

*Municipal Code*  
**VILLAGE OF**  
*Durand, Illinois*

**GENERAL ORDINANCES OF THE VILLAGE**

**Published by Order of the President and Board of Trustees**

***OFFICIALS***  
**of the**  
**VILLAGE OF DURAND, ILLINOIS**

**January 18, 2024**

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## **PREFACE**

This Code constitutes a complete codification of the ordinances of a general and permanent nature enacted by the President and Board of Trustees and is the first such codification for the Village of Durand since 1941.

As expressed in the Adopting Ordinance, this Code supersedes all ordinances not included herein or expressly saved from repeal by the Adopting Ordinance. The Code contains only ordinances of a general and permanent nature, prescribed for and affecting the public as a whole. Special ordinances or ordinances dealing with only a portion of the inhabitants of the Village, rather than all of them, or relating to special purposes, such as ordinances levying special assessments, providing for bond issues, paving, vacating and opening specified streets, etc., are not included herein. For a more specific enumeration of the types of ordinances which are not included herein, see Ordinance 1996-1 of the Adopting Ordinance.

The chapters of the Code have been conveniently arranged in alphabetical order and the various sections within each chapter have been appropriately catch lined to facilitate usage. Appropriate footnotes which tie related sections of the Code together and which refer to relevant state laws have been included. Also, the source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code.

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the first section of Chapter 1 is number 1-1 and the thirtieth section of Chapter 4 is 4-30. Under this system, each section is identified by its chapter, and, at the same time, new sections may be inserted in their proper places, simply by using the decimal system for amendments. By way of illustration: If it is desired to add new material consisting of three sections that would logically come between sections 5-4 and 5-5, such new sections would be numbered 5-4.1, 5-4.2 and 5-4.3.

New chapters may be included by the addition of a fraction after the chapter number. For example, if the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12 1/2. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way, or in the case of articles, may be placed at the end of the chapter embracing the subject and in the case of division may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

A special feature of this Code is the loose-leaf system of binding and supplemental servicing. With this loose-leaf system, the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances, they will be properly edited and the page or pages affected will be reprinted. These new pages will be distributed to the holders of the Codes with instructions for the manner of inserting the new pages and deleting the obsolete pages. Each such amendment, when incorporated into the Code, may be cited as a part thereof as provided in Section 4 of the Adopting Ordinance.

The successful maintenance of this Code up-to-date at all times will depend largely upon the holder of the volume. As revised sheets are received it will become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publishers that all such amendments be inserted immediately upon receipt to avoid misplacing them, and that all deleted pages be saved and filed for historical reference.

The general index of the Code has been prepared with the greatest of care. Each item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language generally used by city officials and employees. There are numerous cross-references within the index which stand as guideposts to direct the user to the particular item in which he is interested.

The citizens of Durand are most grateful to Mr. Herbert I. Greene, Village Attorney; Mr. Jeff Anderson, Police Sergeant; Mr. Robert Corwin, Chief of Police; Miss Lori Hardie, Office Associate; and Mrs. Charlotte Miller, Administrative Assistant for their cooperation and interest during the progress of the work on this Code.

This Code is presented for the use and benefit of the citizens of the Village of Durand, Illinois.

**i) VILLAGE PRESIDENT**

**BOARD OF TRUSTEES**

**ORDINANCE NO. 1996-1**

An Ordinance Adopting and Enacting a New Municipal Code for the Village of Durand, Winnebago County, Illinois; Establishing the Same; Providing for the Repeal of Certain Ordinances not Included Therein, Except as Herein Expressly Providing for the Manner of Amending Such Municipal Code; Providing a Penalty for the Violation Thereof; and Providing When This Ordinance Shall Become Effective.

Be It Ordained by the President and Board of Trustees of the Village of Durand, Illinois, as Follows:

- Section 1. That this ordinance, consisting of Chapters 1 through 20, inclusive, is hereby adopted and enacted as the "Municipal Code, Village of Durand, Illinois," and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances passed by the President and Board of Trustees on or before February 26, 1996 except such as by reference thereto are expressly saved from repeal or continued in force and effect for any purpose.
- Section 2. That all ordinances of a general and permanent nature of the Village of Durand, enacted on final passage on or before February 26, 1996 and not in such Code, or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of such Code, except as hereinafter provided.
- Section 3. The repeal provided for in section 2 hereof shall not affect any of the following:
- a. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code;
  - b. Any ordinance or resolution promising or guaranteeing the payment of money for the Village; or authorizing the issuance of any bonds of the Village or any evidence of the Village's indebtedness, or any contract or obligation assumed by the Village;
  - c. Administrative ordinances or resolutions of the President and Board of Trustees not in conflict or inconsistent with the provisions of such Code;
  - d. Any right or franchise granted by any ordinances of the Village;
  - e. Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the Village; or establishing or changing any street grades or prescribing the datum plane for the Village;
  - f. Any appropriation ordinances;
  - g. Any ordinance levying or imposing taxes, or establishing limitation on the levy of taxes for specified purposes;
  - h. The zoning ordinance or any amendment thereto;
  - i. Any ordinance providing for local improvements or making assessments therefore;
  - j. Any subdivision ordinance or any ordinance dedicating or accepting any plat or subdivision in the Village;
  - k. Any ordinance extending or contracting the boundaries of the Village;
  - l. Any ordinance prescribing the number, classification or compensation of any Village officer or employee, not inconsistent herewith.

Such repeal shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is

repealed by this ordinance.

- Section 4. That any and all additions or amendments to such Code, when passed in such form as to indicate the intention of the President and Board of Trustees to make the same a part thereof, shall be deemed to be incorporated in such Code so that reference to the "Municipal Code, Village of Durand, Illinois," shall be understood and intended to include such additions and amendments.
- Section 5. That a copy of such Code shall be kept on file in the Office of the Village Clerk, preserved in loose-leaf form. It shall be the express duty of the Village Clerk, or someone authorized by him, to insert in their designated places all amendments or ordinances which indicate the intention of the President and Board of Trustees to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which may from time to time be repealed by the President and Board of Trustees. This copy of such Code shall be available for all persons desiring to examine the same and shall be considered the official Municipal Code of Durand, Illinois.
- Section 6. Whenever in such Code any act is prohibited or is made or declared to be unlawful or a misdemeanor or a violation of such code, or whenever in such code the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor or a violation of such Code, where no specific penalty is provided therefore, the violation of any such provision of this Code shall be punished by a fine of not more than Seven Hundred and Fifty Dollars (\$750.00). Each day any violation of any provisions of this Code shall continue shall constitute a separate offense.
- Section 7. That in case of the amendment of any section of such Code for which a penalty is not provided, the general penalty as provided in section 6 of this ordinance and Section 1-7 of such Code shall apply to the section as amended or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.
- Section 8. That it shall be unlawful for any person, firm or corporation in the Village to change or amend by additions or deletions, any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Village of Durand to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in Section 1-7 of the Municipal Code of the Village of Durand, Illinois.
- Section 9. That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.
- Section 10. That this ordinance shall be in full force and effect from and after February 26, 1996.
- Section 11. That this ordinance and the Code adopted hereby shall be printed and published in book or pamphlet form by order of the President and Board of Trustees.
- Section 12. That this ordinance shall be published according to statutory requirements and three (3) copies of the Code adopted hereby shall be available in the office of the Village Clerk for examination by the public.

PASSED by the Board of Trustees of the Village of Durand, Illinois, this 26th day of February, 1996.

/s/ Dana Geisleman  
Village Clerk

APPROVED by me as President of the Board of Trustees of the Village of Durand, Illinois, this 26th day of February, 1996.

/s/ Jeff Bargar  
Village President

# CHAPTER 1

## GENERAL PROVISIONS

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### Sec. 1-1. How Code Designated and Cited.

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

*State law reference - Revision and codification of Ordinances, Ill. Rev. Stat., Ch. 24, s 1-2-3.*

### Sec. 1-2. Rules of Construction and Definitions.

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

**Generally.** All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Board of trustees may be fully carried out.

In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

**Board, Board of Trustees, Village Board.** Whenever the words "Board", "Board of trustees" or "Village Board" are used, they shall be construed to mean the Board of Trustees of the Village of Durand.

**Computation of Time.** Whenever a notice is required to be given or an act to be done a certain length of

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

**Corporate or Village Limits.** The term "corporate limits" or "Village limits" shall mean the legal boundaries of the Village of Durand.

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

**Delegation of Authority.** Whenever a provision appears requiring the head of a department or some other Village officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

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

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

**Month.** The word "month" shall mean a calendar month.

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

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

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

**Officers Generally.** Whenever any officer is referred to by title, such as "Village Clerk," "chief of police," "President," etc., such reference shall be construed as if followed by the words "of the Village of Durand."

**Ordinance.** The word "ordinance," whenever used in this Code shall be held and taken to mean the entire Code, including each and every section thereof and all other ordinances of the Village.

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

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

**Personal Property.** Personal property includes every species of property except real property, as herein



described.

**Preceding, following.** The words "preceding" and "following" mean next before and next after, respectively.

**Property.** The word "property" shall include real and personal property.

**Real Property.** Real property shall include lands, tenements and hereditaments.

**Shall.** The word "shall" is mandatory.

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

**Signature or Subscription.** Signature or subscription includes a mark when the person cannot write.

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

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

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

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

**Village.** Village shall mean the Village of Durand, Illinois.

**Wholesale, Wholesaler, etc.** In all cases where the words "wholesale," "wholesaler," or "wholesale dealer" are used in this Code, unless otherwise specifically defined, they shall be understood and held to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for purposes of resale, as distinguished from a retail dealer who sells in smaller quantities direct to the consumer.

**Written or in writing.** Written or in writing shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

**Year.** The word "year" shall mean a calendar year.

*State law reference - Similar rules of statutory construction, Ill. Rev. Stat., Ch. 131, 1 et seq. Revision and codification of Ordinances, Ill. Rev. Stat., Ch. 24, s 1-2-3*

### **Sec. 1-3. Catch Lines of Sections.**

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

**Sec. 1-4. Amendments to Code.**

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

**Sec. 1-5. Effect of Repeal of Ordinances.**

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

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

**Sec. 1-6. Severability of Parts of Code.**

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

**Sec. 1-7. General Penalty for Violation of Code; Continuing Violations.**

Whenever in this Code or in any ordinance of the Village any act is prohibited or is made or declared to be unlawful or a misdemeanor or a violation of this Code, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor or a violation of this Code, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine of not more than Seven Hundred and Fifty Dollars (\$750.00). Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

*State law reference--Limitation on penalties Ill. Rev. Stat., Ch 24, 1-2-1.*

## CHAPTER 2

### ADMINISTRATION

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### ARTICLE I. IN GENERAL

#### Sec. 2-1. Corporate Seal Described.

The corporate seal of the Village shall be a circular dish containing the words "Village Seal" within a circle formed by the words "Village of Durand, Winnebago County."

*Cross reference - Village Clerk to be custodian of Village seal, 2-81.*

*State law reference - Authority to have a corporate seal, Ill. Rev. Stat., Ch. 24, 2-2-12.*

#### Sec. 2-2. Fiscal Year Established.

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

*State law reference - Authority to establish fiscal year, Ill. Rev. Stat., Ch. 24, 1-1-2(5).*

#### Sec. 2-3. Annual Audit; Reports.

As soon as practical at the close of each fiscal year, and no later than six (6) months thereafter, there shall be an audit of accounts of the Village made by a competent person authorized to act as an auditor under the laws of the state, who shall be designated by the Village Board of Trustees. Copies of the audit report shall be filed with the Village Clerk.

*State law reference - Municipal audit law, Ill. Rev. State., Ch. 24 8-8.1 et. seq.*

**Sec. 2-4. Elections.**

Elections of the Village President and Village Trustees shall be held on the first Tuesday of April in odd-numbered years and the elections of all other Village offices shall be held as is provided by statute. Terms of newly elected officers or new terms of reelected officers shall begin at the first regular or special meeting in May following such election. **(Ord. No. 1997-6; 2/97)**

*State law reference - Elections generally, Ill. Rev. Stat, Ch. 46; time of holding elections, Ch. 46, 2-1 et seq.; election of President and trustees of Village, Ch. 24, 3-5-3; election of Clerk, Ch. 24, 3-5-9.*

**Sec. 2-5. Surety Bond.**

Whenever a surety bond to indemnify the Village is required as a prerequisite to exercising the duties of any office or position, or to the issuance of a license or permit or the exercise of any special privilege, the surety on such bond shall be a corporation licensed and authorized to do business in this state as a surety company, in the absence of specific provision to the contrary by ordinance.

**Sec. 2-6 - 2-15. Reserved.**

## **ARTICLE II. OFFICERS AND EMPLOYEES GENERALLY**

**Sec. 2-16. Application of Article.**

The provisions of this article shall apply alike to all officers or employees of the Village, regardless of the time of the creation of the office or of the time of the appointment of the officer.

**Sec. 2-17. Appointments.**

The Village President and Board of Trustees shall make appointments to fill all appointive offices. Employees shall be selected by the Village President.

*Cross reference - Election of Village officers, 2-4*

*State law reference--Appointments generally, Ill. Rev. Stat., Ch. 24, 3-8-1.*

**Sec. 2-18. Oath of Office.**

Every officer of the Village shall, before entering upon his duties, take the oath prescribed by state law.

*State law reference--Oath of office, Ill. Rev. Stat., Ch. 24, 3-14-3.*

**Sec. 2-19. Bond.**

Every officer and employee shall, if required by the Board of Trustees, before entering upon the duties of

his office, give a bond in such amount as may be determined by the Board and with such sureties as it may approve, conditioned upon the faithful performance of the duties of his office or position.

*Cross reference - bond of Village President, 2-64; bond of Village Clerk, 2-79; bond of Village treasurer, 2-96; bond of police chief, 14-27.*

*State law reference--Bond of officers, Ill. Rev. Stat., Ch. 24 3-14-3.*

**Sec. 2-20. Terms of Office; Vacancies.**

Every appointive officer or employee of the Village shall hold office for a term of one (1) year or until his successor is appointed and qualified unless it is otherwise provided by ordinance. Employees selected shall serve so long as their services are desired.

**Sec. 2-21. Salaries; Retention of Fees by Salaried Employees.**

All officers and employees of the Village shall receive such salaries as may be provided from time to time by ordinance.

**Sec. 2-22. Availability of Records for Inspection.**

All records kept by any officer of the Village shall be open to inspection by the Village President, or any member of the Board of trustees at all reasonable times, whether or not such records are required to be kept by statute or ordinance.

**Sec. 2-23. Arrest Authority.**

Every member of the police department is hereby declared to be conservators of the peace with such powers and authority to make arrests as are given to conservators of the peace by statute.

*State law reference - For similar provisions, see Ill. Rev. Stat., Ch. 24, 3-9-4.*

**Sec. 2-24. Surrender of Effects of Office.**

Every officer of the Village upon the termination of his office, for any cause whatsoever, shall deliver to his successor all books and records which may be property of the Village and if no successor has been appointed within one (1) week after the termination of office such property shall be delivered either to the Village Clerk or to the Village Treasurer.

**Sec. 2-25 Interfering with Officers.**

It shall be unlawful to interfere with or hinder any officer or employee of the Village while engaged in the duties of his office.

*State law reference - obstructing peace officers, Ill. Rev. Stat., Ch. 38, 31-1.*

**Sec. 2-26 Reimbursement of Travel, Meal, and Lodging Expenses-Definitions.**

“Entertainment” includes, but is not limited to shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless ancillary to the purpose of the program or event.

“Public Business” means expense incurred in the performance of a public purpose which is required or useful for the benefit of the Village to carry out the responsibilities of Village business.

“Travel” means expenditure directly incident to official travel by employees and officers of the Village or by wards or charges of the Village involving reimbursement to travelers or direct payment to private agencies providing transportation or related services. (Ord. 2016-8, 12/27/16, effective 3/1/17)

**Sec. 2-27. Reimbursement of Travel, Meal, and Lodging Expenses.**

- A. The Village shall only reimburse the following types of travel, meal, and lodging expenses incurred by its employees and officers up to the following maximum allowable amounts:
- a. Up to \$50.00 per day for reasonable travel expenses while traveling in collar counties, and for an amount up to \$75.00 per day for reasonable travel expenses while traveling in Cook County or in any municipality wherein the population exceeds 500,000. Such expenditures must be verified by expense receipts submitted to the Village, in the event that travel expenses total greater than \$50.00 per day in a collar county, the employee or officer shall be responsible for the amount that exceeds \$50.00, unless otherwise approved in accordance with subsection (c) of this Section. In the event that travel expenses total greater than \$75.00 per day in Cook County or in any municipality wherein the population exceeds 500,000, the employee or officer shall be responsible for the amount that exceeds \$75.00, unless otherwise approved in accordance with subsection (c) of this Section.
  - b. Up to \$50.00 per day for reasonable meal expenses while traveling in collar counties, and for an amount up to \$75.00 per day for reasonable meal expenses while traveling in Cook County or in any municipality wherein the population exceeds 500,000. Such expenditures must be verified by expense receipts submitted to the Village. In the event that meal expenses total greater than \$50.00 per day in a collar county, the employee or officer shall be responsible for the amount that exceeds \$50.00, unless otherwise approved in accordance with subsection (c) of this Section. In the event that meal expenses total greater than \$75.00 per day in Cook County or in any municipality wherein the population exceeds 500,000, the employee or officer shall be responsible for the amount that exceeds \$75.00, unless otherwise approved in accordance with subsection (c) of this section.
  - c. Up to \$100.00 per day for reasonable lodging expenses while traveling in collar counties, and for an amount up to \$200.00 per day for reasonable lodging expenses while traveling in Cook County or in any municipality wherein the population exceeds 500,000. Such expenditures must be verified by expense receipts submitted to the Village. In the event that lodging expenses total greater than \$100.00 per day in a collar county, the employee or officer shall be responsible for the amount that exceeds \$100.00, unless otherwise approved in accordance with subsection (c) of this Section. In the event that lodging expenses total greater than \$200.00 per day in Cook County or in any municipality wherein the population exceeds 500,000, the employee or officer shall be responsible for the amount that exceeds \$200.00, unless otherwise approved in accordance with subsection (c) of this Section.

**Alcohol is specifically excluded from reimbursement.**

- B. No reimbursement of travel, meal or lodging expenses incurred by a Village employee or officer shall be authorized unless the "Travel, Meal, and Lodging Expense Reimbursement Request Form", attached hereto and made a part hereof, has been submitted and approved. All documents and information submitted with the form shall be subject to disclosure under the Freedom of Information Act (5 ILCS 140-1 *et seq.*)
- C. Expenses for travel, meals, and lodging of (1) any officer or employee that exceeds the maximum reimbursement allowed under this Section or (2) any Member of the corporate authorities of the Village may only be approved by roll call vote at an open meeting of the corporate authorities of the Village. However, in the event of an emergency or other extraordinary circumstances, the corporate authorities may approve more than the maximum allowable expenses set forth above.
- D. The Village shall not reimburse any elected official, employee, or officer for any activities which would be considered entertainment. Activities which would otherwise be considered entertainment, but which are excluded from the prohibition on reimbursement due to being ancillary to the purpose of the program or event, may be reimbursed in accordance with the provisions of the Section. (Ord. 2016-8, 12/27/16, effective 3/2/17)

**2-28 - 2-35. Reserved.**

## **ARTICLE III. THE BOARD OF TRUSTEES**

### **DIVISION 1. GENERALLY**

#### **Sec. 2-36. Composition; Term; Duties and Powers.**

The Board of Trustees, consisting of six (6) members, shall be elected to office for a four (4) year term as provided by statute. This Board of Trustees shall be the legislative department of the Village government, and shall perform such duties and have such powers as may be delegated to it by statute.

*Cross references - Appointive power of Village Board of trustees, 2-17; Village President to serve as President of Board of trustees, 2-62.*

*State law references - Board of trustees to have legislative powers, Ill. Rev. Stat. Ch. 24 5-3-6; election of Board of trustees, Ch. 24 3-12-1; number of trustees, Ch. 24 3-5-2; qualifications of officers generally, Ch. 24 3-14-1; Board of trustees to have powers granted to aldermen in cities, Ch. 24 3-14-4; powers and duties of aldermen, Ch. 24 3-11-9.*

#### **Sec. 2-37. Oath; Salary.**

Members of the Board of Trustees elected at or after the April 2025 Consolidated Election shall take the oath of office prescribed by statute and shall receive as compensation the sum of one hundred dollars

(\$100.00) per regular or special Village Board meeting attended. Members of the Board of Trustees whose terms commenced prior to May 1, 2025, shall receive as compensation the sum of one thousand two hundred dollars (\$1,200.00) per calendar year, consistent with prior ordinance. **(Ordinance 2023-6; 4/24/2023)**

*State law references - Oath of office, Ill. Rev. Stat. Ch. 24 3-14-3; compensation of Board of trustees, Ch. 24 3-13-7.*

**Sec. 2-38. Committee of the Whole, Special Committees. (Ord. 2015-5, Amending ARTICLE 3, Sec. 2-38) (Ord. 2015-13, Amending ARTICLE 3, Sec. 2-38, as of 11/23/2015)**

ARTICLE III, The Board of Trustees, Division 1, Generally, Section 2-38, Committees of Board of Trustees Enumerated; Composition; Appointment; is hereby deleted in its entirety and is hereby replaced with a new Section 2-38, to be entitled "COMMITTEE OF THE WHOLE; SPECIAL COMMITTEES, which shall read as follows: **(Ord. 2015-13, 11/23/15)**

- A. To afford the opportunity to more thoroughly examine matters presented to the Village for deliberation and action, the Village Board of Trustees shall also meet, in the manner and at the times described herein, as a Committee of the Whole.
- B. The Committee of the Whole shall be comprised of all members of the Board of Trustees.
- C. The Committee of the Whole shall meet on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Monday of each month at 6:00 P.M. CST. If a regular meeting date falls on a legal holiday, the meeting shall be held the next secular day at the same hour and place.
- D. The Village President shall preside over all meetings of the Committee of the Whole and recognize members wishing to speak.
- E. The Committee of the Whole shall have six (6) subcommittees: Water & Sewer, Streets & Alleys, Buildings & Parks, Finance, Economic Development and Police. Each aforementioned subcommittee shall consist of one (1) chair and have three (3) total members, unless the Board of Trustees directs otherwise. All subcommittee members shall be appointed by the Village President with the advice and consent of the Board of Trustees.
- F. Unless changed by a majority vote of the Village Board of Trustees, the subcommittees detailed above shall have the areas of responsibility as follows:
  - a. Water & Sewer: All issues dealing with the construction, maintenance, or operation of the sanitary and water systems.
  - b. Streets and Alleys: All issues dealing with the construction or maintenance of streets, alleys, sidewalks, and storm sewers.
  - c. Buildings & Parks: Maintenance and operation of existing land, buildings, or programs owned, supported and/or operated by the Village.
  - d. Finance: All aspects of municipal finance, including wages and benefits, management of funds and investments, review of audits and budgets, etc.



- e. Economic Development: Development of new programs or facilities to be owned and/or operated by the Village.
- f. Police: All issues dealing with the Police Department, including school crossing guards.
- g. The Committee of the Whole shall have jurisdiction over all matters encompassed by the six (6) subcommittees described above. The Committee of the Whole shall receive the reports from each subcommittee, deliberate on them prior to Village Board consideration, and recommend to the Village Board whatever action it so deems appropriate. The Committee of the Whole shall also consider such matters as referred to it by the Village Board, by the Village President, an individual member of the Village Board of Trustees, or any agent of the Village.
- h. All members of the Committee of the Whole shall have one (1) vote.
- i. The Village Clerk shall be present at all Committee of the Whole meetings and shall keep a record of subjects discussed by the Committee, reports presented to the Committee, and the number of yeas and nays on votes taken.
- j. Special meetings of the Committee of the Whole may be called by the Village President or by any three (3) members of the Village Board of Trustees. Public notice of all meetings shall be given twenty-four (24) hours prior to the meeting time, and such notice, together with a copy of the agenda for the meeting, shall be posted in compliance with the notice provisions of the Open Meetings Act.
- k. Special committees may be created from time to time as directed by the Board of Trustees or the Village President, with membership in said committees to be appointed by the Village President on the advice and consent of the Village Board of Trustees. Such committees fall within the jurisdiction of the Committee of the Whole and shall tender reports to the Committee of the Whole in accordance with subsection (e) above.
- l. The latest published edition of Robert's Rules of Order, Revised, shall govern the Committee of the Whole in all cases to which it is applicable and in which it is not inconsistent with ordinances or laws of the state. (Ordinance 2015-5; 6/22/2015) (Ordinance 2015-13, 11/23/2015)

**Sec. 2-39 - 2-43. Reserved.**

## **DIVISION 2. MEETINGS**

### **Sec. 2-44. Time and Place of Regular Meetings.**

- a. The regular meetings of the Board of trustees shall be held on the second and fourth Monday of each month beginning at 7:30 p.m., and no notice of such regular meeting shall be required.
- b. The meeting place of the Board of trustees shall be at the Village Hall unless otherwise ordered by the

Board.

- c. If a regular meeting date falls on a legal holiday, the meeting shall be held the next secular day at the same hour and place.

*State law reference - Authority to enact ordinance setting time and place for regular meetings, Ill. Rev. Stat. Ch. 24 3-11-13.*

**Sec. 2-45. Special Meetings; Call; Notice.**

Special meetings of the Board of trustees may be called by the Village President or any three (3) members of the Board upon at least twenty-four (24) hours' notice to all members and the President; provided, that if all of the members of the Board are present at a special meeting, no notice of the meeting shall be necessary, and such notice shall be deemed waived.

*State law reference - Special meetings; call; authority to prescribe manner of giving notice, Ill. Rev. Stat. Ch. 24 3-11-3.*

**Sec. 2-46. President to be Presiding Officer.**

The Village President shall be the presiding officer of all regular and special meetings of the Board of trustees and at all times when the Board meets as a committee of the whole.

*State law reference - Presiding officer at meetings of Board of trustees, Ill. Rev. Stat., Ch. 24, 3-11-14.*

**Sec. 2-47. Quorum; Required Votes.**

A majority of the members of the Board of trustees shall constitute a quorum to do business. No ordinance shall be passed except upon a favorable vote of a majority of the elected members, as provided by statute.

*State law references - Quorum at meetings of Board of trustees, Ill. Rev. Stat., Ch. 24, 3-11-12; approval of ordinances, Ch. 24, 3-11-18.*

**Sec. 2-48. Order of Business.**

The order of business of the Village Board of trustees shall be as follows:

- A. Roll call.
- B. Approval of minutes.
- C. Treasurer's report.
- D. Bills.
- E. Reports.
- F. Unfinished business.
- G. New business.
- H. Adjournment.

