossing facilities installed between the ditch lines or curb lines of Village of Fox River Grove highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
 - (2) Cattle Passes, Culverts, or Drainage Facilities. Crossing facilities shall not be located in cattle passes, culverts or drainage facilities.
 - (3) 90 Degree Crossing Required. Crossing facilities shall cross at or as near to a ninety (90) degree angle to the centerline as practicable.
 - (4) Overhead Power or Communication Facility. An overhead power or communication facility may cross a highway only if:
 - (i) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);

STREETS AND SIDEWALKS

- (ii) Poles are located within one (1) foot (0.3 m) of the right-of-way line of the highway and outside of the clear zone; and
 - (iii) Overhead crossings at major intersections are avoided.
- (5) Underground Power or Communication Facility. An underground power or communication facility may cross a highway only if:
- (i) The design materials and construction methods will provide maximum maintenance-free service life; and
 - (ii) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- (6) Markers. The Village of Fox River Grove may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. § 192.707 (1989)).
- (d) Facilities to be Located Within Particular Rights-of-Way.
- The Village of Fox River Grove may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.
- (e) Freestanding Facilities.
- (1) The Village of Fox River Grove may restrict the location and size of any freestanding facility located within a right-of-way.
 - (2) The Village of Fox River Grove may require any freestanding facility located within a right-of-way to be screened from view.
- (f) Facilities Installed Above Ground. Above ground facilities may be installed only if:
- (1) No other existing facilities in the area are located underground;
 - (2) New underground installation is not technically feasible; and
 - (3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area

STREETS AND SIDEWALKS

being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used whenever practicable; the installation of additional utility poles is strongly discouraged.

(g) Facility Attachments to Bridges or Roadway Structures.

- (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
- (2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - (i) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - (ii) The type, length, value, and relative importance of the highway structure in the transportation system;
 - (iii) The alternative routings available to the utility and their comparative practicability;
 - (iv) The proposed method of attachment;
 - (v) The ability of the structure to bear the increased load of the proposed facility;
 - (vi) The degree of interference with bridge maintenance and painting;
 - (vii) The effect on the visual quality of the structure; and
 - (viii) The public benefit expected from the utility service as compared to the risk involved. (Ord. No. 07-24, Sec. 3, 6-21-07)

(h) Appearance Standards.

- (1) The Village of Fox River Grove may prohibit the installation of facilities in particular locations in order to preserve visual quality.
- (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if does not impair the aesthetic quality of the lands being traversed. (Ord. No. 07-32, Sec. 2, 10-18-07))

Sec. 18-116. Construction Methods and Materials.

(a) Standards and Requirements for Particular Types of Construction Methods.

(1) Boring or Jacking.

- (i) Pits and Shoring. Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Village of Fox River Grove Streets & Parks Superintendent from the edge of the pavement. Pits for boring or jacking shall be excavated no more than forty-eight (48) hours in advance of boring or jacking operations and backfilled within forty-eight (48) hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
- (ii) Wet Boring or Jetting. Wet boring or jetting shall not be permitted under the roadway.
- (iii) Borings with Diameters Greater Than Six (6) Inches. Borings over six (6) inches (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one (1) inch (25 mm).
- (iv) Borings with Diameters Six (6) Inches or Less. Borings of six (6) inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
- (v) Tree Preservation. Any facility located within the drip line of any tree designated by the Village of Fox River Grove to be preserved or protected shall be bored under or around the root system.

STREETS AND SIDEWALKS

- (2) Trenching. Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction."
- (i) Length. The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Streets & Parks Superintendent.
 - (ii) Open Trench and Excavated Material. Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
 - (iii) Drip Line of Trees. The utility shall not trench within the drip line of any tree designated by the Village of Fox River Grove to be preserved.
- (3) Backfilling.
- (i) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction." When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
 - (ii) For a period of three (3) years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Streets & Parks Superintendent, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Streets & Parks Superintendent.
- (4) Pavement Cuts. Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the roadway is closed to traffic. If a variance to the

STREETS AND SIDEWALKS

limitation set forth in this paragraph (4) is permitted under Section 18-121, the following requirements shall apply:

- (i) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Streets & Parks Superintendent.
- (ii) Restoration of pavement, in kind, shall be accomplished as soon as practicable and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the Village of Fox River Grove.
- (iii) All saw cuts shall be full depth.
- (iv) For all rights-of-way which have been reconstructed with a concrete surface/base in the last seven (7) years, or resurfaced in the last three (3) years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or resurfacing or unless a pavement cut is necessary for a J.U.L.I.E. locate.

(5) Encasement.

- (i) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the Village.
- (ii) The venting, if any, of any encasement shall extend within one (1) foot (0.3 m) of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
- (iii) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or Village of Fox River Grove approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the Village of Fox River Grove. Bell and spigot type pipe shall be encased regardless of installation method.
- (iv) In the case of gas pipelines of sixty (60) psig or less, encasement may be eliminated.

STREETS AND SIDEWALKS

- (v) In the case of gas pipelines or petroleum products pipelines with installations of more than sixty (60) psig, encasement may be eliminated only if: (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided;
 - (vi) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- (6) Minimum Cover of Underground Facilities. Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

TYPE OF FACILITY	MINIMUM COVER
Electric Lines	30 Inches (0.8 m)
Communication, Cable or Video Service Lines	18-24 Inches (0.6 m, as determined by Village of Fox River Grove)
Gas or Petroleum Products	30 Inches (0.8 m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, or Drainage Line	Sufficient Cover to Provide Freeze Protection

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

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

STREETS AND SIDEWALKS

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

STREETS AND SIDEWALKS

- (4) Petroleum Products Pipelines. Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
 - (5) Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines. Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current “Standard Specifications for Water and Sewer Main Construction in Illinois”.
 - (6) Ground Mounted Appurtenances. Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending one (1) foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Streets & Parks Superintendent. With the approval of the Streets & Parks Superintendent, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.
- (c) Materials.
- (1) General Standards. The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT’s “Standards Specifications for Road and Bridge Construction”, the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
 - (2) Material Storage on Right-of-Way. No material shall be stored on the right-of-way without the prior written approval of the Streets & Parks Superintendent. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property.
 - (3) Hazardous Materials. The plans submitted by the utility to the Village of Fox River Grove shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.
- (d) Operational Restrictions.