**Sec. 2-49. Consent of Board Required to Address Meetings; Exceptions.**

No person other than the Village President or a member of the Village Board of trustees shall address the Board of trustees at any regular or special meeting except upon consent of a majority of the members present.

The following Public Comment Policy was approved by the Village Board of trustees on March 14, 2011.

**PUBLIC COMMENT POLICY**

WHEREAS, **Public** Act 096-1473 amending the Illinois Open Meetings Act provides that any person shall be permitted an opportunity to address the Board of Trustees in open regular meeting; and

WHEREAS, it is in the public interest that the Board of Trustees establish and maintain an orderly and efficient procedure for allowing public comment while maintaining the ability to address the public business that comes before the Village Board in an orderly and timely manner.

IT HENCEFORTH SHALL BE THE POLICY of the Village of Durand, Illinois to allow a reasonable period of time for the receipt of public comments subject to the following rules and procedures:

1. Time shall be scheduled at the beginning of each Village Board of Trustees' meeting agenda for the receipt of public comments.
2. Any person in attendance at the Village Board of Trustees meeting shall be allowed to address the Board of Trustees.
3. Public comments of any one individual shall be limited to no more than three (3) minutes duration. After conclusion of the person's comment any Board member may ask the person making the public comment question(s) and such person shall be given an additional reasonable time to respond to the

question(s) at the sole discretion of the Board of Trustees. However, in the event that several people or a group of people all in attendance at the Board meeting wish to collectively make a presentation or comment on an agreed issue or subject said group is encouraged to select a spokesperson who shall identify for whom he or she is speaking and be allowed at the sole discretion of the Board of Trustees additional time to address the Board of Trustees, but in no event shall the total time allowed be more than ten (10) minutes.

4. This policy shall be in effect immediately upon passage and posting in the Village of Durand building.

**(PASSED AND APPROVED THIS 14<sup>TH</sup> DAY OF MARCH, 2011)**

**Sec. 2-50. Robert's Rules of Order Applicable.**

*Robert's Rules of Order*, as revised shall govern the deliberations of the Village Board of trustees except when in conflict with any of the provisions of this division.

*State law reference - Authority of Village to determine its own rules, Ill. Rev. Stat., Ch. 24, 3-11-11.*

**Sec. 2-51 Suspension of Rules.**

The rules of order, other than those prescribed by statute may be suspended at any time by the consent of a majority of the members of the Board of trustees present at any meeting.

**Sec. 2-52 - 2-61. Reserved.**

## **ARTICLE IV. THE VILLAGE PRESIDENT**

**Sec. 2-62.** Election; Term of Office; to Serve as President of Board of Trustees. The Village President shall be elected for a term of four years.

**Sec. 2-63. Oath of Office.**

The Village President shall take the oath of office prescribed by state law.

*State law reference - Oath of municipal officers, Ill. Rev. Stat., Ch. 24, 3-14-3.*

**Sec. 2-64. Bond.**

Before entering upon the duties of his office the President shall give a bond with sureties to be approved by the Village Board of trustees conditioned upon the faithful performance of his duties, in the sum of three thousand dollars (\$3,000.00) or such higher sum as may be directed by the Board of trustees.

*Cross references - Surety bonds generally, 2-5; bonds of officers generally, 2-19.*

*State law reference - Bond of municipal employees, Ill. Rev. Stat., Ch. 24, 3-14-3.*

**Sec. 2-65. Compensation.**

The Village President shall, effective May 1, 1997 receive as compensation an annual salary of three thousand six hundred dollars (\$3,600.00). Prior to May 1, 1997, the Village President shall receive as compensation, the sum of two thousand four hundred dollars (\$2,400.00) per calendar year.

*State law reference - Compensation of President, Ill. Rev. Stat., Ch. 24, 3-13-6.*

**Sec. 2-66. Powers and Duties.**

- A. The Village President shall be the chief executive officer of the Village and he shall perform all duties that may be required of him by statute or ordinance. He shall have supervision over all the executive officers of the Village.
- B. Whenever there is a question as to the respective duties and powers of any appointed officer of the Village it shall be settled by the Village President. The Village President shall have the power to delegate to any appointed officer any duty which is to be performed when no specific officer has been assigned that duty by ordinance.

That the Village President is hereby authorized to appoint an officer(s) and/or an employee(s) for the purpose of selling the items of personal property, namely certain unclaimed bicycles, street signs that are no longer the correct size, fire hydrants and miscellaneous other items of Village personal property that are no longer of use to the Village in such manner as the Board of Trustees deems proper, with or without advertising the sale. **(Ord. 2010-11; 11/22/2010)**

*State law references - Powers and duties of Village President, Ill. Rev. Stat., Ch. 24, 3-12-1 et seq.; President to have same powers and duties which mayors of cities have, Ch. 24, 3-12-2; powers and duties of mayors, Ch. 24, 3-11-1 et seq.*

**Sec. 2-67. Election of President Pro-tem.**

During a temporary absence or disability of the Village President the Board of trustees shall elect one (1) of its number to act as President pro-tem, who during the absence or disability of the President shall perform the duties pertaining to the office.

*State law references - Authority of trustees to elect acting President, Ill. Rev. Stat., Ch. 24, 3-5-1; mayor pro-tem, Ch. 24, 3-11-7.*

**Sec. 2-68 - 2-77. Reserved.**

## **ARTICLE V. THE VILLAGE CLERK**

**Sec. 2-78. Election; Term.**

The Village Clerk shall be elected and serve for a four (4) year term and until his successor is appointed and qualified as is provided by statute.

*Cross reference - Elections generally, 2-4.*

*State law reference, Election, term of Clerk, Ill. Rev. Stat., Ch. 24, 3-5-9.*

**Sec. 2-79. Bond.**

Before entering upon the duties of his office the Village Clerk shall execute a bond in a sum of not less than three thousand dollars (\$3,000.00).

*Cross references - Surety bonds generally, 2-5; bond of officers generally, 2-19.*

*State law reference - Bond of municipal employees, Ill. Rev. Stat., Ch. 24, 3-14-3.*

**Sec. 2-80. Compensation.**

The Village Clerk shall, effective May 1, 2009, receive as compensation, the sum of One Thousand Eight Hundred Dollars (\$1,800.00) per calendar year. Prior to May 1, 2009, the Village Clerk shall receive as compensation the sum of One Thousand Three Hundred Twenty Dollars (\$1,320.00) per calendar year.  
(Ord. 2008-10; 9/29/2008)

**Sec. 2-81. Custodian of Village Seal; Sealing and Attesting Documents.**

The Village Clerk shall be custodian of the Village seal and shall seal and attest all contracts of the Village, and all licenses, permits and other documents as shall require this formality.

*Cross reference - Corporate seal described, 2-1.*

**Sec. 2-82. Accounts to be Kept; Money to be Turned Over to Treasurer.**

The Village Clerk shall keep accounts showing all money received by the Clerk, and the source and disposition thereof, and shall turn over all money received by him on behalf of the Village to the Village treasurer promptly on receipt of the same with a statement as to the source of the money.

**Sec. 2-83. Records to be Kept.**

In addition to the record of ordinance and other records which the Village Clerk is required by statute to keep, he shall keep a register of all licenses, and permits issued, and the payments thereon; a record showing all of the officers and regular employees of the Village, and such other records as may be required by the Board of Trustees.

**Sec. 2-84 - 2-93. Reserved.**

## **ARTICLE VI. THE VILLAGE TREASURER**

**Sec. 2-94. Office Created; Appointment; Term**

There is hereby created the office of Village treasurer, who shall be appointed by the Village President of the Board of trustees as provided by statute.

*State law reference - Authority to appoint treasurer, Ill. Rev. Stat., Ch. 24, 3-8-1.*

**Sec. 2-95. Compensation.**

The Village treasurer shall receive such amount as may be established from time to time by ordinance.

*Cross references - Annual audit required, 2-3; accounts to be kept by Village Clerk and funds to be turned over to Village treasurer, 2-82; taxation, 16-1 et seq.*

**Sec. 2-96. Bond.**

The Village Treasurer shall give a bond, before entering upon his duties in the sum required by the Board of trustees. This bond shall be conditioned upon the faithful performance by the treasurer of his duties, and shall be conditioned to indemnify the Village for any loss by reason of any neglect of duty or any act of the treasurer.

*Cross references - Surety bonds generally, 2-5; bonds of officers generally, 2-19.*

*State law reference - Bond of officers, Ill. Rev. Stat., Ch. 24, 3-14-3.*

**Sec. 2-97. Duties Generally.**

The Village Treasurer shall perform such duties as may be prescribed for him by statute or ordinance. He shall receive all money paid into the Village either directly from the person paying the money or from the hands of such other officer or employee as may receive it, and he shall pay out money only on vouchers or orders properly signed by the Village President and Village Clerk.

*State law references - Duties of treasurer generally, Ill. Rev. Stat., Ch. 24, 3-10-1.*

**Sec. 2-98. Deposit of Funds; Commingling.**

The Village Treasurer shall deposit the Village funds in such depositories as may be selected and approved by the Board of Trustees from time to time as is provided by law; and he shall keep the deposit of the Village money separate and distinct from his own money, and shall not make private or personal use of any Village money.

*State law references - Deposit of funds, Ill. Rev. Stat., Ch. 24, 3-10-3; personal use of funds, Ch. 24, 3-10-4.*

**Sec. 2-99. Records Required.**

The Village treasurer shall keep the records showing all money received by him, showing the source from which it is received and the purpose for which it is paid, and he shall keep records at all times showing the financial status of the Village.

**Sec. 2-100. Accounts Required.**

The Village Treasurer shall keep such books and accounts as may be required by statute or ordinance, and he shall keep them in the manner required by the Village Board of Trustees.

*State law reference - Duty to keep accounts, Ill. Rev. Stat., Ch. 24, 3-10-1.*

**Sec. 2-101 - 2-110. Reserved.**

## **ARTICLE VII. THE VILLAGE ATTORNEY**

### **Sec. 2-111. Office Created; Appointment.**

There is hereby created the office of Village Attorney, an executive office of the Village. The Village Attorney shall be appointed by the Village President and Board of Trustees.

### **Sec. 2-112. Retaining Counsel when Office of Village Attorney is not Filled; Appointment of Special Counsel.**

The Village President, with the consent of the Board of Trustees, may from time to time retain an attorney to represent or advise the Village on legal matters, if no Village Attorney has been appointed. The Village President may likewise retain special counsel to advise or represent the Village on special matters or to assist the Village Attorney.

### **Sec. 2-113. Duty to Render Legal Advice; when Opinions are to be in Writing.**

The Village Attorney shall be the legal advisor of the Village, and shall render advice on all legal questions affecting it, whenever requested to do so by any Village official. Upon request by the Village President or the Board of Trustees, he shall reduce any such opinion to writing.

### **Sec. 2-114. Duty to Prosecute and Defend Suits.**

The Village Attorney shall prosecute or defend all suits or actions at law or equity to which the Village may be a party, or in which it may be interested, or which may be brought against or by any officer of the Village on behalf of the Village or in the capacity of such person as an officer of the Village.

### **Sec. 2-115. Duty to have Judgments, Decrees and Orders Enforced.**

It shall be the duty of the Village Attorney to see to the full enforcement of all judgments or decrees rendered or entered in favor of the Village, and of all similar interlocutory orders.

**Sec. 2-116 - 2-125. Reserved.**

## **ARTICLE VIII. THE SUPERINTENDENT OF PUBLIC WORKS**



**Sec. 2-126. Office Created; Appointment.**

There is hereby created the office of superintendent of public works who shall be appointed by the Village President with the consent of Board of trustees.

**Sec. 2-127. Supervision of Public Streets.**

The superintendent of public works shall have charge of the public streets and supervision over the maintenance and repair of the same.

**Sec. 2-128. Supervision of Maintenance and Repair of Public Property.**

- A. The superintendent of public works shall have charge of the maintenance and repair of all Village owned buildings.
- B. All physical property of the Village which is not assigned by the Board of trustees to some other officer or employee shall be in the care and custody of the superintendent of public works.

**Sec. 2-129 - 2-139. Reserved.**

## **ARTICLE IX. EMERGENCY SERVICES & DISASTER AGENCY**

**Sec. 2-140. Establishment and Composition.**

- A. There is created the Village ESDA to prevent, minimize, repair and alleviate injury or damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or from natural or manmade disaster, in accordance with "the Illinois Emergency Services and Disaster Act of 1975."
- B. This ESDA shall consist of the coordinator and such additional members as may be selected by the coordinator.

**Sec. 2-141. Coordinator; Responsibility.**

- A. The coordinator of the Village ESDA shall be appointed by the Village President and shall serve until removed by same.
- B. The coordinator shall have direct responsibility for the organization, administration, training, and operation of the ESDA, subject to the direction and control of the Village President as provided by statute.
- C. In the event of the absence, resignation, death or inability to serve as the coordinator, the Village President or any person designated by him, shall be and act as coordinator until a new appointment is made as provided in this chapter.

**Sec. 2-142. Functions.**

The Village ESDA shall perform such ESDA functions within the Village as shall be prescribed in and by the state ESDA plan and program prepared by the Governor, and such orders, rules and regulations as may be promulgated by the Governor, and in addition, shall perform such duties outside the corporate limits as may be required pursuant to any mutual aid agreement with any other political subdivision, municipality, or quasi-municipality entered into as provided in "The State ESDA Act of 1975."

**Sec. 2-143. Service as Mobile Support Team.**

- A. All or any members of the Village ESDA organization may be designated as members of a mobile support team created by the director of the state ESDA as provided by law.
- B. The leader of such mobile support team shall be designated by the coordinator of the Village ESDA organization.
- C. Any member of a mobile support team who is a Village employee or officer while serving on call to duty by the Governor, or the State Director, shall receive the compensation and have the powers, duties, rights, and immunities incident to such employment or office. Any such member who is not a paid officer or employee of the Village, while so serving, shall receive from the state reasonable compensation as provided by law.

**Sec. 2-144. Agreements with Other Political Subdivisions.**

The coordinator of ESDA may negotiate mutual agreements with other cities or political subdivisions of the state, but no such agreement shall be effective until it has been approved by the Village President and by the state director of ESDA.

**Sec. 2-145. Emergency Action.**

If the Governor proclaims that a disaster emergency exists in the event of actual enemy attack upon the United States or the occurrence within the state of Illinois of a major disaster resulting from enemy sabotage or other hostile action, or from manmade or natural disaster, it shall be the duty of the Village ESDA to cooperate fully with the state ESDA and with the Governor in the exercise of emergency powers as provided by law.

**Sec. 2-146. Compensation.**

Members of the ESDA who are paid employees or officers of the Village, if called for training by the State Director of ESDA, shall receive for the time spent in such training the same rate of pay as is attached to the position held. Members who are not such Village employees or officers shall receive for such training time such compensation as may be established by the Village President.

**Sec. 2-147. Reimbursement by State.**

The State Treasurer may receive and allocate to the appropriate fund any reimbursement by the state to the Village for expenses incident to training members of the ESDA as prescribed by the State Director of ESDA, compensation for services and expenses of members of a mobile support team while serving outside the Village in response to a call by the governor or state director of ESDA, as provided by law, and any other reimbursement made by the state incident to ESDA activities as provided by law.

**Sec. 2-148. Purchases and Expenditures.**

- A. The Village President may, on recommendation of the Village coordinator of ESDA, authorize any purchase of contracts necessary to place the Village in a position to combat effectively any disaster resulting from the explosion of any nuclear or other bomb or missile, and to protect the public health and safety, protect property, and provide emergency assistance to victims in the case of such disaster, or from manmade or natural disaster.
- B. In the event of enemy caused or other disaster, the Village coordinator of ESDA is authorized, on behalf of the Village, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the emergency, without regard to the statutory procedures or formalities normally prescribed by law pertaining to Village contracts or obligations, as authorized by "The State ESDA Act of 1975"; provided, that if the Village President meets at such time, he shall act subject to the directions and restrictions imposed by that body.

**Sec. 2-149. Oath.**

Every person appointed to serve in any capacity in the Village ESDA organization shall, before entering upon his duties, subscribe to the following oath, which shall be filed with the coordinator:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions, and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force of violence; and that during such times as I am affiliated with the Village of Durand ESDA organization, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

**Sec. 2-150. Office.**

The Village President is authorized to designate space in the Village building, or elsewhere, as may be provided for by the Village President for the Village ESDA as its office.

**Sec. 2-151. Appropriation; Levy of Taxes.**

The Village President may make an appropriation for ESDA purposes in the manner provided by law, and may levy, in addition, for ESDA purposes only, a tax not to exceed five (5) cents per one hundred (100) dollars of the assessed value of all taxable property in addition to all other taxes, as provided by "The State ESDA Act of 1975"; however, that amount collectable under such levy shall in no event exceed twenty-five cents (\$.25) per capita.

**Sec. 2-152 - 2-166. Reserved.**

## **ARTICLE X. BOARD OF ZONING APPEALS AND PLANNING**

### **Sec. 2-167. Created.**

There is hereby created the Board of Zoning Appeals which shall consist of seven (7) members, all of whom shall reside within the Village of Durand, Illinois. The attendance of four (4) members shall be required for a quorum and affirmative action shall take effect only on the concurrence of four (4) members. (Ord. No 1997-15; 11/97)

### **Sec. 2-168. Membership.**

The Village President, Village Engineer, and the Village Attorney shall be ex-officio members of the Board.

- A. Members of the Board shall be appointed by the Village President, subject to the approval of the Village Board of Trustees, on the basis of their particular fitness for service and duty to the Board.
- B. The Board shall elect its own chairmen for terms of one (1) year each. Members appointed to the Board shall serve perpetually until their death, voluntary retirement or removal. The Village President shall have the power to remove any member of the Zoning Board of Appeals for cause, but only after a public hearing. (Ord. No. 1997-15; 11/97)
- C. The Board shall exercise all of the powers and duties enumerated in Sec. 1500 of Article XV of the Village of Durand Zoning Ordinance, and such other sections of Article XV thereof, except insofar as any of such sections shall be inconsistent with this Amended Ordinance, in which case the provisions of this Amended Ordinance shall take precedence.
- D. The Board shall also exercise all of those powers and duties specifically enumerated in the Village of Durand Subdivision Regulations, November 1977, Article V, except insofar as any of such sections of said Article V may be inconsistent with the provisions of this Amended Ordinance, in which case the provisions of this Amended Ordinance shall take precedence.

### **Sec. 2-169. Terms of Office.**

Members ex-officio of the Board of Zoning Appeals and Planning shall serve for the term of their elective or appointive office.

### **Sec. 2-170. Votes.**

Each member of the Zoning Board of Appeals shall be entitled to one (1) vote. (Ord. No. 1997-15; 11/97)

### **Sec. 2-171. Compensation.**

All members of the planning commission shall serve with such compensation as may be fixed from time to time by the Board of trustees.

### **Sec. 2-172. Meetings.**

The planning commission shall meet at such times as it may by resolution designate. It shall hold special meetings on call by the chairman or any two (2) members thereof provided twenty-four (24) hours' notice of such special meeting is given to each member. Service of such notice may be waived by any member.

**Sec. 2-173. Duties; Official Plan.**

- A. The plan commission shall keep written records of its proceedings, which shall be open at all times for public inspection.
- B. The plan commission shall prepare and recommend to the Board of trustees a comprehensive plan of public improvements, looking to the present and future development and growth of the Village. Such plan, after its adoption by the Board of trustees shall be known as the official plan of Durand, and shall not be altered or changed except upon recommendation of the plan commission.
- C. The official plan shall include reasonable requirements with reference to streets, alley ways for public service facilities, storm or floodwater runoff channels and basins, parks, playgrounds, school grounds and other public grounds within the corporate limits and in contiguous territory outside of and distant not more than one and one-half (1 1/2) miles from such limits and not included in any incorporated city or Village, such requirements to be effective whenever such lands shall be subdivided after the adoption of such plan.
- D. The plan commission shall prepare and recommend to the Board of trustees from time to time, such changes or alterations in the official plan as may be deemed necessary or advisable by the plan commission.
- E. The plan commission shall prepare and recommend to the Board of trustees from time to time plans for specific improvements in pursuance of the official plan.
- F. The plan commission shall give aid to the officials of the Village charged with the direction of projects for improvements embraced within the official plan to further the making of such improvements and generally to promote the realization of the official plan.
- G. The plan commission shall arrange and conduct any form of publicity relative to its activities for the general purpose of public understanding.
- H. The plan commission shall perform such other powers or duties as may be delegated to it by statute or ordinance.

**Sec. 2-174. Land Subdivision or Re-Subdivision.**

Following the adoption of the official plan by the Board of trustees, no plat or map of any subdivision or re-subdivision presented for record affecting land within the corporate limits of the Village as now or hereafter existing, or in contiguous territory outside of and distant not more than one and one-half (1 1/2) miles from such limits and not included in any incorporated city or Village, shall be entitled to record or shall be valid unless the subdivision thereon shall provide street, alleys, ways for public service facilities, storm or floodwater runoff channels and basins and public ground in conformity with the requirements applicable thereof of such official plan.

**Sec. 2-175. Improvements.**

The Village Clerk shall furnish the plan commission for its consideration a copy of all ordinances, plans and data relative thereto for public improvements of any nature. The plan commission may report in relation thereto if it deems a report necessary or advisable for the consideration of the Board of trustees.

**Sec. 2-176. Expenditures.**

The plan commission may, at the direction of the Board of trustees, employ necessary technical help and incur necessary expenses for printing, stationery, etc., and any such wages, salary, fees and expenses, if previously approved by the Board of trustees, shall be paid by the Village.

**Sec. 2-177. Name Change.**

Any reference in any of the foregoing sections to "plan commission" shall be considered a reference to "Board of Zoning Appeals and Planning."

**Sec. 2-178 - 2-195. Reserved**

## **CHAPTER 3**

### **ADVERTISING AND BILLBOARDS<sup>1</sup>**

|         |                                  |               |      |
|---------|----------------------------------|---------------|------|
| Article |                                  | <i>-thru-</i> |      |
|         | In General                       | 3-1           | 3-16 |
| II      | Distributing Handbills & Samples | 3-17          | 3-30 |

#### **ARTICLE I. IN GENERAL**

##### **Sec. 3-1. Compliance with Chapter.**

No person shall post or maintain any advertisement or sign on any billboard or signboard which does not fully conform to the provisions of this Chapter.

##### **Sec. 3-2. Exemption for Public Notices.**

The provisions of this chapter shall not be construed to apply to the posting of signs or notices by order of any court or by any public officer in the performance of his duties.

##### **Sec. 3-3. Outdoor Advertising and Billboards Prohibited; Exception.**

- A. It shall be unlawful for any person to post any bills or erect any billboards or other outdoor advertising display within the Village, without first obtaining the consent of the Village Board of trustees.
- B. The provisions of subsection (a) shall not apply to advertising by any business or residence in the Village when the advertising is located on the premises of the business or residence.

##### **Sec. 3-4. Unlawful Advertising.**

It shall be unlawful for any person to post or display any advertisement of an obscene or immoral character or any advertisement tending to promote or cause a riot or breach of the peace, or any advertisement for an unlawful gathering, or advertisements for unlawful sales.

##### **Sec. 3-5. Advertising Unlawful Articles and Businesses.**

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

##### **Sec. 3-6. Consent of Property Owners Required to Advertise on Private Property.**

It shall be unlawful to post any advertisement on any premises without the consent of the owner or occupant of such premises.

##### **Sec. 3-7 - 3-16. Reserved.**

## **ARTICLE II. DISTRIBUTING HANDBILLS AND SAMPLES**

### **Sec. 3-17. License Required to Distribute Handbills and Samples on Private Property.**

It shall be unlawful for any person, except licensed peddlers, to distribute to the public, by leaving at stores, offices, houses or residences in the Village, any cards, circulars, handbills, samples of merchandise, or any advertising matter whatsoever without having first secured a license therefore.

*Cross reference - Licenses generally, 10-1 et seq.*

### **Sec. 3-18. Application for License; Contents.**

Application for a license required by this article shall be made to the Village Clerk, and shall contain a statement of the nature of the article or cards or advertisement to be distributed and the name of the applicant and the name of the manufacturer or distributor of such article or service advertised.

### **Sec. 3-19. Moral Character of Applicant; Investigation.**

No license required by this article shall be issued to a person not of good character. A police officer shall make an investigation into the character of each applicant and shall report the results thereof to the Clerk before any license shall be issued.

### **Sec. 3-20. License Fee.**

The fee for a license required by this article shall be two dollars (\$2.00) per day.

### **Sec. 3-21. Distribution of Samples of Medicine Prohibited.**

It shall be unlawful for any person to distribute any samples of medicinal preparations in the Village.

### **Sec. 3-22. Indiscriminate Distribution on Public Property Prohibited; Exception.**

It shall be unlawful to distribute indiscriminately to the public any cards, circulars, handbills, samples of merchandise, or any advertising matter whatsoever on any public street or sidewalk or other public place in the Village; provided that this paragraph shall not be construed to prohibit the peddling or sale of any article or publication that may carry or be accompanied by advertising matter where a charge or price is paid for such article or publication.

<sup>1</sup>*Cross reference - Private use of public places for advertising purposes, 15-10.*

*State law reference - Authority of Village in respect to regulation of signs, billboards and handbills, Ill. Rev. Stat., Ch. 24, 11-80-14 et seq.*

### **Sec. 3-23 - 3-30 Reserved.**



## CHAPTER 4

### ALCOHOLIC BEVERAGES

|         |            |        |      |
|---------|------------|--------|------|
| Article |            | -thru- |      |
|         | In General | 4-1    | 4-17 |
| II      | Licenses   | 4-18   | 4-62 |
| III     | Operation  | 4-63   | 4-77 |
| IV      | Minors     | 4-78   | 4-90 |

### ARTICLE I. IN GENERAL

#### Sec. 4-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

**Alcoholic Liquor** shall mean any spirits, wine, beer, ale, or other liquid containing more than one-half of one per cent (1/2 of 1%) of alcohol by volume, which is fit for beverage purposes.

**Club** shall mean a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object, other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests; provided that such club files with the Village President at the time of its application for a license under this article, two (2) copies of a list of names and residences of its members, and similarly files within ten (10) days of the election of any additional member of his name and address, and that said list be submitted annually; and provided that its affairs and management are conducted by a Board of directors, executive committee or similar body chosen by the members at their annual meeting, and that no member or any officer, agent, or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its Board of directors or other governing body out of the general revenue of the club.

**Restaurant** shall mean any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

**Retail Sale** shall mean the sale for use of consumption, and not for resale.

*State law reference - For similar provisions, see Ill. Rev. Stat., Ch. 43, 95.05, 95.18, 95.23, 95.24, 95.25.*

**Sec. 4-2. Public Drinking and Intoxication.**

No person shall in the Village drink any alcoholic beverage in any street or alley, or in any publicly owned space (except for Nick Saelens Memorial Park), or in any or upon any vehicle commonly used for the transportation of passengers, or in or upon any depot, platform or waiting room of any public carrier.

**Sec. 4-3 - 4-17. Reserved.**

## **ARTICLE II. LICENSES<sup>1</sup>**

### **DIVISION 1. RESERVED**

**Sec. 4-18 - 4-27. Reserved.**

### **DIVISION 2. RETAIL LICENSES**

**Sec. 4-28. Required; Sales in Violation of Terms of License.**

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

**Sec. 4-29. Application; Contents.**

Application for a license required by this division shall be made to the Village President in writing and shall be signed by the applicant, if an individual, or by a duly authorized agent thereof, if a club or corporation. The application shall be verified by oath or affidavit, and shall contain information sufficient to affirmatively show that the applicant is not disqualified under the provisions of section 4-30.

*State law reference - Application for state license, Ill. Rev. Stat., Ch. 43, 145.*

**Sec. 4-30. Persons not Entitled to License.**

No license required by this article shall be issued to:

- A. A person who is not of good character and reputation in the community in which he or she resides.
- B. A person who is not a citizen of the United States.
- C. A person who has been convicted of a felony under the laws of the state.
- D. A person who has been convicted of being the keeper of or is keeping a house of ill fame.

- E. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- F. A person whose license issued under this article has been revoked for cause.
- G. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
- H. A partnership, unless all of the members of the partnership shall be qualified to obtain a license.
- I. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five per cent (5%) of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship.
- J. A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee.
- K. A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or who shall have forfeited his bond to appear in court to answer charges for any such violation.
- L. A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.
- M. Any law enforcement public official, the Village President, or any member of the Board of trustees; and no such official shall be interested in any way, either directly or indirectly, in the distribution of alcoholic liquor.
- N. Any person, association, or corporation not eligible for a state retail liquor dealer's license.

*State law reference - Persons ineligible for state license, Ill. Rev. Stat., Ch. 43, 120.*

#### **Sec. 4-31. Classification of Licenses; Scope; Fees.**

Retail licenses for the sale of alcoholic liquor shall be divided into the following classes for which the following fees shall be paid:

- A. Class A license shall authorize the retail sale on the premises specified of alcoholic liquor for consumption on the premises as well as other retail sales of such liquor. The annual fee for such license shall be TWELVE HUNDRED DOLLARS (\$1200.00). (Ord. 2008-1; 1/14/08) (Ord. 1998-6; 7/27/1998)

The hours of operation permitted to the holder of a Class A license are the following: Monday through Saturday inclusive from the hours of 8:00 A.M. until 1:00 A.M. on the following day and the bar must be closed at 1:00 A.M. and the bar cleared by 1:30 A.M.; on Sunday from the hours of 10:00 A.M. until 11:00 P.M. and the bar must be closed at 11:00 P.M., and the bar cleared by 11:30 P.M. (Ord. 2008-1; 01-14-2008) (Ord. 2015-11; 09/14/2015) (Ord. 2017-5; 4/24/2017)

- B. Class B licenses shall authorize the retail sale of alcoholic liquor, but not for consumption on the premises where sold. The annual fee for such license shall be Twelve Hundred Fifty Dollars (\$1,250.00).

The hours of operation permitted to the holder of a Class B license are the following: Monday through Sunday inclusive during the license holder's business hours provided, however, that the license holder may only sell alcoholic liquor, but not for the consumption on the premises where sold, on Sundays so long as any other grocery, food or related business located in the same building or in an adjoining building having an opening or doorway through which customers are at any time allowed to pass between the license premises and the said adjoining business is also open for business. (Ord. No 1997-7; 3/10/97)

- C. Class C licenses shall authorize the retail sale of alcoholic liquor in clubs for consumption on the premises of the club. The annual fee for such license shall be fifty dollars (\$50.00).
- D. Class D licenses shall authorize the retail sale of beer and wine only, for consumption on the licensed premises by restaurants as defined in this chapter, but only with food or as part of a food order. The annual fee for such license shall be five hundred dollars (\$500.00).

The hours of operation permitted to the holder of a Class D License are the following: Monday through Saturday inclusive, beer and wine may be served in conjunction with the operation of the restaurant, but only with food or as a part of a food order as hereinabove provided from the hours of 10:00 A.M. until 1:00 A.M. and the bar must be closed at 1:00 A.M. and the bar cleared by 1:30 A.M.; on Sunday beer and wine may be served in conjunction with the operation of the restaurant, but only with food or as a part of a food order as hereinabove provided and during which time the bar area is to be closed from the hours of 12:00 noon to 11:00 P.M. (Ord No. 1996-12; 8/12/96)

- E. Class R licenses shall authorize the retail sale on the premises specified of alcoholic liquor for consumption on or off of the premises by restaurants as defined in this chapter and further provided that at least fifty-one (51) percent of gross receipts realized by any such restaurant shall be from revenue sources other than the sale of alcoholic beverages. The annual fee for such license shall be ONE THOUSAND DOLLARS (\$1,000.00). It shall be the duty of any holder of a Class R license to submit to the Village President a statement reflecting the gross revenue in dollars and percentages collected by the licensee for non-alcoholic beverages and food and the gross revenue in dollars and percentages collected by the licensee for alcoholic beverages. A certified public accountant or public accountant shall prepare the statement and indicate the scope of his examination, if any, and the degree of responsibility he is taking for the statement. The statement shall be submitted semi-annually on or before April 1, which shall cover the six months ending the last day of February, and October 1, which shall cover the six months ending the last day of August. If the Village President wishes to challenge the statement so provided, he may require the licensee to submit whatever additional proof is necessary to support the statements.

The hours of operation permitted to the holder of a Class R license are the following: Monday through Thursday inclusive, alcoholic beverages may be reserved in conjunction with the operation of the restaurant from the hours of 10:00 A.M. until 11:00 P.M. and the bar must be closed by 11:00 P.M. The bar must be cleared by 11:30 P.M. On Friday and Saturday alcoholic beverages may be served in conjunction with the operation of the restaurant from the hours of 10:00 A.M. until 1:00 A.M. on the following day and the bar must be closed by 1:00 A.M. The bar must be cleared by 1:30 A.M. No sales of alcoholic liquor on Sunday are permitted by this Class R license classification past

the hour of 1:00 A.M.

- F. Class S licenses shall authorize the retail sale on the premises specified of alcoholic liquor for consumption on or off the premises by restaurants as defined in this Chapter and further provided that at least fifty-one (51) percent of gross receipts realized by any such restaurant shall be from revenue sources other than the sale of alcoholic beverages. The annual fee for such license shall be TWELVE HUNDRED DOLLARS (\$1,200.00). It shall be the duty of any holder of a Class S license to submit to the Village President a statement reflecting the gross revenue in dollars and percentages collected by the licensee for non-alcoholic beverages and food and the gross revenue in dollars and percentages collected by the licensee for alcoholic beverages. A certified public accountant or public accountant shall prepare the statement and indicate the scope of his examination, if any, and the degree of responsibility he is taking for the statement. The statement shall be submitted semi-annually on or before April 1, which shall cover the six months ending the last day of February, and October 1, which shall cover the six months ending the last day of August. If the Village President wishes to challenge the statement so provided, he may require the licensee to submit whatever additional proof is necessary to support the statements. (Ord. 1998-6; 7/27/1998)

The hours of operation permitted to the holder of a Class S license are the following: Monday through Saturday inclusive, alcoholic beverages may be served in conjunction with the operation of the restaurant from the hours of 8:00 A.M. until 1:00 A.M. and the bar must be closed at 1:00 A.M. and the bar cleared by 1:30 A.M.; on Sunday alcoholic beverages may be served in conjunction with the operation of the restaurant from the hours of 10:00 A.M. to 11:00 P.M. and the bar must be closed at 11:00 P.M. and the bar cleared by 11:30 P.M. (Ord. 1998-6; 07-27-1998) (Ord. 2017-5; 04-24-2017) (Ord. 2017-17; 12-26-17)

*State law reference - Classification of state licenses, Ill. Rev. Stat., Ch. 43, 115.*

#### **Sec. 4-32. Term of License.**

Each license issued pursuant to this division shall terminate on the last day of April next following its issuance.

#### **Sec. 4-33. Pro-ration of Fee.**

The fee to be paid for a license required by this division shall be reduced in proportion to the full calendar months which have expired in the year prior to the issuance of the license.

#### **Sec. 4-34. Number of Licenses.**

There shall be issued in the Village not more than three (3) Class A licenses, three (3) Class B licenses, two (2) Class C licenses, and one (1) Class D license, one (1) Class R License and two (2) Class S licenses, to be in effect at any time. (Ord. 2010-12, 10/25/10) (Ord. No 2012-10; 11-26-12) (Ord. No. 2018-15; 9-10-18)

*State law reference - Authority of Village to limit number of licenses, Ill. Rev. Stat., Ch. 43 110.*

#### **Sec. 4-35. Disposition of Fees.**

All such fees shall be paid at the time application for a license required by this division is made, and shall

be forthwith turned over to the Village treasurer for deposit in the general corporate fund or such other fund as shall have been designated by the Board of Trustees by proper action. In the event the license applied for is denied, the fee shall be returned to the applicant. There shall be no refund of fees or any part thereof for once a license application has been granted.

**Sec. 4-36. Renewal; not to be construed as Vested Right.**

Any person may renew a license issued pursuant to this division at the time of or prior to its expiration, but no sooner than sixty (60) days prior to its expiration, shall, at the time the renewal application is filed, file a list of all persons employed by the applicant who are required to be licensed pursuant to section 4-45 of this chapter. Each person on the list will be subject to a full background check prior to considering approval of the renewal application.

**Sec. 4-37. Personal Nature of License; Transferability.**

A license to sell alcoholic liquor shall be purely a personal privilege, good for not to exceed one (1) year after issuance unless sooner revoked and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court during the pendency of any such estate proceeding, until the expiration of such license, but not longer than six (6) months after the death, bankruptcy or insolvency of such licensee.

**Sec. 4-38. Change of Location.**

A retail liquor dealer's license shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Village President. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the laws of this state, this division and other ordinances of the Village.

**Sec. 4-39. Replaced with Sec. 4-40.**

**Sec. 4-40. Suspension and Revocation; Fine.**

The Village President may revoke or suspend any license issued pursuant to any of the provisions of this Chapter if he determines that the licensee has violated any of the provisions of this chapter or of any valid ordinance or resolution enacted by the Board of trustees of the Village of Durand or any applicable rule or regulation which is not inconsistent with law or any provisions of the state law established by the Village President or the State commission relating to liquor control or for the making of any false statement in obtaining a license pursuant to any of the provisions of this chapter and all fees paid thereon shall be forfeited. In lieu of suspension or revocation, the Village President may instead levy a fine on the licensee for such violations. The fine imposed shall not exceed \$1,000.00 for each violation; each day on which a violation continues shall constitute a separate violation. Not more than \$10,000.00 in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general fund.

However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Village President with a 3-day written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Village President shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Village President has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than 7 days, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

The Village President shall within 5 days after such hearing, if he determines after such hearing that the license should be revoked or suspended or that the licensee should be fined, state the reason or reasons for such determination in a written order, and either the amount of the fine, the period of suspension, or that the license has been revoked, and shall serve a copy of such order within the 5 days upon the licensee.

**Sec. 4-41. Appeals from Orders of Village President.**

An appeal from any order of the Village President to the State of Illinois Liquor Control Commission shall be limited to a review of the official record of the proceedings of the Village President.

**Sec. 4-42. Adoption of State Law.**

All provisions of the Statutes of the State of Illinois, 235 ILCS 5/1-1 et.seq., shall be hereby made a part of this Chapter insofar as the provisions of such law pertain to the Village of Durand, Illinois.

**Sec. 4-43. Employees- BASSET Training- Requirement as Part of Liquor License.**

- A. Effective November 15, 2021, all original or renewal applications for all classes of Village of Durand liquor licenses shall be accompanied with proof of completion of a state-certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all persons who sell or serve alcoholic beverages, all management personnel working on a premises licensed for alcohol sales, and anyone whose job description entails the checking of identification for the purchases of alcoholic beverages, pursuant to that license.
- B. Any new owner, manager, employee, or agent who is required to have BASSET training shall, within 90 days from the beginning of their employment with that licensee, complete a BASSET approved seller/servicer training program and shall, until completion of the BASSET program, work under the supervision of a person who has completed BASSET training.
- C. It shall be the responsibility of a licensee of a Village of Durand license to provide for the BASSET training of those employees who are required to obtain such training, and the licensee shall bear all responsibility and costs for providing the completion of such training.
- D. A photocopy of certificate of completion for all owners, managers, employees, or agents required by this section to have BASSET training shall be maintained, for the licensee, in a manner that will allow inspection, upon demand, by any designee of both the state or local liquor control authorities. A copy

of the certificate of completion shall additionally be filed with the Liquor Commissioner, or his or her administrative designee.

- E. Failure to provide a certificate of completion for all owners, managers, employees, or agents, shall result in the penalty and/or revocation provisions outlined in Section 4-40 of this chapter.

**Sec. 4-44. Reserved.**

**DIVISION 3. EMPLOYEE'S LICENSE<sup>2</sup>**

**Sec. 4-45. Required.**

It shall be unlawful for any person, other than an individual who is a holder of a Class A or Class B or Class C or Class D or Class R or Class S license, to sell, serve or dispense alcoholic liquor in any licensed premises without first obtaining a license therefore, provided however, that a representative, agent or employee of a Class D, Class R or Class S license holder is not required to be so licensed to deliver alcoholic liquor for consumption on the premises in conjunction with the operation of the restaurant provided that license holder, if license holder is an individual, or at least one representative or employee of license holder who is licensed as herein required, or said license is excused as herein below provided, is present on the licensed premises, and dispenses the alcoholic liquor so delivered by any such representative, agent or employee and also provided that a representative, agent or employee of a Class B license holder is not required to be so licensed to bag or otherwise put alcoholic liquor into boxes or other containers for transport or to transport same on the licensed premises for delivery on another portion of the said licensed premises and provided further, it is permissible for a licensee to employ a person to sell, serve or dispense alcoholic liquor on licensed premises for a total period of twelve (12) days within any calendar year without licensing said employee, if said employee is in full compliance with all of the requirements of Section 4-46 of this Chapter. (Ord. No 1996-12; 8/96)

**Sec. 4-46. Ineligible Persons.**

No license shall be issued pursuant to this division if the applicant:

- A. Is afflicted with, or is a carrier of any contagious, infectious or venereal disease;
- B. Has been convicted of a felony, breach of the peace, violation of any drug or alcohol related statute or two (2) or more convictions for disorderly conduct within three (3) year period immediately preceding the filing of the application for license required by this division. (Ord. No. 1994-1; 5/9/94)
- C. A person who is not of good character and reputation in the community in which he resides.
- D. Is under the age of twenty-one (21) years.

**Sec. 4-47. Health Certificate Required.**

No license shall be issued pursuant to this division, until the applicant has furnished a certificate of good health from a licensed physician.

**Sec. 4-48. Application.**

Application for a license required by this division shall be made in writing to the Village President.



**Sec. 4-49. Fee.**

The fee for each license required by this division shall be ten dollars (\$10.00). (Ord.1994-1; 5/9/94)

**Sec. 4-50. Term.**

Is hereby amended by deleting said section in its entirety.

**Sec. 4-51. Reserved.**

**Sec. 4-52. Employing Unlicensed Persons Prohibited.**

It shall be unlawful for any person to employ or permit, in any premises used for the retail sale of alcoholic liquor, any person to sell, serve or dispense alcoholic liquor who is not licensed under this division other than exceptions provided for in Section 4-45 of this Chapter.

**Sec. 4-53 - 4-62. Reserved.**

### **ARTICLE III. OPERATION**

**Sec. 4-63. Sale for Consumption on Premises Prohibited without Class "A" or "C" or "D" or "R" or "S".**

It shall be unlawful for anyone not having a Class A or Class C or Class D or Class R or Class S license to sell or offer for sale any alcoholic liquor for consumption on the premises where sold, or to permit the same to be consumed on the premises where sold.

**Sec. 4-64. Closing Hours; Vacancy of Premises.**

A. Except as herein otherwise provided to the contrary, it shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the Village on any Sunday past the hour of 1:00 A.M. or on any other day between the hours of 1:00 A.M. and 6:00 A.M. except that a holder of a Class C or a Class D or a Class R license is permitted to sell alcoholic liquor on the licensed premises in the manner otherwise authorized for the holder of any one of the said licenses, on the one Sunday of each year known as "Superbowl Sunday" which is the Sunday of each year during which the football game is played, from one (1) hour before the start of the football game until one-half (1/2) hour after the said game has ended and the bar cleared by one (1) hour after the said game has ended. (Ord. 1998-6; 07/27/98)

B. Except as herein otherwise provided to the contrary, it shall be unlawful to keep open for business or to admit the public to any premises in which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited and all such premises shall be vacated of all patrons no later than one-half (1/2) hour after closing hours; provided that in the case of restaurants, clubs and hotels such establishments may be kept open during such hours, but no alcoholic liquor may be sold to or consumed by the public during such hours.

**Sec. 4-65. Sale to Intoxicated Persons.**

It shall be unlawful for any holder of a retail liquor license to sell, deliver, or give any alcoholic beverage to any intoxicated person.

*State law reference--For similar provisions, see Ill. Rev. Stat., Ch. 43, 131.*

**Sec. 4-66. Sanitation.**

All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for such sale, shall be kept in full compliance with the provisions of this Code and other ordinances of the Village regulating the condition of premises used for the storage or sale of food for human consumption, and all state and local public health regulations pertaining thereto.

**Sec. 4-67. Visibility of Interior of Premises.**

In premises upon which the sale of alcoholic liquor for consumption upon the premises is licensed, other than as a restaurant, hotel or club, no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such licensed premises nor inside such premises, which shall prevent a clear view into the interior of such licensed premises from the street, road or sidewalk at all times, and no booth, screen, partition, or other obstruction nor any arrangement of lights or lighting shall be permitted in or about the interior of such premises which shall prevent a full view of such premises from the street, road or sidewalk. All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural light or artificial white light so that all parts of the interior of the premises shall be clearly visible. In case the view into any such licensed premises required by the foregoing provisions, shall be willfully obscured by the licensee or by him filing with him of plans, drawings and photographs showing the clearance of the view as above required.

*State law reference - For similar provisions, see Ill. Rev. Stat., Ch. 43, 141.*

**Sec. 4-68-4-77. Reserved.**

## **ARTICLE IV. MINORS<sup>3</sup>**

**Sec. 4-78. Presence of Minors on Premises Prohibited; Exceptions.**

It shall be unlawful for any holder of a retail liquor dealer's license, or his agent or employee, to suffer or permit any minor to be or remain in any room or compartment adjoining or adjacent to or situated in the room or place where such licensed premises is located. This section shall not apply to any minor who is accompanied by his parent or guardian, or to any licensed premises which derives its principal business from the sale or service of other commodities than alcoholic liquor.

**Sec. 4-79. Sales to Minors.**

No licensee, officer, associate, member, representative, agent or employee of any licensee, except as provided in Sec. 4-80 allowing eighteen (18) year olds, nineteen (19) year olds, and twenty (20) year olds who are representatives, agents or employees of a Class R or Class S license holder to deliver alcoholic liquor as therein provided, shall sell, give, or deliver alcoholic liquor to any person under the age of twenty-one (21) years, and no person under the age of twenty-one (21) years, and no person after purchasing or otherwise obtaining alcoholic liquor shall sell, give, or deliver such alcoholic liquor to another person under the age of twenty-one (21) years.

#### **Sec. 4-80. Purchases and Possession by Minors.**

It shall be unlawful for any person under the age of twenty-one (21) years to purchase, sell, accept, receive, transport, or have in his possession, any alcoholic liquor except that:

- A. Representatives, agents or employees of a Class R or Class S license holder who are eighteen (18) years old, nineteen (19) years old or twenty (20) years old may, in conjunction with the operation of the restaurant, deliver alcoholic liquor for consumption on the premises provided that license holder, if license holder is an individual, or at least one representative or employee of license holder who is licensed as required by, or licensed excused as provided by, Section 4-45 of this Chapter, is present on the licensed premises, and dispenses the alcoholic liquor delivered by any of the said representatives, agents or employees who are eighteen (18) years old, nineteen (19) years old or twenty (20) years old;
- B. Representatives, agents, or employees of a Class B license holder who are eighteen (18) years old, nineteen (19) years old or twenty (20) years old may sell, ring up, and charge alcoholic liquor at retail in conjunction with the operation of the establishment; and
- C. Representatives, agents, or employees of a Class B license holder who are under the age of twenty-one (21) years may, after the sale of alcoholic liquor has been run up or charged to a purchaser of same, bag or otherwise put the alcoholic liquor into boxes or other container for transport and May transpo11 same on the licensed premises for delivery on another portion of the same premises.

**(Ord. 2021-16; 10/25/21)**

#### **Sec. 4-81. Misrepresenting Age.**

No person shall transfer, alter, or deface an identification card, nor use the identification card of another, or carry or use a false or forged identification card, or obtain an identification card by means of false information, or in any way misrepresent his age for the purpose of purchasing or procuring alcoholic liquor within the Village.

#### **Sec. 4-82. Printed Card to be Posted on Premises.**

In every tavern or other place in the Village where alcoholic liquor is sold there shall be displayed at all times in a prominent place a printed card which shall be supplied by the Village Clerk and which shall read substantially as follows:

WARNING TO PERSONS UNDER  
TWENTY-ONE (21) YEARS OF AGE

You are subject to a fine up to \$750.00 under the ordinances of the Village of Durand if you purchase alcoholic liquor or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor.

**Sec. 4-83. Unlawful for Parent or Guardian to Permit Violations.**

It shall be unlawful for any parent or guardian to permit any minor child of which he or she may be the parent or guardian to violate any provision of this article.

**Sec. 4-84. Is Hereby Amended by Deleting Said Section in its Entirety.**

<sup>1</sup>*Cross reference - Licenses generally, 10-1 et seq.*

<sup>2</sup>*Cross reference - Licenses generally, 10-1 et seq.*

<sup>3</sup>*State law reference - Sale to minors, Ill. Rev. Stat., Ch. 43, 138; purchase by minors, Ch. 43, 134(a).*

**Sec. 4-85 - 4-90 Reserved.**

## **ARTICLE V. BEER GARDENS**

**Sec. 4-91. Curb Service or Outdoor Sales Prohibited - Exceptions.**

- A. No curb service and no outdoor entertainment after midnight or outdoor sale of alcoholic liquor shall be carried on in connection with premises for which a license has been granted for the sale of alcoholic liquor for consumption on the premises, either upon the public street or private property contiguous to such premises so licensed, except as herein specifically permitted for holders of Class A, C, D, R or S liquor licenses.
- B. Holders of Class A, C, D, R or S liquor licenses may conduct outdoor sales of alcoholic liquor for consumption on the premises provided that said outdoor sales are conducted in an area contiguous to the licensee's building and provided that each of the following requirements are met:
  - a. The area in which such sales are conducted must be accessible from the said licensee's building wherein sales of alcoholic liquor are otherwise conducted by the licensee.
  - b. The outdoor area shall be enclosed by:
    - i. A solid barrier passage preclusive fence measuring at least eight (8) feet in height when measured from floor or surface of such area, or
    - ii. In the event said area is elevated above the grade of an adjoining public right-of-way, street or sidewalk, a solid barrier passage preclusive fence whose height, when added to the height of said elevation equals eight (8) feet, provided that in no event may such fence be less than six (6) feet in height when measured from the floor or surface of such area.

- C. The entrances and exits to the gated part of the said fence to and from the said outdoor sales area must be equipped with an audible alarm that is activated when the said gate is opened and the said outside sales area is equipped with video tape surveillance cameras sufficient to cover the entire sales area that are monitored by a person or persons over the age of twenty-one (21) years or, in the alternative, each such entrance and exit to the gated part of the said fence to and from the said outdoor sales area must be equipped with an audible alarm that is activated when the said gate is opened and is monitored by at least one person over the age of twenty-one (21) years of age and who is present at each such gate. These gated parts of the fence may only be used when the outdoor sales area is not in use or in an actual emergency when the outside sales area is in use. Video tapes must be retained for at least thirty (30) days following each outdoor sales event.
- D. The square foot area of the outdoor sales area shall not be greater than fifty percent (50%) of the square foot area of the contiguous interior sales area of the said building or may not exceed twelve hundred (1,200) square feet, whichever is smaller.

**Sec. 4-92. Permit required.**

- A. Any permitted licensee must first obtain a beer garden permit before conducting outdoor sales of alcoholic liquor.
- B. Beer garden permits shall cost One Hundred and no/100 (\$100.00) Dollars each and shall be valid for a period of one (1) year and shall be non-prorated and non-refundable. (Ord. 2006-3; 7/10/06)

**CHAPTER 5**  
**AMUSEMENTS**

| Article |                      | -thru- |      |
|---------|----------------------|--------|------|
|         | In General           | 5-1    | 5-19 |
| II      | Billiards            | 5-20   | 5-32 |
| III     | Bowling Alleys       | 5-33   | 3-45 |
| IV      | Circuses & Carnivals | 5-46   | 5-48 |

**ARTICLE I. IN GENERAL**

**Sec. 5-1. Application of Article.**

The provisions of this article shall apply to all public shows, theatricals, circuses and other amusements in the municipality, whether or not specifically licensed in another article of this chapter.

**Sec. 5-2. License Required.**

It shall be unlawful to conduct or operate any amusement which is regulated by this chapter without having first secured a license therefore.

*Cross reference - Licenses generally, 10-1 et seq.*

**Sec. 5-3. Applications for Licenses.**

Applications for such licenses required by this article shall be made to the Village Clerk, and shall comply with the provisions of section 10-1.