STREETS AND SIDEWALKS

- (1) Construction operations on rights-of-way may, at the discretion of the Village of Fox River Grove, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
 - (2) These restrictions may be waived by the Village when emergency work is required to restore vital utility services.
 - (3) Unless otherwise permitted by the Village, the hours of construction are sunrise to sunset.
- (e) Location of Existing Facilities. Any utility proposing to construct facilities in the Village of Fox River Grove shall contact J.U.L.I.E. and ascertain the presence and location of existing aboveground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The Village of Fox River Grove will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Village of Fox River Grove or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within forty-eight (48) hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 et seq.). (Ord. No. 07-32, Sec. 2, 10-18-07; Ord. 14-14, Sec. 1, 7-17-14)

Sec. 18-117. Vegetation Control.

- (a) Electric Utilities – Compliance with State Laws and Regulations. An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the Village of Fox River Grove as permitted by law.
- (b) Other Utilities -- Tree Trimming Permit Required. Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.
 - (1) Application for Tree Trimming Permit. Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

STREETS AND SIDEWALKS

- (2) Damage to Trees. Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The Village of Fox River Grove will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The Village of Fox River Grove may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.
- (c) Specimen Trees or Trees of Special Significance. The Village of Fox River Grove may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.
- (d) Chemical Use.
 - (1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the Village of Fox River Grove for any purpose, including the control of growth, insects or disease.
 - (2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Streets & Parks Superintendent. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-118. Removal, Relocation, or Modifications of Utility Facilities.

- (a) Notice. Within ninety (90) days following written notice from the Village of Fox River Grove, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the Corporate Authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Village of Fox River Grove improvement in or upon, the rights-of-way.
- (b) Removal of Unauthorized Facilities. Within thirty (30) days following written notice from the Village of Fox River Grove, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

STREETS AND SIDEWALKS

- (1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
 - (2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
 - (3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or
 - (4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.
- (c) Emergency Removal or Relocation of Facilities. The Village of Fox River Grove retains the right and privilege to cut or move any facilities located within the rights-of-way of the Village of Fox River Grove, as the Village of Fox River Grove may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.
- (d) Abandonment of Facilities. Upon abandonment of a facility within the rights-of-way of the Village of Fox River Grove, the utility shall notify the Village of Fox River Grove within ninety (90) days. Following receipt of such notice the Village of Fox River Grove may direct the utility to remove all or any portion of the facility if the Streets & Parks Superintendent determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the Village of Fox River Grove does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the Village of Fox River Grove, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-119. Cleanup and Restoration.

The utility shall remove all excess material and restore all turf and terrain and other property within ten (10) days after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the Village of Fox River Grove. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Streets & Parks Superintendent. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be

STREETS AND SIDEWALKS

extended by the Streets & Parks Superintendent for good cause shown. (Ord. 07-24, Sec. 4, 6-21-07; Ord. No. 07-32, Sec. 2, 10-18-07))

Sec. 18-120. Maintenance and Emergency Maintenance.

- (a) General. Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the Village of Fox River Grove and at the utility's expense.
- (b) Emergency Maintenance Procedures. Emergencies may justify non-compliance with normal procedures for securing a permit:
 - (1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
 - (2) In an emergency, the utility shall, as soon as possible, notify the Streets & Parks Superintendent or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the Village of Fox River Grove Police shall be notified immediately.
 - (3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.
- (c) Emergency Repairs. The utility must file in writing with the Village of Fox River Grove a description of the repairs undertaken in the right-of-way within forty-eight (48) hours after an emergency repair. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-121. Variances.

- (a) Request for Variance. A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Streets & Parks Superintendent as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.

STREETS AND SIDEWALKS

- (b) Authority to Grant Variances. The Village Engineer shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.
- (c) Conditions for Granting of Variance. The Village Engineer may authorize a variance only if the utility requesting the variance has demonstrated that:
 - (1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
 - (2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.
- (d) Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the Village Engineer may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.
- (e) Right to Appeal. Any utility aggrieved by an order, requirement, decision or determination, including denial of a variance, made by the Village Engineer under the provisions of this Article shall have the right to appeal to the Village President of the Village of Fox River Grove. The application for appeal shall be submitted in writing to the Village of Fox River Grove Clerk within thirty (30) days after the date of such order, requirement, decision or determination. The Village President shall commence its consideration of the appeal within not more than fifteen (15) days after the filing of the appeal. The Village President shall timely decide the appeal. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-122. Penalties.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to a fine in accordance with the penalty provisions of this Code. There may be times when the Village of Fox River Grove will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the Village of Fox River Grove's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Village of Fox River Grove. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it. (Ord. No. 07-32, Sec. 2, 10-18-07)

STREETS AND SIDEWALKS

Sec. 18-123. Enforcement.

Nothing in this Article shall be construed as limiting any additional or further remedies that the Village of Fox River Grove may have for enforcement of this Article. (Ord. No. 07-32, Sec. 2, 10-18-07)

Sec. 18-124. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof. (Ord. No. 99-09, Sec. 1, 4-15-99, Ord. No. 07-32, Sec. 3, 10-18-07))