**Sec. 5-4. License Fees.**

- A. The license fees for amusements shall be in accordance with the article or section which governs the particular amusement.
- B. Where no license fee is specifically provided for in this chapter, the fee shall be as follows:
  - a. Menageries \$30.00 per day
  - b. Exhibitions of inanimate objects \$10.00 per day
  - c. Merry-go-rounds \$20.00 per day
  - d. Other amusements \$20.00 per day

**Sec. 5-5. Order of Board of Trustees Required for Issuance of Permit to Hold Amusement on Public Property.**

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

**Sec. 5-6. Order and Overcrowding.**

- A. The audience of any amusement, show or theatrical must be orderly and quiet at all times, and it shall be unlawful for any person attending such amusement, show or theatrical to create a disturbance in the audience.
- B. It shall be unlawful to permit or gather such a crowd to witness any amusement or show as to create a dangerous condition because of fire or other risks.

**Sec. 5-7. Inspections.**

It shall be the duty of the police officers of the Village to see that every exhibition, amusement, theatrical or other public show or amusement is inspected by a member of the police department, and to insure conformity with the provisions of this chapter.

**Sec. 5-8. Permit Required for Coin-Operated Amusement Devices; Fee.**

- A. It shall be unlawful to maintain for the use of patrons of any store, tavern or place of amusement, or for the use of the public, any device for creating, transcribing or producing music or any other type of amusement which is operated by the deposit or insertion of a coin or slug without having first obtained a permit therefore.
- B. The annual fee for the first five-coin operated amusement devices permitted by this section shall be twenty-five dollars (\$25.00) in total; for each such coin operated amusement device thereafter, the annual fee for the permit shall be ten dollars (\$10.00).

*Cross reference - Permits generally, 10-1 et seq.*

**Sec. 5-9. Permit Required for Exhibition of Wild Animals.**

Exhibitions or parades of animals which are wild by nature in the eyes of the law may be conducted only upon securing a permit from the Village Clerk.

*Cross reference - Permits generally, 10-1 et seq.*

**Sec. 5-10 - 5-19. Reserved.**

## **ARTICLE II. BILLIARDS AND POOL HALLS<sup>2</sup>**

### **Sec. 5-20. License Required.**

No person shall operate, maintain or conduct a billiard, pool, bagatelle or pigeon hole table open to the public without having first obtained a license therefore.

*Cross reference - Licenses generally, 10-1 et seq.*

### **Sec. 5-21. Application for License; Contents.**

Applications for a license required by this article shall be made in writing to the Village Clerk and shall state thereon the intended location of the place of business and the number of tables to be used therein.

### **Sec. 5-22. License Fee.**

The annual license fee for a license required by this article shall be ten dollars (\$10.00) for the first table and five dollars \$5.00) for each additional table.

### **Sec. 5-23 - 5-32. Reserved.**

## **ARTICLE III. BOWLING ALLEYS<sup>3</sup>**

### **Sec. 5-33. License Required.**

No person shall operate or maintain a bowling alley open to the public without having first obtained a license therefore.

*Cross reference - Licenses generally, 10-1 et seq.*

### **Sec. 5-34. Applications for License.**

Application for a license required by this article shall be made in writing to the Village Clerk and shall state thereon the intended location of the place of business and the number of alleys to be used therein.

### **Sec. 5-35. License Fee.**

The annual fee for a license required by this article shall be ten dollars (\$10.00) for first alley and five dollars (\$5.00) for each additional alley.



## ARTICLE IV. GAMES OF CHANCE<sup>4</sup>

### Sec. 5-36. Licensing and Regulations

**Section 1. Definitions.** For the purpose of this ordinance the terms defined in the Section have the meanings given them.

**Net Proceeds** means the gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle.

**Raffle** means a form of lottery, as defined in Section 28-2 (b) Ch. 38, IL Rev. Statutes, conducted by an organization licensed under this Ordinance, in which:

- A. The player pays or agrees to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance.
- B. The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

### Section 2. Licensing.

- A. The Board of Trustees may establish a system for the licensing of organizations to operate raffles. The licensing system shall provide for:
  - a. the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle shall not exceed \$30,000.00
  - b. the maximum retail value of each prize awarded by a licensee in a single raffle shall not exceed \$12,000.00
  - c. the maximum price which may be charged for each raffle chance issued or sold shall not exceed \$100.00
  - d. the maximum number of days during which chances may be issued or sold shall not exceed 120 days.

The Board of Trustees may require a fee for each license in such in an amount as may be from time to time determined, and the Board may waive such fee where determined to be in the public interest. Licenses pursuant to this ordinance shall be valid for one raffle and may be rescinded or revoked for any violation of this ordinance. The Board of Trustees shall act on a license application within 30 days from the date of application.

- B. Licenses shall be issued only to a bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of 5 years immediately before making application for a license and which have had during that entire 5 year period a bona fide membership engaged in carrying out their objects, or to a non-profit fund raising organization that the licensing authority determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

For the purposes of this Act, the following definitions apply. Non-profit: An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation. Charitable: An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public. Educational: An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools. Religious: Any church, congregation, society, or organization founded for the propose of religious worship. Fraternal: An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government. Veterans: An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit. Labor: An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations. Business: A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interest of a community.

**Section 3. License - Application - Issuance - Restrictions - Persons Ineligible. Licenses Issued by the Board of Trustees are Subject to the Following Restrictions:**

1. No person, firm or corporation shall conduct raffles or chances without having first obtained a license therefore pursuant to this ordinance.
2. The license and application for license must specify the area or areas within the licensing authority in which raffle chances will be sold or issued, the time period during which raffle chances will be sold or issued, the time of determination of winning chances and the location or locations at which winning chances will be determined.
3. The license application must contain a sworn statement attesting to the not-for-profit character of the prospective licensee organization, signed by the presiding officer and the secretary of that organization.

The following are ineligible for any license under this Ordinance:

- a. Any person who has been convicted of a felony;
- b. Any person who is or has been a professional gambler or gambling promoter;

- c. Any person who is not of good moral character;
- d. Any firm or corporation in which a person defined in (a), (b) or (c) has a proprietary, equitable or credit interest, or in which such a person is active or employed;
- e. Any organization in which a person defined in (a), (b) or (c) is an officer, director, or employee, whether compensated or not;
- f. Any organization in which a person defined in (a), (b) or (c) is to participate in the management or operation of a raffle as defined in this Ordinance.

#### **Section 4. Conduct of Raffles.**

The Conducting of the Raffles is Subject to the Following Restrictions:

- 1. The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- 2. No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle.
- 3. No person may receive any remuneration or profit for participating in the management or operation of the raffle.
- 4. A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization also licensed under this Ordinance.
- 5. Raffle chances may be sold or issued only within the area specified on the license and winning chances may be determined only at those locations specified on the license.
- 6. No person under the age of 18 years may participate in the conducting of raffles or chances. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his parent or guardian.

#### **Section 5. Raffles - Manager - Bond.**

All operation of and the conduct of raffles shall be under the supervision of a single raffles manager designated by the organization. The manager shall give a fidelity bond in the sum of an amount determined by the Board of Trustees in favor of the organization conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to its cancellation. The Board of Trustees may waive this bond requirement by including a waiver provision in the license issued to an organization under this Ordinance, provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

#### **Section 6. Records.**

- A. Each organization licensed to conduct raffles and chances shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are

determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

- B. Gross receipts from the operation of raffle programs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same nonprofit organizations pursuant to license therefore issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles. The person who accounts for gross receipts, expenses, and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.
- C. Each organization licensed to conduct raffles shall report monthly to its membership, and to the Board of Trustees, its gross receipts, expenses and net proceeds from raffles, and the distribution of net proceeds itemized as required in this Section.
- D. Records required by this Section shall be preserved for 3 years, and organizations shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

#### **Section 7. Sentence.**

Violation of any provision of this Ordinance shall be punished by a fine of not more than \$500. Each day any violation of any provision of this ordinance shall constitute a separate offense.

#### **Section 8.**

Nothing in this Ordinance with the exception of any video and lottery games permitted by the State of Illinois Gaming Commission shall be construed to authorize of any gambling scheme, enterprise, activity or device other than raffles as provided for herein. (Ord. 2012-8; 8/13/12)

#### **Sec. 5-37 - 5-45. Reserved.**

## **ARTICLE V. CIRCUSES AND CARNIVALS<sup>5</sup>**

#### **Sec. 5-46. License Required.**

No person shall conduct or operate a circus or carnival in the Village without having first obtained a license therefore.

#### **Sec. 5-47. Application for License; Contents.**

The application for a license required by this article shall be made to the Village Clerk and shall specify the place in or on which the circus or carnival is to be conducted.

#### **Sec. 5-48. License Fee.**

- A. The fee for a circus or carnival license shall be one hundred dollars (\$100.00) for each day during which the circus or carnival is conducted or open to the public.
- B. An additional fee of twenty-five dollars (\$25.00) per day for each side-show and concession operated in connection with a circus or carnival shall be paid.

## **ARTICLE VI. VIDEO GAMING**

### **Sec. 5-49.**

- A. Video gaming terminals shall be permitted in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away if each of the following conditions are met.
  - a. The licensee or agent of the licensee has obtained a video gaming terminal license issued by the Village of Durand in accordance with Chapter 4, Article II of the Code of Ordinances.
    - i. An application for a video gaming terminal license may be obtained from the Village Clerk. Upon submittal of a fully completed application and payment of the annual license fee (as set forth below), the Village Clerk shall forward such application to the Village Board for consideration. No license shall be issued except upon approval by the Village Board. To the extent a license application is not approved, any license fee paid by the applicant shall be refunded to the applicant within 30 days of the denial of the license; and
  - b. The use and placement of such terminals is in compliance with the provisions of the Video Gaming Act (230 ILCS § 40/1 et seq.) as amended; and
  - c. The use and placement of such terminals is in compliance with the provisions of all rules promulgated by the Illinois Gaming Board pursuant to the Illinois Administrative Procedures Act; and
  - d. The licensee or agent of the licensee:
    - i. Files with the Village Clerk a copy of the licensee's written use agreement with the terminal operator for placement of the video gaming terminals and a copy of the license issued by the Illinois Gaming Board; and
    - ii. Pays to the Village an annual fee of \$125.00 for each video gaming terminal in or upon the premises beginning with the renewal or issuance of the licensee's liquor license in 2022. This fee shall increase to \$250.00 for each video gaming terminal in or upon the premises beginning with the renewal or issuance of the licensee's liquor license in 2023. The cost of this annual fee shall be shared equally between the terminal operator and the applicable licensed establishment.
- B. No video gaming terminal that is permitted under the provisions of this section may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages on the licensed premises.

- C. If a licensee violates any provision of the Illinois Gaming Act or rules or regulations of the Illinois Gaming Board or any provisions related to video gaming terminals contained in this Section, such violation shall be deemed a violation of the licensee's liquor license **(Ord. 2022-1; 1/10/22)**

**Sec. 5-50.**

If any section, paragraph, subsection, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect. **(Ord. 2012-8; 8/13/12)**

**Sec. 5-51.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict. **(Ord. 2012-8; 8/13/12)**

**Sec. 5-52.**

This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law. **(Ord. 2012-8; 8/13/12)**

*State law references - Authority of Village to license and regulate bowling alleys, Ill. Rev. Stat., Ch. 24, 11-42-2; minors under age of sixteen years prohibited from working in bowling alleys, Ch. 48, 31.7; bowling alley defined under liquor control act, Ch. 43. 95.26.*

<sup>1</sup>*State law reference - Authority of Village to license and regulate amusements generally, Ill. Rev. Stat., Ch. 24, 11-42-5.*

<sup>2</sup>*State law references - Authority of Village to license and regulate pool and other similar tables, Ill. Rev. Stat., Ch. 24, 11-42-2; minors under age of sixteen years of age prohibited from working in pool halls, Ch. 48, 31.7.*

<sup>3</sup>*State law references - Authority of Village to license and regulate bowling alleys, Ill. Rev. Stat., Ch. 24, 11-42-2; minors under age of sixteen years prohibited from working in bowling alleys, Ch. 48, 31.7; bowling alley defined under liquor control act, Ch. 43, 95.26.*

<sup>4</sup>*Cross reference - Licenses generally, 10-1 et seq.*

<sup>5</sup>*Cross reference - Licenses generally, 10-1 et seq.*

## **CHAPTER 6**

### **ANIMALS AND FOWL<sup>1</sup>**

#### **Sec. 6-1. Dog Defined.**

The word "dog" as used in this chapter shall include all animals regardless of sex, of the canine species.

#### **Sec. 6-2. Animals Other than Household Pets Prohibited; Declared a Nuisance.**

A. It shall be unlawful for any person to keep any cattle, horse, swine, sheep, goats, poultry or other animals within the Village with the exception of dogs, cats, and other common household pets.

B. Any animal kept in the Village in violation of subsection (a) is hereby declared to be a nuisance.

#### **Sec. 6-3. Dogs Running at Large Prohibited; to be Impounded.**

It shall be unlawful for any person to permit any dog to run at large in the Village at any time. Dogs which are on any street, alley or sidewalk or other public place without being held securely on a leash shall be deemed to be running at large. Dogs which are running at large shall be taken up and impounded by the Winnebago County Animal Control Services.

#### **Sec. 6-3A. Sanitation.**

It shall be unlawful for any owner or custodian of any animal to allow the animal to defecate on any street, sidewalk, public park or other public property or on common grounds or common areas contained within a homeowners association or condominium or on other private property not owned by the owner or custodian of the said animal, unless the said owner or custodian shall immediately remove from the property all feces deposited by the said animal and dispose of same by placing same in a plastic bag or other container that is securely sealed so as to retain any odor within the container and by depositing the container in a trash receptacle or by otherwise disposing of same in any manner as otherwise may be permitted by law.

Violations of this ordinance shall be punishable by a fine of not less than twenty-five dollars (\$25.00) for the first offense, not less than fifty dollars (\$50.00) for the second offense and not less than one hundred dollars (\$100.00) for the third or subsequent offense. [\*\*\(Ord. No. 2001-7; 6/25/01\)\*\*](#)

#### **Sec. 6-4. Noisy Dogs Prohibited.**

It shall be unlawful to harbor or keep any dog which disturbs the peace by loud noises at any time of the day or night.

#### **Sec. 6-5. Rabid Dogs Declared a Nuisance; Destruction.**

Any dog suffering from rabies or any dog bitten by a dog suffering from rabies is hereby declared to be a

public nuisance and may be killed by any Village police officer, or by any person the Village President so designates.

**Sec. 6-6. Cruelty to Animals.**

No person shall cruelly treat any animal in the Village. A person who inhumanely beats, underfeeds, overloads, or abandons any animal shall be deemed guilty of a violation of this section.

*State law reference - Authority of Village to prevent cruelty to animals, Ill. Rev. Stat., Ch. 24, 11-5-6.*

**Sec. 6-7. Killing Dangerous Animals.**

The members of the police department, or any other person in the Village, are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.

**Sec. 6-8. Diseased Animals not to be Exposed to Public; Precautions to be Taken by Health Officer.**

- A. No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large, or to be exposed in any public place where the health of man or other animals may be affected. No diseased animal shall be shipped or removed from the premises of its owner except under the supervision of the Health Officer.
- B. It is hereby made the duty of the Health Officer to secure such disposition of any diseased animal and such treatment of any affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the state veterinarian is empowered to act.

**Sec. 6-9. Collar and Tag Issued by County to be Worn by Dog.**

Every dog kept within the Village shall be provided by its owner or keeper with a collar made of leather, metal, or other substantial material to which the license tags, issued by the county shall be securely fastened.

**Sec. 6-10. 6-13. Reserved**

**Sec. 6-14. Dogs Running at Large.**

No person who is the owner of a dog shall cause or permit his dog to run at large in the unincorporated areas of the County which have been subdivided for residential purposes.

**Sec. 6-15. Barking Dogs.**

- A. It shall be unlawful for any person to own, keep, have in his possession, or harbor any dog which, by frequent or habitual howling, yelping, barking, or otherwise, shall cause annoyance or disturbance to any person, provided that the provision of this Section shall not apply to the Winnebago County Animal Shelter.
- B. Violations of this Section shall be punishable by a fine of not less than twenty-five dollars (\$25.00) for the first offense, fifty dollars (\$50.00) for the second offense, and one hundred dollars (\$100.00) for the third or subsequent offense. The maximum penalty for such offense shall not exceed five hundred



dollars (\$500.00).

**Sec. 6-16. Killing of Domestic Animals.**

- A. No domestic animal or poultry shall be killed for human consumption or to be sold for human consumption within the unincorporated areas of Winnebago County except as provided in this Chapter.
- B. The provisions of this Section shall not apply to facilities and individuals licensed and approved by the Illinois Department of Agriculture as provided for in the Illinois Meat & Poultry Inspection Act (Ill. Rev. Stat. ch. 56-1/2, par. 301 et seq., 1987, as amended) or to those facilities provisions of that Act.
- C. Violations of this Section shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

**Sec. 6-17. Impoundment.**

- A. The Animal Services Officer shall, and any peace officer may, apprehend and impound the following:
  - a. Animals which have bitten a person;
  - b. Dogs four months or more of age which have not been inoculated against rabies by a licensed veterinarian;
  - c. Dogs four months or more of age not on the premises of their owner and which do not have a current, valid rabies inoculation tag;
  - d. Dogs that have been found to be vicious as defined in the Act and are not in a qualified run line or in an enclosure;
  - e. Dogs which are at large in the unincorporated areas of the County that have been subdivided for residential purposes;
  - f. Dogs and cats adopted from Animal Services which are held in violation of the adoption agreement.
- B. The director, or other person authorized by the Administrator to impound animals, shall, upon receiving the animal, make a complete registry thereof entering the breed, description, age, sex, date of impoundment, name of the owner (if known) and the registration or tag number of such animal.
- C. The Administrator or Director shall provide adequate and wholesome food and shelter for impounded animals, and shall provide careful and humane treatment toward animals in shelter care.

**Sec. 6-18. Redemption of Impounded Animals.**

- A. The administrator or his duly authorized agent shall, upon impoundment, forthwith notify the owner of the impounded animal at his last known address by certified mail, with return receipt requested, of

such impoundment.

- B. If an owner notifies the Department that his animal has been lost and gives a description of the animal, the Department, for a period of six (6) months thereafter, shall be required to notify said owner within twenty-four (24) hours of the impoundment of any animal that matches the description of the lost animal.

**Sec. 6-19. Redemption of Impounded Animals.**

The owner of any impounded dog may redeem such dog within seven (7) days of its impoundment by following the following procedures:

- a. Presentation of proof of current rabies inoculation and registration, if applicable, or payment for rabies inoculation and registration;
- b. Payment of the cost of Boarding;
- c. Payment of the appropriate service fee for pick up of the animal.

**Sec. 6-20. Disposition of Unclaimed or Disabled Animals.**

- A. When not redeemed by its owner, an animal which has been impounded shall be humanely dispatched, offered for adoption, or transferred to an institution pursuant to the Impounding and Disposition of Stray Animal Act. However, in no event shall a healthy animal be humanely dispatched unless it has been impounded for a period of at least seven (7) days.
- B. Persons adopting an unredeemed dog must pay for the rabies inoculation and registration of such dog if necessary and shall also pay to have the dog spayed or neutered.
- C. Stray animals suffering from severe physical disabilities may be disposed of at the discretion of the Administrator. No animal left by its owner for disposition is to be regarded as unclaimed or unredeemed, but is to be disposed of as authorized by its owner.
- D. No registered dog wearing an inoculation tag may be disposed of, unless the notice provisions of Section 5-13 of this Chapter have been complied with by the Administrator and the Administrator has received the return receipt or has had the certified letter returned undelivered.
- E. Unclaimed and released dogs and cats may be adopted from the shelter for use as a pet by paying the appropriate fee. Persons adopting must sign and

**Sec. 6-21. Spay/Neuter program fund.**

Five dollars (\$5.00) of the registration fees collected from owners of unaltered animals shall be segregated in the Animal Control Fund in order to fund a spay/neuter program as determined by the County Board.

**Sec. 6-22 Vicious Dogs.**

- A. Definition of terms.

As used in this Section:

- a. **Owner** means any person, firm, corporation, or organization or department possessing or harboring or having the care or custody of a dog.
- b. **Vicious Dog** means:
  - i. Any individual dog that when unprovoked inflicts, bites or attacks a human being or other animal either on public or private property; or
  - ii. Any individual dog with a known propensity, tendency, or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
  - iii. Any individual dog which attacks a human being or domestic animal without provocations; or
  - iv. Any individual dog which has been found to be a "dangerous dog" upon three separate occasions; or
  - v. No dog shall be deemed "vicious" if it bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it or is a professionally trained dog for law enforcement or guard duties.
- c. **Dangerous Dog** means any individual dog which when either un-muzzled, unleashed, or unattended by its owner, or a member of its owner's family in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon streets, sidewalks, or any public grounds of places.
- d. **Enclosure** means a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of a vicious dog. Such designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure.
- e. **Has bitten** means has seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded or pierced, and further includes contact of saliva with the skin.
- f. **Impounded** means taken into the custody of the public pound or other place of confinement.

## B. Vicious Dogs

- a. It shall be unlawful for any person to keep or maintain any dog which has been found to be a vicious dog unless such dog is at all times kept in an enclosure. The only times a vicious dog may be allowed out of the enclosure are; (1) if it is necessary for the owner or keeper to obtain veterinary care for the vicious dog, or (2) to comply with the order of a Court of competent jurisdiction, provided that in each instance, said vicious dog is securely muzzled and restrained with a chain having a tensile strength of 300 pounds and not exceeding three

feet in length, and shall be kept under the direct control and supervision of the owner or keeper of the vicious dog. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any human or animal.

Whenever the Administrator, State's Attorney, or any other citizen has reason to believe that any dog is vicious as defined in this ordinance, he/she may file a complaint in the Circuit Court in the name of the County of Winnebago, seeking a finding that the dog is vicious. Owner of any dog that is the subject of such a complaint and shall have seven days to answer or otherwise enter his/her appearance. Within fourteen days after the filing of any complaint seeking to have a dog declared to be vicious, a hearing shall be held at which time the complainant and the owner shall present evidence as to whether the dog in question is vicious. When, after receiving the evidence presented, court finds that the dog meets on the definitions of a vicious dog as defined in Section 1, subsection B, the court shall enter an order finding the dog to be vicious. It shall be unlawful for any person to maintain a public nuisance by permitting any dog which has been found to be vicious to be outside of any enclosure except as provided in Section 2, subsection A.

Any dog which has been found to be a vicious dog and which is not confined to an enclosure except as provided in Section 2, subsection A, shall be impounded by the Administrator or other law enforcement authority and shall be turned over to the Winnebago County Animal Shelter. The Administrator shall, within five days after the dog has been impounded, cause a complaint to be filed in the Circuit Court seeking an order authorizing him to destroy the dog by lethal injection. Notice of the complaint shall be sent to the owner. Hearing shall be held within fifteen days of the impoundment.

Any dog, which has bitten a human on three (3) or more occasions as reported to the Administrator pursuant to the provision of the Animal Control Act (*Illinois Revised Statutes, Chapter 8 Paragraph 351, et. seq., 1987 as amended*) shall be impounded by the Administrator at the Winnebago County Animal Shelter. The Administrator shall, within five days of the impoundment, cause a complaint to be filed in the Circuit Court seeking an order authorizing him to destroy the dog by lethal injection. Notice of the complaint shall be sent to the owner. Hearing shall be within fifteen days of the impoundment.

No owner or keeper of a vicious dog shall sell or give away any vicious dog.

- b. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the enclosure in which the animal is kept.
- c. Owners of dogs that have been found to be vicious, shall, within ninety (90) days of the order finding the dog to be vicious, obtain a license from the Animal Service Administrator. The license shall be valid for one (1) year, and shall be renewed annually. A license fee of \$25 shall be assessed.
- d. Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard or police-owned dogs are exempt from this Section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for

exemption under this Section, each such dog shall be currently inoculated against rabies, in accordance with the law of the State of Illinois and any other applicable law. It shall be the duty of the owner of such exempted dog to notify the Administrator, as designated in the Animal Control Act (Ill. Rev. Stat. ch 8, par. 351 et. seq., as amended), of changes of address. In case of a sentry or guard dog, the owner shall keep the Administrator advised of the location where such dog will be stationed. The Administrator shall provide police and fire departments with a categorized list of such exempted dogs, and shall promptly notify such departments of any address changes reported to him/her.

#### **C. Penalties**

Any person violating or aiding or abetting the violation of any provision of this Section or resisting, obstructing or impeding the Administrator or any authorized officer in enforcing this Section, is guilty of a petty offense and may be punishable by a fine of not less than \$50 and not more than \$500.

#### **D. Severability**

Severability of any Section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any Court, such decision shall not affect the validity of the remaining portions of this Ordinance.

<sup>1</sup>*State law reference - Rabies control act, Ill. Rev. Stat., Ch. 8, 23(e) et seq.*

## CHAPTER 7

### BUILDINGS AND BUILDING REGULATIONS<sup>1</sup>

| Article |                                 | <i>-thru-</i> |       |
|---------|---------------------------------|---------------|-------|
|         | Building Code                   | 7-1           | 7-10  |
| II      | Electrical Code                 | 7-11          | 7-20  |
| III     | Mechanical Code                 | 7-21          | 7-30  |
| IV      | One- & Two-Family Dwelling Code | 7-31          | 7-40  |
| V       | Plumbing Code                   | 7-41          | 7-50  |
| VI      | Property Maintenance Code       | 7-51          | 7-60  |
| VII     | Fuel Gas Code                   | 7-61          | 7-70  |
| VIII    | Demolition Permits              | 7-71          | 7-71  |
| IX      | Fences                          | 7-72          | 7-72  |
| X       | Building Operations             | 7-73          | 7-80  |
| XI      | Moving Buildings                | 7-81          | 7-90  |
| XII     | Swimming Pools                  | 7-91          | 7-100 |
| XIII    | Solar Energy Systems            | 7-101         | 7-113 |

## ARTICLE I. BUILDING CODE

### Sec. 7-1. Copies of Codes Adopted by Reference.

A copy of all Codes adopted in this Article by reference shall be on file in the office of the village clerk.

The ICC 2015 International Property Maintenance Code, together with any supplements and any amendments thereto, along with the 2015 Regional Building Code Amendments, is hereby adopted by reference as the building code for the village, pursuant to Ordinances 2015-14 and Ordinance 2018-7, as though fully set forth herein. Copies of the ICC 2015 International Property Maintenance Code, together with any supplements and amendments thereto, along with the 2015 Regional Building Code Amendments, shall remain on file at the Village Hall for public review and inspection. [\(Ord. 2018-13; 8/27/18\)](#)

### Sec. 7-2. Building code regulation.

The International Building Code, 2015 Edition, in the same form as currently adopted by Winnebago County, along with any supplements and amendments thereto as adopted by Winnebago County, is hereby adopted by the Village and incorporated by reference, as though set forth fully in this chapter, along with any codes and amendments approved in the future and adopted by Winnebago County.

### Sec. 7-3 Preliminary Checklist for Building Permit.

A non-refundable fee in the amount of \$25.00 is required to be paid at the time a "Preliminary Checklist for Building Permit" form is submitted to the Village. A completed application shall be reviewed by the Village Zoning Administrator within seven (7) week days of the filing of said application. [\(Ord. 2020-16;](#)

10/26/20)

**Sec. 7-4 – 7-10. Reserved.**

## **ARTICLE II. ELECTRICAL CODE**

**Sec. 7-11 Copies of Codes Adopted by Reference.**

A copy of all Codes adopted in this Article by reference shall be on file in the office of the village clerk.

**Sec. 7-12 Adopted.**

The National Electrical Code, 2014 edition, in the same form as currently adopted by Winnebago Country, along with any supplements and amendments thereto as adopted by Winnebago Country, is hereby adopted by the Village and incorporated by reference, as though fully set forth in this chapter, along with any codes and amendments approved in the future and adopted by Winnebago County. (Ord. 2019-11; 7/22/19)

**Sec. 7-13 – 7-20. Reserved.**

## **ARTICLE III. MECHANICAL CODE**

**Sec 7-21 Copies of codes Adopted by Reference.**

A copy of all Codes adopted in this Article by reference shall be on file in the office of the Village Clerk.

**Sec 7-22 Adopted.**

The International Mechanical Code, 2015 Edition, in the same form as currently adopted by Winnebago Country, along with any supplements and amendments thereto as adopted by Winnebago Country, is hereby adopted by the Village and incorporated by reference, as though, fully set forth in this chapter, along with any Codes and amendments approved in the future and adopted by Winnebago County. (Ord. 2019-11; 7/22/19)

**Sec 7-23 – 7-30. Reserved.**

## **ARTICLE IV. ONE AND TWO-FAMILY DWELLING CODE**

**Sec 7-31 Copies of Codes Adopted by Reference.**

A copy of all Codes adopted in this Article by reference shall be on file in the office of the Village Clerk.

**Sec 7-32 Adopted.**

The International Residential Code for One and Two-Family Dwellings, 2015 Edition, in the same form as currently adopted by Winnebago Country, along with any supplements and amendments thereto as adopted by Winnebago Country, is hereby adopted by the Village and incorporated by reference, as though, fully set forth in this chapter, along with any Codes and amendments approved in the future and adopted by Winnebago County. (Ord. 2019-11; 7/22/19)

**Sec. 7-33 – 7-40. Reserved.**

## **ARTICLE V. PLUMBING CODE**

**Sec. 7-41 Copies of Codes Adopted by Reference.**

A copy of all Codes adopted in this Article by reference shall be on file in the office of the Village Clerk.

**Sec 7-42 Adopted.**

The Illinois State Plumbing Code, 2014 Edition, in the same form as currently adopted by Winnebago Country, along with any supplements and amendments thereto as adopted by Winnebago Country, is hereby adopted by the Village and incorporated by reference, as though, fully set forth in this chapter, along with any Codes and amendments approved in the future and adopted by Winnebago County. (Ord. 2019-11; 7/22/19)

**Sec. 7-43 - 7-50. Reserved.**

## **ARTICLE VI. PROPERTY MAINTENANCE CODE**

**Sec. 7-51 Copies of Codes Adopted by Reference.**

A copy of all Codes adopted in this Article by reference shall be on file in the office of the Village Clerk.

**Sec. 7-52 Adopted.**

The International Property Maintenance Code, 2015 Edition, as published by the International Code Council, in the same form as currently adopted by Winnebago Country, along with any supplements and amendments thereto as adopted by Winnebago Country, is hereby adopted by the Village and incorporated by reference, as though, fully set forth in this chapter, along with any Codes and amendments approved in the future and adopted by Winnebago County. (Ord. 2019-11; 7/22/19)

**Sec. 7-53 – 7-60. Reserved.**



## **ARTICLE VII. FUEL GAS CODE**

### **Sec 7-61 Copies of codes adopted by reference.**

A copy of all Codes adopted in this Article by reference shall be on file in the office of the Village Clerk.

### **Sec. 7-62 Adopted.**

The International Fuel Gas Code, 2015 Edition, in the same form as currently adopted by Winnebago Country, along with any supplements and amendments thereto as adopted by Winnebago Country, is hereby adopted by the Village and incorporated by reference, as though, fully set forth in this chapter, along with any Codes and amendments approved in the future and adopted by Winnebago County. (Ord. 2019-11; 7/22/19)

### **Sec 7-63 – 7-70. Reserved.**

## **ARTICLE VIII. DEMOLITION PERMITS**

### **Sec. 7-71 Demolition Permit — Requirements.**

- A. To qualify for a demolition, permit the applicant and/or the property owner (s) must show proof that utility services have been disconnected in accordance with the provisions and requirements of the Village of Durand and all disconnections must be verified and approved by the appropriate party designated by the Village of Durand. These utility services include, but are not limited to: Electrical, Natural or Propane Gas, Water and Sewer. The applicant and the property owner(s) shall be responsible for all damages that might result from a utility not being disconnected or not being properly disconnected.
- B. Demolition must be commenced within thirty (30) days from the date of issuance of the demolition permit and must be completed and the applicant must remove all demolition debris within thirty (30) days from the start of demolition. If additional time is required to remove the demolition debris an application for extension must be submitted to the Village Clerk in writing for review by the Village Board of Trustees. If the demolition debris is not removed within the time herein stated or within the additional extended time that may be allowed as herein provided, the demolition debris shall be considered a nuisance and punishable in accordance with Section 1-7 of this code (previously Sec. 7-9 – Demolition Permit — Requirements). (Ord. 2019-11; 7/22/19)

## **ARTICLE IX. FENCES**

### **Sec 7-72 General Regulations.**

A permit shall be required before construction can begin on any fence within the Village of Durand. Permit Applications are available at the Village Hall.

A non-refundable fee in the amount of \$25.00 is required to be paid at the time a fence permit application is filed. A completed application shall be reviewed by the Superintendent of Public Works within seven (7) week days of the filing of said application.

The Superintendent of Public Works shall accept or reject the fence permit application within fourteen (14) days after the filing of the fence application. All rejected applications shall be reviewed by the Streets and Alleys Committee which shall notify the Superintendent of Public Works of its recommendations. In the event that the said Committee's recommendation is anything other than to reject the application, the Superintendent of Public Works shall reevaluate the application within seven (7) days of receipt of the said committee's recommendation as to the acceptance or rejection of the application. All applicants whose fence permit applications have been denied shall have the right to request that the rejected application be reviewed by the Village Board.

Applicants shall be notified in writing of the acceptance of the application.

Applicants whose application has been rejected shall have a one-time opportunity to file an amended application without fee and which amended application shall be accepted or rejected as provided above for original applications. Applicants shall be notified in writing of the acceptance or rejection of the amended application.

All applications, rejected or accepted, shall be kept on file by the Village Clerk.

Once approved, an application shall remain valid for the period of one (1) year. Should an applicant wish to renew an approved application, a non-refundable fee in the amount of \$20.00 is required to be paid prior to the expiration of said permit.

Fences are to be erected with the support members on the side of the fence facing the property to which the fence is accessory.

The finished or good side of the fence shall face the adjoining property.

All fences shall be repaired and maintained to ensure the integrity of the fence.

Fences shall be installed so as to not interfere or impeded the flow of surface drainage.

Fences shall not be erected or installed in easements unless permission is granted in writing by the entity or authority having the right to the use of that easement. If permission is granted to construct a fence by any such entity or authority, that entity or authority shall not be responsible for the re-installation of the fence due to the entity or authority exercising its easement rights. (Previously Sec. 7-10 – Fences, General regulations) **(Ord. 2019-11; 7/22/19)**

## **ARTICLE X. BUILDING OPERATIONS**

**Sec. 7-73. Use of Streets.**

A permit for the use of streets for the storage of materials in the process of construction or alteration of building or structure may be granted where the same will not unduly interfere with traffic and will not reduce the usable width of the roadway to less than eighteen (18) feet. No portion of the street other than that directly abutting on the premises on which work is being done shall be used except with the consent of the owner or occupant of the premises abutting on such portion. Any person seeking to make such use of the street shall file an application for a permit therefore with the Village Clerk, together with a bond with sureties to be approved by the Village Clerk to indemnify the Village for any loss or damage which may occur by such occupation (*previously Sec. 7-15 - Use of Streets*)

**Sec. 7-74. Use of Sidewalks.**

No sidewalk shall be obstructed in the course of building construction or alteration without a special permit from the Village Clerk, and whenever removal of a sidewalk is required, in such work, a special permit from the building official shall be obtained. (*Previously Sec. 7-16- Use of Sidewalks*).

**Sec. 7-75. Safety Precautions.**

It shall be the duty of the person doing any construction, altering or wrecking work in the Village to do the same with proper care for the safety of persons and property. Warnings, barricades, and lights shall be maintained whenever necessary for the protection of pedestrians or traffic; and temporary roofs over the sidewalks shall be constructed whenever there is danger, from falling articles or materials, to pedestrians. (*Previously Sec. 7-17 - Safety Precautions*)

**Sec. 7-76. Night Operations.**

No construction or altering operations shall be carried on in the nighttime if the same are accompanied by loud noises. (*previously Sec. 7-18- Night Operations*) ([Ord. 2019-11; 7/22/19](#))

**Sec. 7-77 – 7-80. Reserved.**

## **ARTICLE XI. MOVING BUILDINGS**

**Sec. 7-81. Moving Buildings.**

Anyone intending to move a building consisting of 100 square feet or more within the Village of Durand shall, at least seven (7) days prior to the move, notify the Village Clerk in writing of the date and time of the intended move, the name, address and telephone number of the person(s) or company responsible for the move, the location of the building to be moved and its destination, as well as the proposed route and the number of days it is intended that the building shall occupy any portion of any street, sidewalk, or other public pass within the Village. (*Previously Sec. 7-34-Moving Buildings*)

**Sec. 7-82. Penalties.**

Any person convicted of a violation of any section contained in Article XI should be subject to a mandatory fine of two hundred fifty dollars (\$250.00). (Previously contained in Sec. 7-34 – Moving Buildings) (**Ord. 2019-11; 7/22/19**)

**Sec. 7-83 – 7-90. Reserved.**

## **ARTICLE XII. SWIMMING POOLS**

### **Sec. 7-91. Swimming Pool Defined.**

A swimming pool shall mean any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground and above-ground swimming pools. Such pools shall be used solely for the enjoyment of the occupants of the premises on which they are located and their guests and not for instruction or profit. Portable wading pools (Kiddie Pools) having a depth of 24 inches or less shall not be considered to be “Swimming Pools” as applies to this Ordinance. (*Previously Sec. 7-57 – Swimming Pool Defined*)

### **Sec. 7-92. Permit Required.**

No person shall construct or cause to be construed a swimming pool with a capacity of two thousand five hundred (2,500) gallons or more on any lot or premises within the Village without first obtaining a permit from the Village of Durand. The cost of the pool permit shall be \$25.00, payable when the application for pool permit is filed. No additional fee shall be charged for the simultaneous filing of an application for a fence permit filed for the construction of a fence to enclose the pool referred to in the pool permit application. (*Previously Sec. 7-58 – Permit Required*)

### **Sec. 7-93. Plans; Approval.**

A written application for a pool permit shall be signed by an owner of the lot or premises on which the pool is proposed to be constructed, a beneficial owner of the lot or premises if the property is owned by a trust, or by the contractor or installer of the work to be performed and shall be filed with the Village Clerk and shall be accompanied by plans and specifications sufficiently detailed to enable determination of compliance with all requirements of this Article XII and shall include plans and specifications for the existence or construction of an enclosure (barrier) by proper fencing or other means as a safety measure. No swimming pool shall be constructed until the plans and specifications for same have been approved by the Superintendent of Public Works.

No swimming pool shall be constructed closer than ten (10) feet on any side-yard or fifteen (15) feet from any backyard property lien. Swimming pools shall not be constructed in any front yard.

Application shall be on form(s) provided by the Village and shall be accompanied by the plans and specifications as hereinabove required and which plans and specifications shall also show the following:

- a. Location of the pool on the lot and distance from lot lines.
- b. Location, type, size of fence and gate location(s).

- c. NORTH orientation arrow. (*Previously Sec. 7-59 – Plans; Approval*)

**Sec. 7-94. Enclosures; Barriers.**

All swimming pools are required to be enclosed by a fence (barrier) or other structure. The following shall also apply:

- a. The owner(s) of the lot or premises upon which a swimming pool is located or the beneficial owner(s) of the lot or premises if the property is owned by a trust and the tenant(s) of the lot or premise, in the event the lot or premises is occupied by a tenant(s), shall, at all times, maintain on such lot or premises a fence (barrier) or other structure completely surrounding the swimming pool. The fence (barrier) or other structure shall not be less than six (6) feet in height for in-ground pools and for (4) feet in height for above-ground pools that do not have a fence (barrier) mounted on top of the pool structure as herein permitted. The fence (barrier) shall have no gaps or apertures, other than door or gates, with any dimensions greater than four (4) inches.
- b. Where the top of the pool is above grade by more than two (2) feet, such as an above-ground pool, the fence (barrier) may be a part of or mounted on top of the pool structure. Where the fence (barrier) is mounted in top of the pool structure, and access to the pool is by means of a ladder or steps, the maximum vertical clearance between the top of the pool structure and the bottom of the fence (barrier) shall be four (4) inches. The top of the fence (barrier) shall not be less than four (4) feet in height from the top of the pool structure to the ground immediately adjacent to any part of the pool structure. The ladder or steps shall be capable of being secured, locked or removed to prevent access. When the ladder or steps are secured, locked or removed, any opening shall not allow the passage of a four (4) inch sphere.
- c. Openings in the fence (barrier) or other structure shall not allow the passage of a four (4) inch sphere.
- d. Solid barriers such as masonry or stonewall shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
- e. Chain link fences used as the barrier shall not be less than eleven (11) gauge and have a maximum mesh size of one and three-quarter (1-3/4) inches measured horizontally.
- f. All gates or doors opening through a fence (barrier) or other structure shall be equipped with self-closing and self-latching devices placed at the top of such gates or doors and made inaccessible to small children. Such devices shall be so designed to be capable of keeping such doors or gates securely closed at all times when not in actual use; provided, however, that the door of any dwelling forming a part of the enclosure need not be so equipped. All gates and doors through which the swimming pool can be accessed must be kept closed and locked when the swimming pool is not in use. The owner(s) of the lot or premises on which a swimming pool is located or the beneficial owner(s) of the lot or premises, in the event the property is owned by a trust, or, in the event the lot or premises is occupied by a tenant(s), the tenant(s) occupying the said premises, shall be the person(s) responsible for keeping the gates and doors through which the swimming pool can be accessed, closed and locked at all times when the swimming pool is not in use (*previously Sec. 7-60- Enclosures; (Barriers)*)

**Sec. 7-95. Discharge of Pool Water.**

It shall be unlawful for any person to discharge any water from a swimming pool into the sanitary sewer system within the Village of Durand. All water from swimming pools shall be discharged into the storm sewer system within the Village of Durand. *(Previously Sec. 7-62 – Discharge of Pool Water)*

**Sec. 7-96. Noise.**

The owner(s) of the lot or premises on which a swimming pool is located or the beneficial owner(s) of the lot or premises, in the event the property is owned by a trust, or, in the event the property is occupied by a tenant(s), the tenant(s) occupying the said lot or premises, shall be responsible to limit the number of persons using the pool at any one time, the hours the pool is used and the conduct of the persons using the pool so that the noise, in relation to the time of the day and the proximity of adjacent houses, will be reasonable and the occupants of adjacent properties will not be unreasonably disturbed. *(Previously Sec. 7-63- Noise)*

**Sec. 7-97. Health Safety Responsibilities.**

Every swimming pool shall be provided with a water purification or filtration system and the water in all pools shall be sterilized by chlorination or by other means. The owner(s) of the lot or premises on which a swimming pool is located or the beneficial owner(s) of the lot or premises, in the event the property is owned by a trust, or, in the event the premises is occupied by a tenant(s), the tenant(s) occupying the said premises, shall not allow anyone to swim or bathe in the swimming pool unless adequate public health measures are periodically taken to ensure that the use of the pool shall not cause the spread of disease. *(Previously Sec. 7-64 – Health Safety Responsibilities)*.

**Sec. 7-98. Penalties.**

Construction, operation or maintenance of a swimming pool in violation of any section contained in this Article XII shall be guilty of a misdemeanor. Every day that a violation continues shall be a separate offense. Each offense shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). *(Previously Sec. 7-65)*. **(Ord. 2019-11; 7/22/19)**

**Sec. 7-99 – 7-100. Reserved.**

## **ARTICLE XIII. SOLAR ENERGY SYSTEMS**

**Sec. 7-101. Compliance Required; Application of Article.**

It shall be unlawful to construct, maintain, or install a solar energy system in the Village of Durand except in compliance with the provisions of this Article.

**Sec. 7-102. Adherence to Design Standards.**

The general design and permitting standards applicable to all construction, maintenance and repair work in the Village of Durand shall apply to the installation of a solar energy system, including, but not limited to, the current Mechanical and Electrical Codes. The provisions of this Article shall be deemed to be requirements in addition to said general standards, provided, however, that where there is a conflict between the provisions of this Article and the provisions of another Article or Chapter, the provisions set forth in this Article shall be deemed to supersede any such conflicting provision as it pertains to the installation, maintenance, or repair of a solar energy system.

### **Sec. 7-103. Roof-Mounted PV Arrays.**

- A. In addition to the general design standards applicable to all installations of structural or electrical components in the Village of Durand, roof mounted PV arrays shall further comply with the following design and installation requirements set forth in this section.
- B. No roof-mounted PV array shall be constructed in a manner which creates an increased risk of falling ice or snow, or which causes water to follow directly from any panel to ground level.
- C. For purposes of this section, a "pitched roof" shall be any roof with an angle of more than 12.00 degrees inclination as measured from the horizon. "Flat roof" shall be defined as any roof with an angle of 12.00 degrees or lower.
- D. Height and Angle Restrictions
  - a. For pitched roof installations
    - i. The highest edge of a PV array mounted on a pitched roof shall not exceed the height of the ridge of the roof section upon which the PV array is installed.
    - ii. No panel shall be installed more than ten inches above, as measured perpendicular to the pitch, the existing roof surface.
    - iii. All panels shall be installed at an angle which does not differ from the angle of the roof pitch by more than five degrees when measured against the horizon.
    - iv. All PV arrays shall be mounted or affixed directly to a truss or support beam, and shall not be secured to the roof using only a decking anchor or mount.
  - b. For flat roof installations
    - i. The highest edge of a PV array mounted on a flat roof shall not exceed fifteen feet beyond the existing roofline. The height of a PV array shall not be included in the height of the building for purposes of computing the height of a flat roof building.
    - ii. Non-ballasted roof-mounted PV arrays shall be mounted or affixed directly to a truss or support beam, and shall not be secured to the roof using only a decking anchor or mount.

- iii. Ballasted roof-mounted PV arrays may be used provided that the structure on which they are to be located is structurally sufficient to support the added load stresses, including dead load, wind load, and rain/snow loads.
- E. Setbacks and Pathways. All roof-mounted PV arrays shall observe setbacks and provide structurally supported, unobstructed pathways in accordance with this subsection.
- a. Pitched roof installations - large. Where the total coverage of a PV array exceeds 1,000 square feet on any building with a pitched roof:
    - i. No collector panel or mounting device shall extend closer than thirty-six inches to the edge of the roof as measured from the nearest edge of the roof to the solar array or mounting apparatus.
    - ii. An obstructed walkway from eave to ridge no less than thirty-six inches shall be provided at regular intervals of no more than seventy-five feet if any PV array exceeds one hundred feet in length as measured parallel to the nearest ridgeline.
    - iii. A minimum of an eighteen-inch unobstructed pathway shall be maintained along each side of any ridge or valley (total thirty-six inch minimum width) and around any roof-mounted equipment, not including passive air vents.
  - b. Pitched roof installations - small. Where the total coverage of a PV array does not exceed 1,000 square feet on any building with a pitched roof:
    - i. If the total coverage of the PV array is less than twenty-five percent of the total area of the roof area of the structure, a minimum of a twelve-inch unobstructed pathway shall be maintained along any horizontal ridge, and along any roof edge as measured from the nearest edge of the roof to the solar array or mounting apparatus.
    - ii. If the total coverage area of the PV array is twenty-five percent or more of the total area of the roof area of the structure, a minimum of a twelve-inch unobstructed pathway shall be maintained along any horizontal ridge, and along any roof edge as measured from the nearest edge of the roof to the solar array or mounting apparatus. A minimum thirty-six inch unobstructed pathway shall be provided from ridge to eave on any roof face on which a PV array is installed.
  - c. Flat roof installations. On any building with a flat roof:
    - i. No collector panel or mounting device shall extend closer than thirty-six inches to the edge of the roof as measured from the nearest edge of the roof to the solar array or mounting apparatus.
    - ii. No collector panel or mounting device shall be placed closer than thirty- six inches from any roof-mounted equipment.
    - iii. Any PV array exceeding 4,000 square feet in area shall provide unobstructed pathways of no less than thirty-six inches at regular intervals of no more than fifty



feet.

- F. Historic Buildings. No roof-mounted PV array shall be installed on any building or structure which has been designated as a historic landmark.

**Sec. 7-104. Ground-Mounted PV Arrays.**

- A. In addition to the general design standards applicable to all installations of structural or electrical components in the Village of Durand, ground-mounted PV arrays shall further comply with the following design and installation requirements set forth in this section.
- B. Height Restrictions. No portion of a ground mounted PY array shall be taller than fifteen feet when measured from the ground to the highest point of a panel, at the highest angle of tilt, unless otherwise further limited by specific site requirements.
- C. Setbacks and Pathways. No ground mounted PY array shall be mounted within any required front yards. No pathways shall be required except as required for general maintenance of panels. Inside and rear yards, any ground mounted PY array shall be set back a minimum of ten feet from any property line.
- D. Drainage. No ground mounted PY array shall be constructed in a manner which increases drainage flow to any adjacent property. If the applicant provides a written report from a qualified professional engineer which indicates that the proposed installation will not increase water flow rates from the applicant's property, this requirement shall be deemed satisfied for purposes of issuance of the permit only.
- E. Historic Districts. No ground mounted PY array shall be installed in a Historic District.
- F. Solar Canopies. A solar canopy shall not be deemed a ground mounted PY array for purposes of these ordinances.

**Sec. 7-105. Building-Mounted PV Arrays.**

- A. Building-mounted PY arrays which are mounted parallel with a wall of a building or structure shall be installed and regulated in the same manner as marquees.
- B. Building-mounted PY arrays which are not mounted flush to, or parallel with, a wall of a building or structure shall be installed and regulated in the same manner as canopies.

**Sec. 7-106. Building-Integrated PV Arrays.**

Building-integrated PY arrays which are mounted in direct contact with a wall or rooftop of a building, and affixed directly thereto, shall be treated as part of the structure, constituting a building facade, siding or roofing material, as the case may be, and shall be installed and regulated in the same manner as other design or structural elements generally.

**Sec. 7-107. Permit Applications.**

A permit application requested pursuant to this Article shall contain at minimum the following information, plus any such additional information as may be required for mid-scale and large scale solar energy systems as provided for in Sections 7-108 and 7-109.

- a. Name and address of the applicant;
- b. Name(s) and address(es) of owner(s) of proposed site;
- c. For small solar energy systems, a detailed sketch, generally to scale, of the entire lot, including any buildings and accessory structures, applicable setbacks, adjacent roadways and showing the location of all planned PV arrays;
- d. The manufacturer, type and nameplate capacity of all photovoltaic panels to be used in the project;
- e. Total nameplate capacity of the solar energy system;
- f. An indication of whether the applicant has obtained an interconnection agreement with the appropriate regional transmission organization, whether the electricity will be distributed privately, or whether the electricity will be consumed on site;
- g. Types of mounts to be used (fixed or tracking);
- h. The maximum height of panels at maximum inclination as mounted;
- i. Type of groundcover to be utilized for any ground mounted PV array;
- j. Name of installer.

**Sec. 7-108. Additional Provisions Applicable to Mid Scale Solar Energy Systems.**

Mid-scale solar energy systems shall comply with the provisions of this section, in addition to the provisions pertaining to solar energy systems and PV arrays generally. Provided, the provisions of this section shall only be applicable to mid-scale solar energy systems and large-scale solar energy systems.

- A. If the owner of the solar energy system is not the owner of the parcel on which it will be situated:
  - a. A copy of the executed lease shall be provided at the time of application. Said lease may provide redacted provisions concerning the amount of rents to be paid;
  - b. If not contained in the lease, a proposed decommissioning plan for the removal of all PV arrays and related equipment upon cessation of use shall be provided;
  - c. The permit application shall be co-signed by the owner of the parcel on which the solar energy system is to be located.
- B. The building permit application shall include, in addition to the information required by Section 7-107, the following information:

- a. A detailed, cotText-to-scale site plan indicating:
  - i. The location and size of all proposed PV aITays (an outline shall suffice);
  - ii. Location of any property lines within the project boundaries;
  - iii. Location of any proposed buildings or ancillary structures;
  - iv. Location of all relevant setbacks;
  - v. Location of any easements for ingress, egress, drainage, stonnwater detention or otherwise;
  - vi. The location and name of adjacent roadways;
  - vii. All proposed points of vehicular ingress and egress;
  - viii. Location and type of any proposed landscape screening;
  - ix. Any proposed changes to grade or elevation;
  - x. Location of all power inverters, control units, and other electrical equipment;
  - xi. Location of substation, if any;
  - xii. Point of grid interconnection, if any;
  - xiii. Location of transmission lines, both existing and proposed;
  - xiv. Location of any occupied buildings within the project area or on any adjacent properties located within 200 feet of any project area boundary;
  - xv. Location and type of lighting;
  - xvi. Location, height, and type of any fencing.
- b. Contact information for the project manager or site supervisor;
- c. Plans, if any, for traffic control and/or requested roadway closures during construction;
- d. The expected dates for start and completion of constrnction;
- e. A written report from a qualified professional engineer which indicates that the proposed installation will not increase water flow rates from the applicant's property;
- f. If any poltion of the proposed site is within 500 feet of an airpoIt, or is located within an identified Runway Protection Zone (RPZ), a Solar Glare Hazard Analysis Tool (SGHAT) report consistent with the FAA's then-cuITent policy on solar energy projects;

- g. A plan for operation and maintenance of the solar energy system, setting forth, at a minimum, the following:
  - i. Measures for maintaining safe and secure access to the site;
  - ii. General procedures for operational maintenance of the site;
  - iii. Stormwater management plans
- C. Any equipment necessary to the regulation, storage or control of electricity shall be enclosed in a primary building or accessory structure, unless otherwise required to be exposed to view for purposes of compliance with applicable code provisions or by interconnection or metering requirements imposed by any public utility.
- D. No additional overhead power lines shall be permitted to be installed. If additional power lines are needed for grid connection, the installation shall be underground only.
- E. Perennial vegetation, consisting of grasses and wildflowers native to the region, shall be maintained at all times as ground cover beneath any ground mounted PV arrays.

**Sec. 7-109. Additional Provisions Applicable to Large Scale Solar Energy Systems.**

Mid-scale solar energy systems shall comply with the provisions of this section, in addition to the provisions pertaining to solar energy systems and PV arrays generally. Provided, the provisions of this section shall only be applicable to mid-scale solar energy systems and large-scale solar energy systems.

- A. The permit application shall contain, at a minimum, the following:
  - a. All items required to be submitted as part of the permit application for mid scale solar energy systems as set forth in Section 7-107 and 7-108.
  - b. A statement of the date and location of the planned meeting required under subsection (c) of this section, which date shall be not less than seven days, nor more than sixty days after the date of filing the application.
  - c. If the proposed site is more than five acres, an Ecological Assessment Tool (EcoCAT) report from the Illinois Department of Natural Resources conducted within two years prior to the filing of the application, indicating that there are no threatened or endangered species or natural areas in the vicinity of the project or, if so, that adverse effects are unlikely pursuant to the proposed site plan or other measures taken to address concerns raised by the consultation.
  - d. A plan for operation and maintenance of the solar energy system, setting forth, at a minimum the following:
    - i. Measures for maintaining safe and secure access to the site;
    - ii. General procedures for operational maintenance of the site;

- iii. An emergency response plan;
  - iv. Stormwater management plans;
  - v. Landscape maintenance plans and arrangements;
  - vi. On-site staffing; if applicable
- e. A decommissioning plan for removal of all PV arrays and equipment upon cessation of operations, indicating the party financially responsible for such removal.
- i. A public meeting shall be held by the applicant prior to the approval of any application for the construction of a large scale solar energy system, in accordance with the provisions of this section:
    - 1. The meeting shall be held at a suitable location within the corporate limits of the Village of Durand.
    - 2. All owners of property directly adjacent to the property on which the large solar energy system is to be constructed shall be provided notice of the meeting in the form required by subsection (4) hereof, via certified mail, return receipt requested, addressed to the owner of each such property as indicated upon the Winnebago County Assessor's records as of the date of mailing, at the address so indicated for such persons, of the date and time of the meeting. A copy of said notice shall also be provided to Winnebago County. The applicant shall provide all original certified mail receipts to Winnebago County upon request.
    - 3. In addition to the mailed notice required under subsection (b)(2) above, a notice shall be published no less than one time in a newspaper of general circulation within the Village of Durand in the form required by subsection (b)(4).
    - 4. The notice required by this section shall be in substantially the following form:

YOU ARE HEREBY NOTIFIED that [Applicant] is requesting the issuance of a building permit for the construction of a Solar Energy System exceeding one acre in total coverage, at [Address of Site]. A meeting to present and discuss the site plan and provide an opportunity for public comment will be held at [Location of Meeting], at [Date and Time of Meeting]. THIS WILL BE YOUR ONLY OPPORTUNITY TO PRESENT CONCERNS OR OBJECTIONS TO THE PROJECT.

- 5. At the time and place of the meeting, the applicant (or an appropriate representative thereof if applicant is a business entity) shall be present and provide a detailed explanation of the proposed project, which shall include, at a minimum:
  - a. A copy of a completed pennit application, including a full-sized site

plan, in the form and containing all of the information required for the permit application by Section 7-109(a), available for review by attendees for a reasonable time before and after the meeting.

- b. An opportunity for attendees to ask questions, and answers thereto provided in a meaningful and informative manner.
- c. Contact information for the applicant, or applicant's representative responsible for public inquiries, for the purpose of registering concerns or issues regarding construction, maintenance, or operations.
- d. Contact information for Winnebago County.

#### **Sec. 7-110. Permit Review.**

The Village of Durand, or its designee, shall review the permit application, all supporting documentation, and comments, if any provided by adjoining landowners at the meeting required hereby, if applicable.

- A. If an application is complete, and all applicable requirements of this chapter are met, including, but not limited to, applicable Electrical and Building Codes, the Village of Durand, or its designee, shall promptly issue a permit for the construction of the facility in accordance with the application. Provided that if the Village of Durand, or its designee, in its reasonably exercised discretion, believes that any portion of the application is incomplete, or any element thereof is deemed deficient in terms of compliance with accepted trade practices or the interests of public safety, the Village of Durand, or its designee, may deny the application, subject to the provisions of subsection (b) of this section.
- B. In the event the Village of Durand, or its designee, denies any application, the Village of Durand, or its designee, may either deny the application outright, or in the alternative, may require alterations or additions to the proposed site plan or application to address any such issues. In either such case, the Village of Durand, or its designee, shall provide written findings indicating the reasons for the denial, and the revisions or remedies to the proposed installation, if any, which it deems necessary in order to allow a permit to issue.
- C. Any decision to approve or deny an application, or requiring modifications to the site plan as a condition to approval, shall be provided to the applicant within fourteen days of (a) submission of the completed application or (b) the date of the public meeting if required by Section 7-109(b) in the case of a large scale solar system.
- D. If the applicant does not agree with any finding or condition imposed by the Village of Durand, or its designee, the applicant may appeal the decision of the Village of Durand, or its designee in the matter provided for appeals for permit denials generally under these Codified Ordinances. Provided, that any application which is complete shall be presumed valid for purposes of any appeal, and the burden shall be on the Village of Durand, or its designee, to show by a preponderance of the evidence that the proposed installation, or a component thereof, is not in accordance with accepted trade practices or will create a danger to public health or safety.

- E. A permit review fee shall be payable at the time of application for any permit, according to the following schedule:
  - a. Small scale systems: \$25.00
  - b. Mid-scale systems: \$75.00
  - c. Large scale systems, less than 5 acres: \$125.00
  - d. Large scale systems, greater than 5 acres: \$250.00

**Sec. 7-111. Operations.**

- A. Solar energy systems shall be operated in conjunction with all health and safety regulations applicable to other properties within the corporate limits of the Village.
- B. The operator of a solar energy system shall be responsible to take all reasonably necessary steps to ensure public health and safety as it pertains to any electrical connections, transmission lines, or equipment located upon or adjacent to, any public right-of-way or easement.
- C. Any PV array which has not been utilized for more than one year, shall be removed, along with any mounting hardware, any below-grade foundations, and exposed wiring, at the expense of the landowner on which the PV array is located. This provision shall apply regardless of any cost shifting provision contained in a contract between the property owner and the operator of the solar energy system concerning decommissioning.
- D. With respect to mid scale solar energy systems and large scale solar energy systems, the operator shall:
  - a. Control access to the property, by persons and/or wildlife, in order to prevent any public nuisance or hazard to public health and safety;
  - b. Provide access to the project area by emergency management and law enforcement personnel at all times;
  - c. Ensure that any approved lighting is maintained in operating condition.

**Sec. 7-112. Solar Access.**

In order to preserve access to solar resources by all residents, the following provisions restrict the construction of structures on adjacent lots which may cause a significant decrease in the amount of available sunlight to a particular lot.

- A. Solar Access Areas. Two solar access areas are hereby established as defined below. The purpose of dividing the Village into solar access areas is to provide solar access protection for each area of the Village consistent with planned densities, topography, and lot configuration and orientations.

- a. Solar access area I (SA-1)- SA-I is designed to protect solar access principally for residential areas where, because of planned density, topography or lot configurations or orientations, the preponderance of lots therein currently enjoys such access and where solar access of this nature would not unduly restrict permissible development. SA-I includes all property in all Residential, Professional Use, and Agricultural Districts.
- b. Solar access area II (SA-2) - SA-2 is designed to protect solar access principally for rooftops in areas where, because of planned density, topography or lot configuration or orientation, the preponderance of lots therein currently enjoys such access and where solar access of this nature would not unduly restrict permissible development. SA-2 includes all property not included in SA-I.

B. Solar Access Protection.

- a. Solar fence. A solar fence is hereby hypothesized for each lot located in the Village. Each solar fence completely encloses the lot in question, and its foundation is contiguous with the lot lines. Such fence is vertical, is opaque and lacks any thickness. Said concept shall be applied to all calculations required by this section. The term – solar fence – as used throughout this section shall refer to such hypothetical fence specifically as described in this subsection.
- b. No person shall erect an object or structure on any other lot that would shadow a protected lot in SA- I to a greater degree than the lot would be shaded by a solar fence twelve feet in height, between two hours before and two hours after local solar noon on a clear winter solstice day.
- c. No person shall erect an object or structure on any other lot that would shade a protected lot in SA-2 to a greater degree than the lot would be shaded by a solar fence twenty-five feet in height, between two hours before and two hours after local solar noon on a clear winter solstice day.
- d. Maximum height. Notwithstanding anything to the contrary contained herein, nothing in this section prevents a structure in SA-1 from being erected up to a height of twenty-five feet, or a structure in SA-2 from being erected up to a height of thirty-five feet, if located within the allowed buildable area of the lot.
- e. Any application for a variance of any requirement of this section shall include, in addition to the requirements for variations generally as set forth in these Codified Ordinances, the following:
  - i. A graphic representation showing the shadows that would be cast by the proposed structure between two hours before and two hours after local solar noon on a clear winter solstice day;
  - ii. The solar fences on all lots that the shadows would touch;
  - iii. All possible obstructions of solar access protected by permit; and



- iv. Provide additional information as may be required by the Village of Durand or its designee.
- f. Existing structures. A structure in existence on the date of establishment of an applicable solar access area, or structures and vegetation in existence on the date of issuance of an applicable solar access permit, are exempt from the application of this section. For purposes of this section, structures are deemed to be in existence on the date of issuance of a development permit authorizing its construction.
- g. Temporary solar obstructions. Unavoidable temporary obstructions of protected solar access necessitated by construction activities or other necessary and lawful purposes are exempt to the extent that they do not exceed ten days in any three month period and thirty days in any year.
- h. Solar analysis. When a solar analysis is required for any review process, it shall be prepared in compliance with the methods described in materials provided by the Village of Durand or its designee.

**Sec. 7-113. Licensed Contractors.**

No work shall be performed on any solar energy system, no any component thereof, by any person who is not a licensed commercial contractor. (Ord. 2020-4; 4/30/20)

## **CHAPTER 8**

### **FIRE PREVENTION AND PROTECTION<sup>1</sup>**

|         |                 |               |      |
|---------|-----------------|---------------|------|
| Article |                 | <i>-thru-</i> |      |
|         | Reserved        | 8-1           | 8-15 |
| II      | Fire Prevention | 8-16          | 8-32 |

#### **ARTICLE I. RESERVED**

**Sec. 8-1 - 8-15. Reserved.**

#### **ARTICLE II. FIRE PREVENTION**

##### **DIVISION 1. GENERALLY**

##### **Sec. 8-16. Outside Burning; Container Requirements; Permitted Burning Material.**

- A. Except as provided in Sections 8-17 and 8-18, outside burning may be carried on only in a covered metal container or incinerator in good repair having adequate openings in the bottom to insure good

combustion, but having no openings in the sides or top larger than three fourths (3/4) of an inch and only after sun-up and before sundown. (Ord. 2006-11; 10/23/06) (Ord. 2007-2; 6/11/07)

- B. No outside burning device may be located within ten (10) feet of any property line or within ten (10) feet of any building, combustible fence or other structure, tree or shrub. (Ord. 2007-2; 6/11/07)
- C. Only paper or paper goods may be burned in an outside burning device. (Ord. 2007-2; 6/11/07)
- D. If rubbish or garbage is placed or stored in an outside burning device, the said device no longer qualifies as an outside burning device and may not be used for outside burning unless and until all rubbish and/or garbage has been removed from the said device and the said device is thoroughly cleaned to ensure that no rubbish or garbage will be burned when the said device is again used for outside burning. (Ord. 2007-2; 6/11/07)
- E. It shall be unlawful for any person to burn any substances which emit or cause foul, obnoxious, unhealthful, putrid, noisome or disagreeable odor or effluvia, and which are objectionable or offensive to any person or persons residing near the same or to any person passing along any street, sidewalk or alley near the same. (Ord. 2007-2; 6/11/07)
- F. No substance that gives off noxious smoke, such as drugs, chemicals, home wastes and animal wastes shall be burned.
- G. Any other form of outside burning shall require the permission of the fire chief.

#### **Sec. 8-17. Open Burning.**

Except as provided in Sections 8-16 and 8-18 open burning of any and all materials is prohibited within the corporate limits of the Village of Durand, Illinois with the following exceptions and restrictions: (Ord. 2008-11; 10/27/08)

- a. Open burning of dry leaves, dry brush, paper or paper goods will be allowed during daylight hours within the corporate limits of the Village of Durand, Illinois in the months of April, May, October and November provided, however, that such person or persons conducting such burning shall be in attendance at all times during said open burning. (Ord. 2006-11; 10/23/06)
- b. Open burning is not permitted on any property owned or occupied by any governmental entity or over which any governmental entity has an easement or right of way, without the express consent and authorization of the said governmental entity. (Ord. 2006-11; 10/23/06)
- c. The Public Works Department of the Village of Durand, Illinois is not subject to the burning restrictions contained in this section and shall be allowed to burn as needed. (Ord. 2006-11; 10/23/06)
- d. The Village of Durand Board of Trustees may, at the request of any governmental entity, waive the enforcement of this section and allow the said governmental agency to conduct a specifically requested burning, subject to any conditions and/or restrictions as the said Board of Trustees deems reasonable and proper. (Ord. 2006-11; 10/23/06)

**Sec. 8-18 Recreational Burning.**

Recreational burning is defined as an occasional burning of fuels for legitimate campfire or cooking purposes and is allowed within the Village of Durand, Illinois subject to the following restrictions:

- a. A recreational fire must be contained in a fire pit, fire ring or other device designed for and intended for recreational burning as herein defined.
- b. The fire pit or fire ring shall not be greater than forty (40) inches in diameter and shall not exceed eighteen (18) inches below ground level or above ground level.
- c. No treated lumber or treated wood shall be burned or used as fuel.
- d. The person or persons conducting such recreational burning shall be in attendance at all times during said burning.
- e. No outside burning device may be located within ten (10) feet of any property line or within ten (10) feet of any building, combustible fence or other structure, tree or shrub. (Ord. 2007-2; 6/11/07)

**Sec. 8-19. Penalty.**

Any violation of this Division is considered a misdemeanor and shall be punished by a fine of not less than One Hundred (\$100.00) dollars for each violation thereof. (Ord. 2006-11; 10/23/06)

**Sec. 8-20 - 8-26. Reserved. (Ord. 2004-5; 05/10/04)**

**DIVISION 2. FIRE PREVENTION CODE**

**Sec. 8-27. Adopted.**

The International Fire Code, 2015 Edition, in the same form as currently adopted by Winnebago County, is hereby adopted by the Village and incorporated by reference, as though set forth fully in this Chapter, along with any Codes and amendments approved in the future and adopted by Winnebago County. A copy of any Codes adopted in this Section by reference shall be on file in the office of the Village Clerk.

If any parts of the International Fire Code, as adopted, are found to be in conflict with the Village's Code of Ordinances, the provisions in the Village's code of Ordinances shall control to the extent of such conflict.

This Ordinance shall be in full effect from all after its passage, approval and publication as required by law.

*Charter reference - Adoption of fire prevention code by reference, Ill. Rev. Stat. Ch. 34, 1-3-1 et seq.*

**Sec. 8-28. Enforcement.**

The fire prevention code adopted by this division shall be enforced by the fire chief of the fire protection district in which the property affected is located.

**Sec. 8-29. Municipality Defined.**

Wherever the word **municipality** is used in the fire prevention code adopted by this division, it shall be held to mean the Village of Durand.

**Sec. 8-30. Modifications.**

The fire chief shall have the power to modify any of the provisions of the fire prevention code hereby adopted by this division upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the fire department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

**Sec. 8-31. Appeals.**

Whenever the fire chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code adopted by this division do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire chief to the President and Board of trustees within thirty (30) days from the date of the decision appealed.

**Sec. 8-32. Violations, Penalties.**

- A. Any person who shall violate any of the provisions of the fire prevention code adopted by this division or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the President and Board of trustees or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of an offense punishable in accordance with section 1-8. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the above penalty shall not be held to prevent the enforcement removal of prohibited conditions.

<sup>1</sup>*Cross references - Fire limits established, 7-4; following and parking near fire apparatus, 11-168; crossing fire hose prohibited, 11-52.*

*State law reference - Fire safety regulations generally, Ill. Rev. Stat. Ch. 24, 11-8-1*

## **CHAPTER 9**

### **HEALTH<sup>1</sup>**

| Article |                                | -thru-    |
|---------|--------------------------------|-----------|
|         | Reserved                       | 9-1 9-15  |
| II      | Administration & Enforcement   | 9-16 9-36 |
|         | Division 1. Generally          | 9-16 9-23 |
|         | Division 2. The Health Officer | 9-24 9-36 |
| III     | Garbage & Trash                | 9-37 9-40 |

#### **ARTICLE I. RESERVED**

**Sec. 9-1 - 9-15. Reserved.**

#### **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

##### **DIVISION 1. GENERALLY**

**Sec. 9-16. Board of Health Created; Composition; Appointment of Members.**

There is hereby created the Board of health for the Village which shall consist of three (3) members to be appointed by the Village President.

*State law reference - Authority of Village to establish a Board of health, to appoint the members thereof and to prescribe its powers and duties, Ill. Rev. Stat. Ch. 24, 11-16-1.*

**Sec. 9-17. General Powers and Duties of Board of Health.**

- a. The Board of health shall make all necessary rules and regulations for the protection of the health of the Village.
- b. It shall be the duty of the Board of health to enforce all of the provisions of this Code and other ordinances which regulate to public health or nuisances.
- c. The Board of health shall have the powers and perform the duties assigned to it by statute, this Code or other ordinance of the Village.

**Sec. 9-18. Violation of Orders of Board of Health; Destroying Notices.**

It shall be unlawful for any person to violate or refuse to obey any order of the Board of health or destroy,

mutilate or conceal any notice posted by or under the authority of the Board of health.

**Sec. 9-19 - 9-23. Reserved.**

## **DIVISION 2. THE HEALTH OFFICER**

**Sec. 9-24. Office Created; Appointment.**

There is hereby created the office of health officer who shall be appointed by the Village President and Board of trustees.

**Sec. 9-25. Duty to Act as Enforcement Officer for Board of Health.**

The health officer shall be an enforcement officer for the Board of health, and shall see to the enforcement of all rules of the Board of health.

**Sec. 9-26. Duty to Give Information and Advice to Board of Health and Perform Assigned Duties.**

The Health Officer shall give to the Board of Health information and advice concerning health within the Village, and shall perform such other duties as may be assigned to him by the Board of health.

**Sec. 9-27 - 9-36. Reserved.**

## **ARTICLE III. GARBAGE AND TRASH<sup>2</sup>**

**Sec. 9-37. Separate containers required for garbage and refuse.**

It shall be the duty of every owner or occupant of any building in the Village where people reside, board or lodge, or where animal or vegetable food is prepared or served to at all times maintain in good order and repair, a separate can for garbage, and a separate receptacle for tin cans, bottles, ashes and similar refuse. It shall be the duty of every such occupant to deposit nothing but garbage in the can provided for the same, and nothing but tin cans, bottles, ashes and similar refuse in the receptacles provided for the same.

*State law reference - Disposal of garbage, refuse and ashes by municipalities, Ill. Rev. Stat. Ch. 24, 11-19-1 et seq.*

**Sec. 9-38. Unlawful Deposits of Garbage and Refuse Prohibited; Declared a Nuisance.**

It shall be unlawful for any person to deposit anywhere in the Village any refuse, garbage, offal or carcasses of dead animals except in containers approved by this article or in properly constructed incinerators. Any uncovered piles of refuse are hereby declared to be a nuisance.

**Sec. 9-39. Specifications of Containers.**

- a. Garbage containers shall be watertight, and made of metal or plastic with a close-fitting cover and suitable handles with a capacity of not less than five (5) nor more than twenty (20) gallons.
- b. Receptacles for ashes, tin cans, bottles and similar refuse shall be either of metal, plastic, wood or cement, and shall have a capacity of not less than ten (10) gallons. No hot ashes shall be placed in a wooden or plastic receptacle.

**Sec. 9-40. Garbage to be Covered.**

All garbage cans shall at all times be kept covered, except while being put into or being emptied from approved containers.

**Sec. 9-41. Rates For Refuse Collection.**

- a. The Village of Durand shall render a charge for each household for the collection of refuse materials (garbage) an amount determined at the time of, and in accordance with, the Village's refuse contract, with the refuse contractor as it exists from time to time.
- b. In the event that any household fails or refuses to pay the refuse collection services fee and those fees remain unpaid the Village may institute the collection and shutoff procedures heretofore enacted into ordinances and presently published as part of the Municipal Code of the Village of Durand, Illinois in Sections 18-52, 18-53 and 18-54, said ordinance provisions being incorporated herein by reference as though set forth herein full and with the same force and effect. [\(Ord. 2013-1; 3/25/13\)](#)
- c. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form and provided by law.

**Sec. 9-42. Municipal Services Fee Established.**

- a. There is hereby established a municipal services fee for all properties receiving water service and/or sewer service and/or households subject to a charge for the collection of refuse material. The municipal services fee shall have two (2) components. The water/sewer component of the municipal services fee shall be that water and/or sewer service charges established under section 18-50 of the Municipal Code of the Village of Durand, Illinois as heretofore or hereafter amended. The refuse service collection component of the municipal services fee shall be those refuse collection charges established under section 9-41 of the Municipal Code of the Village of Durand, Illinois as heretofore or hereafter amended. [\(Ord. 2010-8; 8/23/10\)](#)
- b. The municipal services fee shall be billed to the owner of the property which is receiving water/sewer and/or refuse collection services, at the address shown on the latest available real property tax bill. The owner of the said property shall be liable for and responsible for the payment of the municipal services fees. [\(Ord. 2013-1; 3/25/13\)](#)
- c. All municipal services fee shall be billed monthly and shall include the water, sewer and refuse collection charges for the preceding month. [\(Ord. 2013-1; 3/25/13\)](#)

**Sec. 9-43. Payment of Bills; Delinquencies; Termination of Services.**



- a. All municipal services fees shall be due and payable on the last day of the month. All bills not paid in full by the first day of the following month shall be declared delinquent and a penalty of Five (\$5.00) Dollars shall be added thereto. An additional Five (\$5.00) Dollar penalty shall be added each month thereafter on all bills that continue to be delinquent so long as service was provided during any portion of the previous month. Partial payments shall first be credited against the water/sewer component of the municipal services fee, then against the refuse component of the municipal services fee, then against any penalties. (Ord. 2013-1; 3/25/13)
- b. In the event that a municipal services fee (and/or penalties) becomes delinquent for more than 70 days the Village shall send a written notice to the property owner at the last known address that services will be terminated if all outstanding charges are not paid within 10 days.. (Ord. 2013-1; 3/25/13)
- c. A lien of any delinquency in the water services component of the municipal services fee may be filed and enforced pursuant to chapter 18 of the Municipal Code of the Village of Durand, Illinois.
- d. There is hereby imposed a fee of ten dollars (\$10.00) each time a check payable to the Village for payment of the municipal services fee or any water charge or fee established under Chapter 9 of the Municipal Code of the Village of Durand, Illinois is returned to the Village due to insufficient funds, stopped payment or closed account.

#### **Sec. 9-44. Definitions.**

For the purpose of this Chapter the following definitions shall apply:

1. **Recyclables** and **Recyclable Items** shall mean any items made out of or containing glass, aluminum, paper, cardboard, plastic, tin or other metal capable of being recycled.
2. **Contractor** shall mean the person or company under contract with the Village of Durand or a person or company hired or authorized by a particular household to pick up recyclables for recycling.

#### **Sec. 9-45. Pilfering, Disturbing or Removing of Recyclable Items Prohibited.**

It shall be unlawful for any person other than a contractor or other person authorized by the Village of Durand to pick up recyclable items for recycling or the resident or member of the household having placed recyclable items at or near curbside for pickup, to pilfer, disturb, or remove any recyclable item or items that have been set on or near curbside for pickup for recycling. (Ord. 2006-5; 7/10/06)

<sup>1</sup>*Cross references - Health certificate required for employees of retail liquor establishments, 4-47; sanitation requirements for retail liquor establishments, 4-66; animals and fowl, 6-1 et seq.*

*State law references - Health powers of Village generally, Ill. Rev. Stat. Ch. 24, 11-1-1 et seq.; authority of Village to promulgate health regulations, Ill. Rev. Stat. Ch. 24, 11-20-5.*

<sup>2</sup>*Cross reference - Outside burning generally, 8-16.*

#### **Sec. 9-46. Public Nuisance Declared.**

It shall be unlawful and it is hereby declared to be a public nuisance for any person to place on private property, or to allow to remain on private property, any of the following: (Ord. 2006-5; 7/10/06)

- a. Any substances which emit or cause foul, obnoxious, unhealthful, putrid, noisome or disagreeable odor or effluvia, and which are objectionable or offensive to any person or persons residing near the same or to any person passing along any street, sidewalk or alley near the same; (Ord. 2006-5; 7/10/06)
- b. The carcass of any animal remaining exposed for twelve hours or more after death; (Ord. 2006-5; 7/10/06)
- c. Any article or thing whatsoever, caused, kept, maintained or permitted by any person to the injury, inconvenience, danger, detriment or annoyance of the public health, safety or welfare; (Ord. 2006-5; 7/10/06)
- d. Any tree, shrub or other vegetation infected with fungus or other disease that will or might spread to other non-infected trees, shrubs, or other vegetation; (Ord. 2006-5; 7/10/06)
- e. Any building or structure, the condition of which, through neglect or otherwise, has caused the building to become dangerous or detrimental to the public health, safety or welfare of the inhabitants of the Village; (Ord. 2006-5; 7/10/06)
- f. The storage, placing, keeping or leaving of building materials, appliances, furniture, machinery, equipment, or other similar personal property or fixtures, garbage, refuse or debris outside of a dwelling or accessory building on residential property so as to impair the residential character and/or property value of the surrounding lots or neighborhood. This definition shall not apply to building materials, machinery or equipment on residential property when, and only when, an active and valid building permit has been issued and remains in effect for that residential property. (Ord. 2006-5; 7/10/06)
- g. The storage, placing, keeping or leaving of garbage, refuse or debris outside of a building or accessory building on commercial property so as to impair the character and/or property value of the surrounding lots or commercial businesses. (Ord. 2006-5; 7/10/06) (Ord. 2006-10; 9/25/06) (removed “G”) (Ord. 2009-1; 1/26/09) (replaced “G”)

#### **Sec. 9-47. Notice to Abate.**

##### **A. Service by Durand Police Department.**

Whenever the Board of Trustees or an officer of the Durand Police Department finds that a nuisance exists, he, she or they shall cause to be served upon the land owner and on any other person residing on or being in possession of the land on which the nuisance exists, a written notice to abate the nuisance within a specified reasonable time after notice. If, after diligent inquiry, the owner of the land or the person in possession of the land on which the nuisance exists cannot be established or located, service of the notice to abate the nuisance on said person or persons may be obtained by publishing the notice one time in a newspaper of general circulation within the village or, if none is available, in a newspaper of general circulation within the County of Winnebago and State of Illinois. (Ord. 2009-1; 1/26/09)

##### **B. Contents of Notice to Abate.**

The notice to abate shall contain:

1. A description of what constitutes the nuisance;
2. The location of the nuisance;
3. An order to abate the nuisance and a statement of the act or acts necessary to abate it;
4. A specified time within which to complete the abatement.
5. Notification that the owner or occupier of the land on which the nuisance exists may request a hearing to determine if a nuisance does exist and/or may make one request for a reasonable extension of time to abate the nuisance by submitting the request in writing to the Village Board of Trustees within seven (7) days after service or publication of the said notice. A timely request for a hearing or extension of time stays the enforcement of the ordinance pending the hearing and a decision by the Board of Trustees. (Ord. 2006-5; 7/10/06) (Ord. 2009-1; 1/26/09)

**Sec. 9-48. Inspection of premises.**

The Chief of Police or designee is authorized to enter and remain upon private property to the extent reasonably necessary for the purpose of locating, identifying, and documenting any nuisances as defined in this Code, or for the purpose of investigating allegations of such nuisances, or for the purpose of abating such nuisances. (Ord. 2006-5; 7/10/06)

**Sec. 9-49. Abatement remedy.**

The Chief of Police or designee shall have the authority to fashion any reasonable remedy for purposes of abating and correcting a nuisance and to provide any reasonable time frame for accomplishing the abatement and correction of the nuisance. Said remedy and time frame shall be set forth in the Notice to Abate as provided in Section 9-47 of this Code. (Ord. 2006-5; 7/10/06)

**Sec. 9-50. Village to remove when.**

If a person fails, refuses or neglects to abate a nuisance within the time allowed, after having been served a notice to abate such nuisance, the Durand Police Department shall apply for and obtain a warrant approved by a judge or magistrate authorizing the Durand Police Department to go upon the land and cause such nuisance to be abated. If the Durand Police Department thus abates the said nuisance or thus causes the said nuisance to be abated, the Village shall charge and shall collect from the owner of the land on which the nuisance existed, a reasonable cost for the abatement thereof. Such action shall not provide a defense for failure to comply with this Chapter. (Ord. 2009-1; 1/26/09)

**Sec. 9-51. Abatement costs shall be a lien on property.**

The said cost for the abatement of a nuisance shall be a lien upon the real estate affected, superior to all subsequent liens and encumbrances, except tax liens. If reimbursement of the said cost is not received by the

Village within sixty days after such cost is incurred by the Village, or the person performing the service by authority of the Village, Village may file a notice of lien in the office of the Recorder of Deeds in Winnebago County. The notice shall consist of a sworn statement setting out:

- a. A description of the real estate sufficient for identification thereof;
- b. The amount of money representing the cost incurred or payable for the service; and
- c. The date or dates when the nuisance was abated and the cost assessed by the Village. (Ord. 2006-5; 7/10/06) (Ord. 2009-1; 1/26/09)

**Sec. 9-52. Payment; Foreclosure; Enforcement.**

Upon payment of the lien by or on behalf of the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the Village and the release may be filed of record in the office of the Recorder of Deeds of Winnebago County. At any time after the filing of a notice of lien, the Village may proceed to foreclose such lien in like manner and with like effect as provided by the statutes of the State of Illinois in foreclosure of mortgages on real estate. Any decree rendered in the court may be enforced and collected as other decrees or judgments in the same court. (Ord. 2006-5; 7/10/06) (Ord. 2009-1; 1/26/09)

<sup>1</sup>*Cross references – Health certificate required for employees of retail liquor establishments, 4-47; sanitation requirements for retail liquor establishments, 4-66; animals and fowl, 6-1 et seq. State law references – Health powers of Village generally, Ill. Rev. State. Ch. 24, 11-1-1 et seq.; authority of Village to promulgate health regulations, Ill. Rev. Stat. Ch.24, 11-20-5.*

<sup>2</sup>*Cross reference – Outside burning generally, 8-16.*

# **CHAPTER 10**

## **LICENSES, PERMITS AND BUSINESS REGULATIONS<sup>1</sup>**

|         |              |               |       |
|---------|--------------|---------------|-------|
| Article |              | <i>-thru-</i> |       |
|         | In General   | 10-1          | 10-14 |
| II      | Reserved     | 10-14         | 10-62 |
| III     | Junk Dealers | 10-63         | 10-64 |

### **ARTICLE I. IN GENERAL**

#### **Sec. 10-1. Manner of Making Application for Licenses and Permits; Contents.**

Applications for all licenses and permits required by this Code or other ordinance of the Village shall be made in writing to the Village Clerk in the absence of provision to the contrary. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain such additional information as may be needed for the proper guidance of the Village officials in the issuing of the permit or license.

#### **Sec. 10-2. Village Clerk to Keep Forms on File.**

Forms for all licenses and permits, and applications therefore shall be prepared and kept on file by the Village Clerk.

#### **Sec. 10-3. Signature of Village President and Clerk Required on Licenses and Permits.**

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

#### **Sec. 10-4. Procedure for Investigations.**

Upon the receipt of an application for a license or permit where this Code or any other ordinance of the Village necessitates an inspection or investigation before the issuance of such permit or license, the Village Clerk shall refer such application to the proper officer for making such investigation within forty-eight (48) hours of the time of such receipt. The officer charged with the duty of making the investigation or inspection shall make a report thereon, within a reasonable time after receiving the application or a copy thereof.

#### **Sec. 10-5. Fees: to be Paid in Advance; Prorating.**

- a. In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application is made to the Village Clerk.
- b. When a business is commenced after the expiration of part of the license year, an annual license for the balance of the year will be issued for a proportionate part of the annual fee.

**Sec. 10-6. Expiration Date of Annual Licenses.**

All annual licenses shall terminate on the last day of the fiscal year of the Village in which they are issued, where no provision to the contrary is made.

**Sec. 10-7. Building and Premises to Comply with Code and Other Ordinances.**

No license or permit shall be issued if the premises and building to be used for the purpose do not fully comply with the provisions of this Code and other ordinances of the Village.

**Sec. 10-8. Licenses Transferable; Exceptions; Manner of Transferring.**

- a. Licenses may be transferred by the original licensee provided that written notice thereof is given to the Village Clerk within ten (10) days before the transfer is made. No more than one (1) transfer of any license shall be made within the license year.
- b. It shall be unlawful to transfer any peddlers of itinerant merchant's license, and any attempted transfer of such a license shall have no effect.

**Sec. 10-9. Changes of Location.**

In the absence of any provision to the contrary, the location of any licensed business or occupation, or of any permitted act may be changed if ten (10) days' notice thereof is given to the Village Clerk and if a license could initially be issued for such location.

**Sec. 10-10. Duty to Permit Inspections and Tests; Furnishing Samples; Violations.**

- a. Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making such inspection at any reasonable time that admission is requested.
- b. Whenever any analysis of any commodity or material is reasonably necessary to secure conformance with any provision of this Code or to detect violations thereof, it shall be the duty of any licensee of the municipality whose business is governed by such provisions to give to any authorized officer or employee of the municipality requesting the same, sufficient samples of such material or commodity for such analysis upon request.
- c. In addition to any other penalty which may be provided, the Village Board of trustees may revoke the license of any licensed proprietor of any licensed business in the Village who refuses to permit any such officer or employee to make inspection, or take an adequate sample of the desired commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection. No license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the Village, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.

**Sec. 10-11. Nuisance Businesses Prohibited.**

No business, licensed or not, shall be so conducted or operated in the Village as to amount to a nuisance in fact. (Code 1941, 145)

**Sec. 10-12. Revocation of Licenses, Permits Authorized.**

Any license or permit issued for a limited time may be revoked by the Village President at any time during the life of such license or permit for any violation by the licensee or permittee of any provision of this Code or state law relating to the license or permit, the subject matter of the license or permit, or to the premises occupied. Such revocation may be in addition to any fine imposed.

**Sec. 10-13. Posting Required.**

It shall be the duty of any person conducting a licensed business in the Village to keep his license posted at all times, in a prominent place on the premises used for such business.

**Sec. 10-14 - 10-62. Reserved.**

## **ARTICLE III. JUNK DEALERS<sup>2</sup>**

**Sec. 10-63. License Required.**

It shall be unlawful to operate or carry on the business of junk dealer or to keep any junk shop, store or place for the purchase or sale of junk, rags, old rope, paper or bagging, old iron, brass, copper or empty bottles, without having obtained a license therefore.

**Sec. 10-64. License Fee.**

The annual fee for a license required by this article shall be determined as follows:

- a. A fee of two hundred and fifty dollars (\$250.00) shall be charged for the operation of the business.

<sup>1</sup>Cross references - License for distributing handbills and samples, 3-17; license for retail sale of alcoholic beverages, 4-28 et seq.; license for employees of retail liquor establishments, 4-45 et seq.; license for amusements generally, 5-2; permit for coin-operated amusement devices, 5-8; permit for exhibition of wild animals, 5-9; license for billiards and pool halls, 5-20; license for bowling alleys, 5-33; license for circuses and carnivals, 5-46; *license for athletic exhibitions, 5-59*; permit for moving buildings, 7-29; peddlers license, 13-1; license for itinerant merchants, 13-17; registration of solicitors, 13-32 et seq.; permit for erection of gas pumps, 15-13; *permit for construction of streets or sidewalks, 15-36*; *permit for excavations in streets and sidewalks, 15-46*; retailer's occupation tax, 16-16 et seq.; service occupation tax, 16-29 et seq.; *permit for construction of driveways, 16-54*; permit for removal of trees from public property, 17-20; permits for planting

*trees and shrubs in public places, 17-27 et seq.; permits for connection to water main, 18-32.*

*State law reference - Powers of Village over certain business, Ill Rev. Stat., Ch. 24, 11-42-1, et seq.*

<sup>2</sup>*State law reference - Authority of Village to license, tax, locate and regulate all dealers in junk and secondhand goods, Ill. Rev. Stat. Ch. 24, 11-42-3.*



## CHAPTER 11

### MOTOR VEHICLES AND TRAFFIC\*

| Article |                                 | <i>-thru-</i> |        |
|---------|---------------------------------|---------------|--------|
|         | In General                      | 11-1          | 11-9   |
| II      | Licenses & Registration         | 11-10         | 11-19  |
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## ARTICLE I. IN GENERAL

### Sec. 11-1. Definitions.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except when the context otherwise requires and except where another definition set forth in another article of this chapter and applicable to that article or a designated part thereof is applicable.

**Alley.** A public way within a block, generally giving access to the rear of lots or buildings and not used for general traffic circulation.

**Authorized Emergency Vehicle.** Emergency vehicles of municipal departments or public service corporations as are designated or authorized by proper local authorities; police vehicles; vehicles of the fire department and ambulances.

**Bicycle.** Every device propelled by human power upon which any person may ride, having two (2) tandem

wheels either of which is more than sixteen (16) inches in diameter.

**Crosswalk.**

- a. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or

*Cross reference - Streets and sidewalks, Ch. 15.*

- b. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

**Explosives.** Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

**Driver.** Every person who drives or is in actual physical control of a vehicle.

**Farm Tractor.** Every motor vehicle designed and used primarily as a farm implement for drawing wagons, plows, mowing machines and other implements of husbandry, and every implement of husbandry, which is self-propelled.

**Flammable Liquid.** Any liquid which has a flash point of seventy (70) degrees Fahrenheit, or less, as determined by a Tagliabue or equivalent closed-cup test device.

**Highway.** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicle travel. The words "street" or "highway" can be used interchangeably.

*State law reference - similar provisions, Illinois Compiled Statutes 625ILCS5/1-126*

**Improved Highway.** Any roadway of concrete, brick, asphalt, macadam and crushed stone or gravel.

**Intersection.**

- a. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different roadways joining at any other angle may come in conflict.
- b. Where a highway includes two (2) roadways forty (40) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection.

**Laned Roadway.** A roadway which is divided into two (2) or more clearly marked lanes for vehicular

traffic.

**Loading Zone.** The space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

**Merging Traffic.** A maneuver executed by the drivers of vehicles on converging roadways to permit simultaneous or alternate entry into the junction thereof, wherein the driver of each vehicle involved is required to adjust his vehicular speed and lateral position so as to avoid a collision with any other vehicle.

**Metal Tire.** Every tire surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material. **Motorcycle.** Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

**Motor Driven Cycle.** Every motorcycle, every motor scooter, or every bicycle with motor attached, with less than one hundred fifty (150) cubic centimeter piston displacement.

**Motor vehicle.** Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. For this chapter, motor vehicles are divided into two (2) divisions:

- a. **FIRST DIVISION:** Those motor vehicles which are designed for the carrying of not more than ten (10) persons.
- b. **SECOND DIVISION:** Those motor vehicles which are designed for carrying more than ten (10) persons, those designed or used for living quarters and those motor vehicles which are designed for pulling or carrying freight or cargo, and those motor vehicles of the first division remodeled for use and used as motor vehicles of the second division.

**Park or Parking.** Means the standing of a vehicle, whether occupied or not, otherwise than when temporarily and actually engaged in loading or unloading merchandise or passengers.

**Pedestrian.** Any person afoot.

**Pneumatic Tire.** Every tire in which compressed air is designed to support the load.

**Pole Trailer.** Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, or sustaining themselves as beams between the supporting connections.

**Property Line.** The line marking the boundary between any street and the lots or property abutting thereon.

**Public Building.** A building used by the municipality, the county, any park district, school district, the State of Illinois or the United State government.

**Recreational Off-Highway Vehicle/Utility Terrain Vehicle (UTV).** A motorized off-highway vehicle designed to primarily travel off-highway, sixty-four (64) inches or less in width, having a manufacturer's dry

weight of two thousand (2,000) pounds or less, traveling on four (4) or more non-highway tires, designed with a non-straddle seat and a steering wheel for steering control, except equipment such as lawnmowers and more fully defined by 625 ILCS § 5/1-168.8 ("Recreational Off Highway Vehicle") and 625 ILCS § 5/11-1426.1 ("Operation of Highway Vehicles on the Streets, Roads and Highways") as more fully set forth in the Illinois Vehicle Code. ([Ord. 2022-7; 5/9/22](#))

**Residence District.** The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.

**Right-of-Way.** The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

**Road tractor.** Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

**Roadway.** That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

**Safety Zone.** The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

**School Bus.** Every motor vehicle of the second division owned or operated by or for a public or governmental agency or by or for a private or religious organization for the transportation of pupils in connection with any school activity. This definition does not include a bus operated by a public utility or a municipal corporation authorized to conduct local or interurban transportation of passengers.

**Semitrailer.** Every vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

**Sidewalk.** That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

**Solid Tire.** Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

**Street.** Publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. The words "street" or "highway" can be used interchangeably.

**Traffic.** Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

**Trailer.** Every vehicle without motive power in operation, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests

upon the towing vehicle.

**Truck Tractor.** Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

**Vehicle.** Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

**Yield Right-of-Way.** When required by an official sign means the act of granting the privilege of the immediate use of the intersecting roadway to traffic within the intersection and to vehicles approaching from the right or left, but when the roadway is clear may proceed into the intersection.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\1-100*

#### **Sec. 11-2. Tickets Authorized.**

- a. For offenses other than driving while intoxicated or reckless driving, police officers, after making note of the license number of the vehicle (and name of the offender where possible), may issue a traffic citation notifying the offender to appear in court at the time designated for hearing on such cases. Such officer may sign a complaint for the issuance of a warrant if the offender does not appear at the time and place so specified.
- b. Uniform traffic tickets may be issued in accordance with state law.

*State law reference - Similar provisions, Illinois Compiled Statutes 725ILCS5\111-3*

#### **Sec. 11-3. Right to Bail.**

Any person arrested for a violation of any provision of this chapter shall be released upon proper bail being furnished as required by statute.

#### **Sec. 11-4. Presumption of Owner's Responsibility.**

The fact that an automobile which is illegally operated or parked is registered in the name of a person shall be considered prima facie proof that such person was in control of the automobile at the time of such violation.

#### **Sec. 11-5. Authority to Direct Traffic; Authorized Directing.**

Members of the police department, special police assigned to traffic duty, and school crossing guards are hereby authorized to direct all traffic in accordance with the provisions of this chapter or in emergencies as public safety or convenience may require. Except in case of emergency it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic.

#### **Sec. 11-6. Signs for Through Streets, One-Way Streets, Stop Intersections.**

The street department shall post or cause to be posted suitable signs for all through streets, one-way streets or alleys and stop intersections.

**Sec. 11-7 - 11-9. Reserved.**

## **ARTICLE II. LICENSES & REGISTRATION**

### **Sec. 11-10. Display of Registration Plates, Registration Stickers and Driveway Decal Permits.**

a. Registration plates issued for a motor vehicle other than a motorcycle, trailer, semitrailer, truck-tractor, apportioned bus, or apportioned truck shall be attached thereto, one in the front and one in the rear. The registration plate issued for a motorcycle, trailer, semitrailer required to be registered hereunder and any apportionment plate issued to a bus under the provision of this Code shall be attached to the rear thereof. The registration plate issued for a truck-tractor or an apportioned truck required to be registered hereunder shall be attached to the front thereof.

b. Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible and shall be maintained in a condition to be clearly legible, free from any materials that would obstruct the visibility of the plate, including, but not limited to, glass covers and tinted plastic covers. Clear plastic covers are permissible as long as they remain clear and do not obstruct the visibility of the plates. Registration stickers issued as evidence of renewed annual registration shall be attached to registration plates as required by the Secretary of State and be clearly visible at all times. (Ord. 2002-9; 6/24/02)

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\3-413.*

### **Sec. 11-11. No Valid or Improper Registration**

- a. It shall be unlawful for any person to operate or for an owner to knowingly permit to be operated, upon any highway any vehicle of a type required to be registered by the State of Illinois, unless there shall be attached thereto and displayed thereon, proper evidence of registration as required by the State of Illinois. (Ord. 2002-9; 6/24/02)
- b. It shall be unlawful for any person to drive or to move or for an owner knowingly to permit to be driven or moved upon any highway any vehicle of a type required to be registered by the State of Illinois which registration or permit is not properly affixed as required by the State of Illinois.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\3-701.*

### **Sec. 11-12. Driver's License Required.**

- a. It shall be unlawful for any person to operate any vehicle in the Village if he has not been issued a valid license or permit, or a restricted driving permit under state law.
- b. It shall be unlawful for any person to operate any vehicle in the Village when his Driver's License is expired.
- c. Every such licensee shall have driver's license or permit in his immediate possession at all time when

operating a motor vehicle and, for the purpose of indicating compliance with this requirement, shall display such license upon demand, by a member of the police department when in uniform or displaying identification or other sign of authority.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\6-101.*

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\6-112.*

**Sec. 11-13 Unlawful use of License or Permit.**

It shall be unlawful for any person:

- a. To display or cause to be displayed or have in his possession any cancelled, revoked or suspended license or permit; (**Ord. 2002-9; 6/24/02**)
- b. To lend his license or permit to any other person or knowingly allow the use thereof by another;
- c. To display or represent as his own any license or permit issued to another; (**Ord. 2002-9; 6/24/02**)
- d. To fail or refuse to surrender to the Secretary of State or his agent or any peace officer upon his lawful demand, any license or permit, which has been suspended, revoked or cancelled; (**Ord. 2002-9; 6/24/02**)
- e. To allow any unlawful use of a license or permit issued to him; (**Ord. 2002-9; 6/24/02**)
- f. To possess or sell any blank license or permit.
- g. To submit to an examination or to obtain the services of another person to submit to an examination for the purpose of obtaining a driver's license or permit for some other person. (**Ord. 2002-9; 6/24/02**)

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\6-301.*

**Sec. 11-14. Permitting Unlicensed Person to Operate any Vehicle.**

No person shall cause, authorize, or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized hereunder or in violation of any of the provisions of Chapter 11 of the Durand Village Ordinances. (**Ord. 2002-9; 6/24/02**)

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\6-304.*

**Sec. 11-15- 11-19. Reserved**

## **ARTICLE III. OBEDIENCE TO TRAFFIC LAWS**

**Sec. 11-20. Obedience to Police Officers.**

Obedience to police officer. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer, fireman or school crossing guard invested by law with authority to direct, control, or regulate traffic. Any person convicted of violating this Section shall be subject to a mandatory fine of \$150.00. (Ord. 2002-9; 6/24/02)

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-203*

#### **Sec. 11-21. Applicability to Public Employees.**

The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city, town, district or any other political subdivision of the state, except as otherwise, provided and subject to such specific exceptions as set forth in this chapter with reference to authorized emergency vehicles.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-205(a)*

#### **Sec. 11-22. Exemptions for Emergency Vehicles.**

- A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- B. The driver of an authorized emergency vehicle may:
  - a. Park or stand, irrespective of the provisions of this chapter;
  - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be required and necessary for safe operation;
  - c. Exceed the maximum speed limits so long as he does not endanger life or property;
  - d. Disregard regulations governing direction of movement or turning in specified directions.
- C. The exceptions herein granted to an authorized emergency vehicle, other than a police vehicle, shall apply only when the vehicle is making use of either an audible signal when in motion or visual signals meeting the requirements of 625ILCS5\12-114.
- D. The foregoing provisions do not relieve the driver of an authorized emergency vehicle from the duty of driving with due regard for the safety of all persons, nor do such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-205(b)-(e)*

#### **Sec. 11-23. Exemption for Street Maintenance Vehicles.**

Unless specifically made applicable, the provisions of this Chapter, except those contained in Section 11-



12, 11-13, or 11-40, shall not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway but shall apply to such person and vehicles when traveling to or from such work.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-205(f)*

**Sec. 11-24. Applicability to Bicycles, Animals.**

Every person riding an animal or driving any animal drawn vehicle upon a roadway shall be subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions of this chapter which by their nature can have no application. (Ord. 2002-9; 6/24/02)

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-206*

**Sec. 11-25. Stop Streets.**

The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance, at one or more entrances thereto, and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event the directions of the police officer shall be complied with.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-208(a)(6)*

**Sec. 11-26 - 11-29. Reserved.**

## **ARTICLE IV. TRAFFIC SIGNS AND SIGNALS**

**Sec. 11-30. Conformity of Devices to Manual.**

All signs and signals established by direction of the governing body shall conform to the Illinois State Manual of Uniform Traffic Control Devices for Streets and Highways.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-304*

**Sec. 11-31. Obedience To and Require Traffic-Control Devices.**

- a. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed or held in accordance with the provisions of this Act, unless otherwise directed by a police officer, subject to these exceptions granted the driver of an authorized emergency vehicle in this Act.
- b. It is unlawful for any person to leave the roadway and travel across private property to avoid an official traffic control device.

- c. Whenever any official traffic-control device is placed or held in position approximately conforming to the requirements pertaining to such device, such device shall be presumed to have been so placed or held by the official act or direction of lawful authority, and comply with the requirements of this Act, unless the contrary shall be established by competent evidence.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-305*

**Sec. 11-32. Display of Unauthorized Signs, Signals, or Markings.**

- a. No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the movement of traffic or the effectiveness of an official traffic-control device or any railroad sign or signal. (Ord. 2002-9; 6/24/02)
- b. No person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising, without the prior permission of the Village Board.
- c. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.
- d. No person shall sell or offer for sale any traffic control device to be used on any street or highway in this State which does not conform to the requirements of this Chapter.
- e. This Section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- f. This Section shall not be deemed to prohibit the erection of *Illinois Adopt-A-Highway* signs by municipalities as provided in the *Illinois Adopt-A-Highway Act*. [605 ILKS 120/1 et seq

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-310*

**Sec. 11-33. Interference with Devices or Railroad Signs, Signals.**

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device, or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. Every person who is convicted of a violation of this Section shall be punished by a fine of at least \$250.00 in addition to any other penalties which may be imposed. (Ord. 2002-9; 6/24/02)

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-311*

**Sec. 11-34 - 11-39. Reserved.**

## ARTICLE V. ACCIDENTS

### Sec. 11-40. Accidents.

#### A. Motor vehicle accidents involving death or personal injuries:

- a. The driver of any vehicle involved in a motor vehicle accident resulting in personal injury to or death of any person shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible and shall then forthwith return to, and in every event shall remain at the scene of the accident until the requirements of Section 10-40 paragraph 2c of the Durand Village Ordinance have been fulfilled. Every such stop shall be made without obstructing traffic more than is necessary.
- b. Any person who has failed to stop or to comply with said requirements shall, within 1 hour after such motor vehicle accident, or, if hospitalized and incapacitated from reporting at any time during such period, within 1 hour after being discharged from the hospital, report the place of the accident, the date, the approximate time, the driver's name and address, the registration number of the vehicle driven, and the names of all other occupants of such vehicle, at a police station or sheriff's office near the place where such accident occurred. No report made as required under this paragraph shall be used, directly or indirectly, as a basis for the prosecution of any violations of paragraph (1). (Ord. 2002-9; 6/24/02)

For purposes of this Section, personal injury shall mean any injury requiring immediate professional treatment in a medical facility or doctor's office.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-401.*

#### B. Motor vehicle accident involving damage to vehicle:

- a. The driver of any vehicle involved in a motor vehicle accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such motor vehicle accident or as close thereto as possible, but shall forthwith return to and in every event shall remain at the scene of such motor vehicle accident until the requirements of Section 11-40 paragraph 2c have been fulfilled. Every such stop shall be made without obstructing traffic more than is necessary.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-402.*

#### C. Duty to give information and render aid:

- a. The driver of any vehicle involved in a motor vehicle accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give the driver's name, address, registration number and owner of the vehicle the driver is operating and shall upon request and if available exhibit such driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or the making of arrangements for the carrying of such person to a physician, surgeon or hospital

for medical or surgical treatment, if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

If none of the persons entitled to information pursuant to this Section is in condition to receive and understand such information and no police officer is present, such driver after rendering reasonable assistance shall forthwith report such motor vehicle accident at the nearest office of a duly authorized police authority, disclosing the information required by the Section.

*State law reference - Similar provision, Illinois Compiled Statute 625ILCS5\11-403.*

**D. Duty upon damaging unattended vehicle or other property.**

- a. The driver of any vehicle which collides with or is involved in a motor vehicle accident with any vehicle which is unattended, or other property, resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of the driver's name, address, registration number and owner of the vehicle the driver was operating or shall attach securely in a conspicuous place on or in the vehicle or other property struck a written notice giving the driver's name, address, registration number and owner of the vehicle the driver was driving and shall without unnecessary delay notify the nearest office of a duly authorized police authority and shall make a written report of such accident when and as required in Section 625ILCS5/11-406.

Every such stop shall be made without obstructing traffic more than is necessary.

*State law reference - Similar provision, Illinois Compiled Statute 625ILCS5\11-404*

**Sec. 11-41. Furnishing Copies- Fees.**

The police department may furnish copies of an accident report that has been investigated by the police and shall be paid a fee of \$5.00 for each such copy.

**Sec. 11-42 - 11-49. Reserved.**

## **ARTICLE VI. ALCOHOL & CARELESS DRIVING**

**Sec. 11-50. Transportation or Possession of Alcoholic Liquor in a Motor Vehicle.**

- a. Except as provided in paragraph (c), no driver may transport, carry, possess or have any alcoholic liquor within the passenger area of any vehicle upon a highway in this State except in the original container and with the seal unbroken.
- b. Except as provided in paragraph (c), no passenger may carry, possess or have any alcoholic liquor within any passenger area of any motor vehicle upon a highway in this State except in the original container and with the seal unbroken.

- c. This Section shall not apply to the passengers in a limousine when it is being used for purposes for which a limousine is ordinarily used, the passengers on a chartered bus when it is being used for purposes for which chartered buses are ordinarily used for or on a motor home or mini motor home as defined in Section 625ILCS5/1-145.01 of this Code. However, the driver of any such vehicle is prohibited from consuming or having any alcoholic liquor in or about the driver's area. Any evidence of alcoholic consumption by the driver shall be prima facie evidence of such driver's failure to obey this Section. For the purposes of this Section, a limousine is a motor vehicle of the first division with the passenger compartment enclosed by a partition or dividing window used in the for-hire transportation of passengers and operated by an individual in possession of a valid Illinois Driver's license of the appropriate classification pursuant to Section 625ILCS5/1-145.01 of this Code.
- d. The exemption applicable to chartered buses under paragraph (c) does not apply to any chartered bus being used for school purposes.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-502.*

**Sec. 11-51. Careless\Negligent Driving.**

It shall be unlawful to operate any vehicle in the Village in a negligent, careless, or wanton manner, or carelessly with disregard for the safety of person or property.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11\503*

**Sec. 11-52. Squealing or Screeching.**

No person shall operate any motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such noise from the vehicle's tires due to rapid acceleration or excessive speed around corners or other such reason.

This Section shall not apply to the following conditions:

- a. An authorized emergency vehicle, when responding to an emergency call or when in the pursuit off an actual or suspected violation; nor
- b. the emergency operation of a motor vehicle when avoiding imminent danger; nor
- c. any raceway, racing facility or other public event sanctioned by the Village Board.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-505*

**Sec. 11-53 - 11-59. Reserved.**

## **ARTICLE VII. SPEED RESTRICTIONS**

**Sec. 11-60. Speed Generally.**

- A. It shall be unlawful to drive any motor vehicle on any street under the jurisdiction of the Village of Durand in excess of the following established speed limits:
  - a. The maximum speed limit within the corporate limits of the Village of Durand shall be thirty (30) miles per hour unless otherwise posted.
  - b. The maximum speed limit for all vehicles shall be fifteen (15) miles per hour in all alleys.
  - c. The maximum speed limit for all vehicles traveling on: Elm Street between Center Street and Dayton Street, Washington Street between Center Street and Dayton Street, Dayton Street between Elm Street and Washington Street, shall be 20 miles per hour during all sanctioned or supervised sporting events.
- B. If the President and Board of trustees by ordinances sets other limits as provided by statute after an engineering or traffic survey, then such limits shall govern the rate of speed on the streets indicated in such ordinances. The street department shall post appropriate signs showing such speed limits.
- C. The fact that the speed of a vehicle does not exceed the applicable maximum speed limit does not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway or when special hazards exist with respect to pedestrians or other traffic, by reason of weather or highway conditions, and speed shall be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-601*

**Sec. 11-61. Special Speed Limit while Passing Schools and while Traveling Through Highway Construction or Maintenance Zones.**

- a. On a school day when school children are present and so close thereto that a potential hazard exists because of the close proximity of the motorized traffic, no person shall drive a motor vehicle at a speed in excess of 20 miles per hour while passing a school zone or while traveling upon any public thoroughfare where children pass going to and from school.

For the purpose of this Section a school day shall begin at seven ante meridian and shall conclude at four post meridians.

This Section shall not be applicable unless appropriate signs are posted upon streets and highways under their respective jurisdiction and maintained by the Department, township, county, park district, city, Village or incorporated town wherein the school zone is located. With regard to the special speed limit while passing schools, such signs shall give proper due warning that a school zone is being approached and shall indicate the school zone and the maximum speed limit in effect during school days when school children are present.

- b. No person shall operate a motor vehicle in a construction or maintenance zone at a speed in excess of the posted speed limit when workers are present and so close to the moving traffic that a potential hazard exists because of the motorized traffic.
- c. Nothing in this Chapter shall prohibit the use of electronic speed-detecting devices within 500 feet of signs within a special school speed zone or a construction or maintenance zone indicating such zone, as defined in this Section, nor shall evidence obtained thereby be admissible in any prosecution for speeding provided the use of such device shall apply only to the enforcement of the speed limit in such special school speed zone or a construction or maintenance zone.
- d. For the purpose of this Section, a construction or maintenance zone is an area in which the Department, Toll Highway Authority, or local agency has determined that the preexisting established speed limit through a highway construction or maintenance project is greater than is reasonable or safe with respect to the conditions expected to exist in the construction or maintenance zone and has posted a lower speed limit with a highway construction or maintenance zone special speed limit sign.

Highway construction or maintenance zone special speed limit signs shall be of a design approved by the Department. The signs shall give proper due warning that a construction or maintenance zone is being approached and shall indicate the maximum speed limit in effect. The signs shall also state the amount of the minimum fine for a violation when workers are present.

- e. A violation of this Section shall be a petty fine offense with a minimum fine of \$150.
- f. When a fine for a violation of subsection (a) is \$150 or greater, the person who violates subsection (a) shall be charged an additional \$50 to be paid to the unit school district where the violation occurred for school safety purposes. If the violation occurred in a dual school district, \$25 of the surcharge shall be paid to the elementary school district for school safety purposes and \$25 of the surcharge shall be paid to the high school district for school safety purposes. Notwithstanding any other provision of law, the entire \$50 surcharge shall be paid to the appropriate school district or districts.

For purposes of this subsection (f), “school safety purposes” includes the costs associated with school zone safety education and the purchase, installation, and maintenance of caution lights which are mounted on school speed zone signs. (Ord. 2002-9; 6/24/02)

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-605*

**Sec. 11-62 - 11-69. Reserved.**

## **ARTICLE VIII. DRIVING ON ROADWAY**

### **Sec. 11-70. Duty to Keep to Right; Exceptions; Slow-Moving Traffic.**

- A. Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movements;
  2. When an obstruction exists making it necessary to drive to the left of the center of the street; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the street within such distance as to constitute an immediate hazard;
  3. Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon;
  4. Upon a roadway restricted to one-way traffic;
  5. Whenever there is a single-track paved road on one side of the public street and two (2) vehicles meet thereon, the driver on whose right is the wider shoulder shall give the right-of-way on such pavement to the other vehicle.
- B. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-701*

**Sec. 11-71. Passing Vehicles Proceeding in Opposite Directions.**

Drivers of vehicles proceeding in opposite directions, except as provided in section 11-70, shall pass each other to the right and upon roadways having width for not more than one (1) line of traffic in each direction each driver shall give to the other at least one-half (1/2) of the main-traveled portion of the roadway as nearly as possible.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5/11-702.*

**Sec. 11-72. Overtaking a Vehicle on the Left.**

The following rules govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules otherwise stated in this chapter;

- a. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. In no event shall such movement be made by driving off the pavement or the main-traveled portion of the roadway.
- b. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.



- c. The driver of a two (2) wheeled vehicle may not, in passing upon the left of any vehicle proceeding in the same direction, pass upon the right of any vehicle proceeding in the same direction unless there is an unobstructed lane of traffic available to permit such passing maneuver safely.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-703.*

**Sec. 11-73. Overtaking on the Right.**

- A. The driver of a vehicle with three (3) or more wheels may overtake and pass upon the right of another vehicle only under the following conditions:
  - 1. When the vehicle overtaken is making or about to make a left turn;
  - 2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction;
  - 3. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.
- B. The driver of a two (2) wheeled vehicle may not pass upon the right of any other vehicle proceeding in the same direction unless the unobstructed pavement to the right of the vehicle being passed is of a width of not less than eight (8) feet.
- C. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-travel portion of the roadway.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-704*

**Sec. 11-74. One-Way Roadways and Rotary Traffic Islands.**

- a. The Department and local authorities, with respect to highways under their respective jurisdictions, may designate any highway, roadway, part of a roadway or specific lanes upon which vehicular traffic shall proceed in one direction at all times or such times as shall be indicated by official traffic control devices.
- b. Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic control devices.
- c. A vehicle passing around a rotary traffic island must be driven only to the right of such island.
- d. Whenever any highway has been divided into 2 or more roadways by leaving an intervening space or by a physical barrier or a clearly indicated section so constructed as to impede vehicular traffic, every vehicle must be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicles may be driven over, across, or within any such dividing space, barrier, or section, except through an opening in the physical barrier, or dividing section, or space, or at a cross-over or intersection as established by public

authority.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-708.*

#### **Sec. 11-75. Driving on Roadways Laned for Traffic.**

Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

- a. A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
- b. Upon a roadway which is divided into three (3) lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.
- c. Official traffic-control devices may be erected directing specific traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.
- d. Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-709.*

#### **Sec. 11-76. Following Too Closely.**

- a. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.
- b. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall be prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.
- c. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not occupy to funeral processions.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-710.*

**Sec. 11-77 - 11-79. Reserved.**

## **ARTICLE IX. TURNING**

### **Sec. 11-80. Required Position and Method of Turning at Intersections.**

The driver of a vehicle intending to turn at an intersection shall do as follows:

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.
2. The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
3. The Department and local authorities in their respective jurisdictions may cause official traffic control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this Section be traveled by vehicles turning at an intersection, and when such devices are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices.
  - a. Two-way left-turn lanes. Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic-control devices:
    - i. A left turn shall not be made from any other lane.
    - ii. A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a U turn when otherwise permitted by law.
  - b. When a motor vehicle and a mass transit bus are traveling in the same direction on the same multi-laned highway, street or road, the operator of the motor vehicle overtaking such bus, which is stopped at an intersection on the right side of the roadway to receive or discharge passengers, shall pass to the left of the bus at a safe distance and shall not turn to the right in front of the bus at that intersection.
  - c. The Village Board may cause official traffic-control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such devices are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-801.*

**Sec. 11-81. Limitations of “U” Turns.**

- a. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.
- b. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.
- c. No vehicle shall be turned so as to proceed in the opposite direction where no U-turn signs are posted.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-802.*

**Sec. 11-82. Unsafe Movement of Vehicle.**

No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-803*

**Sec. 11-83. Driver's Signal Required.**

- a. No person may turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 11-80 or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person may so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.
- b. A signal of intention to turn right or left when required must be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning within a business or residence district, and such signal must be given continuously during not less than the last two hundred (200) feet traveled by the vehicle before turning outside a business or residence district.
- c. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in this chapter to the driver of any vehicle immediately to the rear when there is opportunity to give such a signal.
- d. The electric turn signal device required in Section 12-208 of this Act (625 ILCS 5/12-208) must be used to indicate an intention to turn, change lanes or start from a parallel parked position but must not be flashed on one side only on a parked or disabled vehicle or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear. However, such signal devices may be flashed simultaneously on both sides of a motor vehicle to indicate the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking and passing. (Ord. 2002-9; 6/24/02)

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-804.*

**Sec. 11-84. Signal may be by Hand and Arm or Signal Device.**

Any stop or turn signal when required herein shall be given either by means of the hand and arm or by an electric turn signal device.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-805.*

**Sec. 11-85. Method of Giving Hand and Arm Signals.**

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1. Left turn - Hand and arm extended horizontally.
2. Right turn - Hand and arm extended upward.
3. Stop or decrease of speed - Hand and arm extended downward.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-806.*

**Sec. 11-86. Travel Restrictions from South Street School Parking Lot.**

No person shall drive any motor vehicle from the parking lot situated immediately to the west of the Durand Public School's buildings onto West South Street in an easterly direction.

The provisions of this section shall apply only on school days when school children are present and only between the hours of 8:00 a.m. and 4:00 p.m.

The provisions of this section shall not apply to school buses or other authorized emergency vehicles as defined by the ordinances of the Village of Durand, Section 11-1.

The police department or any other person authorized by the President and Board of trustees shall cause a sign to be posted at the exit of the aforementioned school parking lot appropriately indicating the prohibitions established by this section.

**Sec. 11-87 - 11-89. Reserved.**

## **ARTICLE X. RIGHT-OF-WAY**

**Sec. 11-90. Vehicles Approaching on Entering Intersection.**

- a. When two (2) vehicles approach or enter an intersection from different roadways at approximately the same time, the driver of the vehicle on the left must yield the right-of-way to the vehicle on the right.

- b. The right-of-way rule declared in subsection (a) of this section is modified at through highways and otherwise as stated in this chapter.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-901.*

**Sec. 11-91. Vehicles Approaching or Entering a "T" Intersection.**

The driver of a vehicle approaching the intersection of a highway from a highway which terminates at the intersection, not otherwise regulated by this Act or controlled by traffic control signs or signals, shall stop, yield, and grant the privilege of immediate use of the intersection to another vehicle which has entered the intersection from the non-terminating highway or is approaching the intersection on the non-terminating highway in such proximity as to constitute a hazard and after stopping may proceed when the driver may safely enter the intersection without interference or collision with the traffic using the non-terminating highway.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-901.01.*

**Sec. 11-92. Vehicle Turning Left.**

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is so close as to constitute an immediate hazard, but said driver, having so yielded may proceed at such time as a safe interval occurs.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-902.*

**Sec. 11-93. Vehicle Entering Stop Crosswalk.**

Where stop signs or flashing red signals are in place at an intersection or are in place at a plainly marked crosswalk between intersections, drivers of vehicles shall stop before entering the nearest crosswalk and pedestrians within or entering the crosswalk at either edge of the roadway shall have the right-of-way over vehicles stopped. Drivers of vehicles having so yielded the right-of-way to pedestrians entering or within the nearest crosswalk at an intersection shall also yield the right-of-way to pedestrians within any other crosswalk at the intersection.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-903.*

**Sec. 11-94. Vehicle Entering Stop or Yield Intersection.**

- a. Preferential right of way at an intersection may be indicated by stop or yield signs as authorized in 625ILCS5/1-302 of this Chapter.
- b. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting

roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another roadway or which is approaching so closely on the roadways as to constitute an immediate hazard during the time when the driver is moving across or within the intersection, but said driver having so yielded may proceed at such time as a safe interval occurs.

- c. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection.
- d. If a driver is involved in a collision at an intersection or interferes with the movement of other vehicles after driving past a yield right-of-way sign, such collision or interference shall be deemed prima facie evidence of the driver's failure to yield right-of-way.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-904.*

#### **Sec. 11-95. Vehicle Entering Highway from Private Road or Driveway.**

The driver of a vehicle about to enter or cross a highway from an alley, building, private road or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-906.*

#### **Sec. 11-96. Operation of Vehicles on Approach of Authorized Emergency Vehicles.**

- A. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of this Code or a police vehicle properly and lawfully making use of an audible or visual signal:
  - a. The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway clear of any intersection and shall, if necessary to permit the safe passage of the emergency vehicle, stop and remain in such position until the authorized emergency vehicle has passed, unless otherwise directed by a police officer and
  - b. The operator of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, unless otherwise directed by a police officer.
- B. This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-907.*

**Sec. 11-97. Vehicle Approaching Highway Construction or Maintenance Area.**

- a. The driver of a vehicle shall yield the right of way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic-control devices.
- b. The driver of a vehicle shall yield the right of way to any authorized vehicle obviously and actually engaged in work upon a highway whenever the vehicle engaged in construction or maintenance work displays flashing lights as provided in Section 11-220 of this Act.
- c. The driver of a vehicle shall stop if signaled to do so by a flagger or a traffic control signal and remain in such position until signaled to proceed. If a driver of a vehicle fails to stop when signaled to do so by a flagger, the flagger is authorized to report such offense to the State's Attorney or authorized prosecutor.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-908.*

**Sec. 11-98 - 11-109. Reserved.**

## **ARTICLE XI. PEDESTRIANS RIGHTS AND DUTIES**

**Sec. 11-110. Pedestrian' Right-of-Way at Crosswalks.**

- a. When traffic control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- b. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a moving vehicle which is so close as to constitute an immediate hazard.
- c. Paragraph (a) shall not apply under the condition stated in Section 11-300(b) of 625 ILCS 5/11-300(b).
- d. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass at such stopped vehicle.
- e. Whenever stop signs or flashing red signal are in place at an intersection or at a plainly marked crosswalk between intersections, drivers shall yield right-of-way to pedestrians as set forth in Section 11-94 of this Chapter.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1002.*



**Sec. 11-111. Crossing at Other than Crosswalks.**

- a. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
- b. Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.
- c. No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1003.*

**Sec. 11-112. Drivers to Exercise Due Care.**

Notwithstanding other provisions of this Code or the provisions of any state law, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian, or any person operating a bicycle or other device propelled by human power and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated or intoxicated person.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1003.1.*

**Sec. 11-113. Blind, Hearing Impaired or Physically Handicapped Pedestrian Right-of-Way.**

The driver of a vehicle shall yield the right-of-way to any pedestrian with clearly visible disabilities. (Ord. 2002-9; 6/24/02)

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1004.*

**Sec. 11-114. Motorized Wheelchairs.**

Every person operating a motorized wheelchair upon a sidewalk or roadway shall be granted all the rights and shall be subject to all the duties applicable to a pedestrian.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1004.1.*

**Sec. 11-115. Pedestrians to Use Right Half of Crosswalks.**

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1005.*

**Sec. 11-116. Pedestrians Walking on Highways.**

- a. Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

- b. Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.
- c. Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of a roadway, and if on a two-way roadway, shall walk only on the left side of the roadway.
- d. Except as otherwise provided in this Chapter, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1007.*

**Sec. 11-117. Right-of-Way on Sidewalks.**

The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1008.*

**Sec. 11-118. Pedestrians Yield to Authorized Emergency Vehicles.**

Upon the immediate approach of an authorized emergency vehicle making use of an audible signal and visual signals meeting the requirements of 11-220 of this Chapter, or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1009.*

**Sec. 11-119. Pedestrians Under Influence of Alcohol or Drugs.**

A pedestrian who is under the influence of alcohol or any drug to a degree which renders himself a hazard shall not walk or be upon a highway except on a sidewalk.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1010.*

**Sec. 11-120. Riding on Outside of Vehicle.**

It shall be unlawful for any person to ride upon the outside of any vehicle that is not intended for the use of passenger seating.

**Sec. 11-121. Skateboards, Roller Skates, In-Line Skates, Coasters and Scooters**

**A. Operation Restrictions**

- a. It shall be unlawful for any person to operate a skateboard, coaster, scooter, roller blades, in-line skates or similar device in the 400 block of Center Street or in any other posted areas in the Village of Durand, Illinois.
- b. It shall be unlawful for any person to operate a skateboard, coaster, scooter, roller blades, in-

line skates or similar device upon any roadway other than at a crosswalk in the Village of Durand, Illinois.

- c. It shall be unlawful for any person to operate a skateboard, coaster, scooter, roller blades, in-line skates or similar device in a reckless manner so as to create a nuisance to the public welfare in the Village of Durand, Illinois.
- d. It shall be unlawful for any person to operate a skateboard, coaster, scooter, roller blades, in-line skates or similar device on private property in the Village of Durand, Illinois without the consent of the owner.
- e. It shall be unlawful for any person to operate a skateboard, coaster, scooter, roller blades, in-line skates or similar device in the Village of Durand, Illinois between sundown and sunrise.
- f. Any person operating a skateboard, coaster, scooter, roller blades, in-line skates or similar device in the Village of Durand, Illinois shall:
  - i. Yield the right-of-way to all pedestrians.
  - ii. Yield the right-of-way to all motorized traffic.

#### **B. Enforcement**

- a. The Durand Police Department is empowered to enforce this ordinance upon passage.

#### **C. Penalty**

- a. Any person who violates any portion of this ordinance shall be subject to a fine of not less than fifteen (\$15.00) dollars nor more than five-hundred (\$500.00) dollars. Any such person who, prior to a final disposition in circuit court, signs an entry of appearance and a plea of guilty and a waiver of the right to a hearing in the circuit court and shall pay his or her fine to the Village Clerk shall pay a fine of:
  - i. \$15.00 if paid within ten (10) days,
  - ii. \$25.00 if paid after ten (10) days, but before the expiration of thirty (30) days,
  - iii. \$50.00 if paid after thirty (30) days. (**Ord. 2000-5; 11/27/00**)

**Sec. 11-122 - 11-129. Reserved.**

## **ARTICLE XII. SPECIAL STOPS REQUIRED**

### **Sec. 11-130. Stop and Yield Signs.**

- a. Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized

in Section 11-302 of 625ILCS5/11-302.

- b. Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle and every motorman of a streetcar approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1204.*

**Sec. 11-131. Right-of-way when Emerging from Alley, Building, Private Road, Driveway.**

The driver of a vehicle emerging from an alley, building, private road or driveway shall stop such vehicle immediately prior to driving into the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-1205*

**Sec. 11-132 - 11-139. Reserved.**

## **ARTICLE XIII. STOPPING, STANDING AND PARKING**

**Sec. 11-140. Unauthorized Use of Parking Places Reserved for Handicapped Persons.**

- a. It shall be prohibited to park any motor vehicle which is not bearing registration plates or decals issued to a person with disabilities, as defined by Section 1-159.1 (625 ILCS 5/1-159.1), pursuant to Sections 3-616, 11-1301.1 or 11-1301.2, (625 ILCS 5/3-616, 625 ILCS 5/11-1301.1 or 625 ILCS 5/1301.2), or to a disabled veteran pursuant to Section 3-609 of this Act (625 ILCS 5/3-609), as evidence that the vehicle is operated by or for a person with disabilities or disabled veteran, in any parking place, including any private or public off street parking facility, specifically reserved, by the posting of an official sign as designated under Section 11-301 (625 ILCS 5/11-301), for motor vehicles bearing such registration plates. An individual with a vehicle bearing a person with disabilities license plate or parking decal or device issued to a disabled person under Section 3-616, 11-1301.1, or 11-1301.2 (625 ILCS 5/3-616, 625 ILCS 5/11-1301.1 or 625 ILCS 5/1301.2) is in violation of this Section if the person is not the authorized holder of a person with disabilities license plate or parking decal or device and is not transporting the authorized holder of a person with disabilities license plate or parking decal or device to or from the parking location and the person uses the person with disabilities license plate or parking decal or device to exercise any privileges granted through the person with disabilities license plate or parking decals or devices under this Code. Any motor vehicle bearing a person with disabilities license plate or person with disabilities parking decal

or device containing the International symbol of access issued to persons with disabilities by any local authority, state, district, territory or foreign country shall be recognized by state and local authorities as a valid license plate or device and receive the same parking privileges as residents of this State. (Ord. 2002-9; 6/24/02)

- b. Any person or local authority owning or operating any public or private off street parking facility may, after notifying the police or sheriff's department, remove or cause to be removed to the nearest garage or other place of safety any vehicle parked within a stall or space reserved for use by the handicapped which does not display handicapped registration plates or a special decal or device as required under this Section.
- c. Any person found guilty of violating the provisions of this Section shall be fined \$100 in addition to any costs or charges connected with the removal or storage of any motor vehicle authorized under this Section, but municipalities by ordinance may impose a fine up to \$200.
- d. Local authorities shall impose fines as established in subsection (c) for vehicles parked in spaces for the handicapped that do not display the registration plates pursuant to Section 3-616 or a special decal or device pursuant to Section 11-1301.2 of the 625ILCS.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1301.*

**Sec. 11-141. Stopping, Standing or Parking Prohibited in Specified Places.**

- A. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:
  - a. Stop, stand, or park a vehicle.
    - i. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
    - ii. On a sidewalk;
    - iii. Within an intersection or within twenty (20) feet of an intersection;
    - iv. On a crosswalk;
    - v. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
    - vi. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
    - vii. At any place where official signs prohibit stopping.
    - viii. In a public parking area if the vehicle does not display a current annual registration sticker or current temporary permit pending registration.
  - b. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge passengers:

- i. In front of a public or private driveway;
  - ii. Within 15 feet of a fire hydrant;
  - iii. Within 20 feet of a crosswalk at an intersection;
  - iv. Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway.
  - v. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance (when properly sign-posted);
  - vi. At any place where official signs prohibit standing.
- c. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.
- d.
  - i. Except as otherwise provided in the section, every vehicle stopped or parked upon a two-way roadway shall be stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder. If the roadway has no raised curbing, it shall be unlawful to park any vehicle with any part of that vehicle on or suspended over the finished surface of the roadway.
  - ii. All vehicles must be parked in the same direction as the flow of traffic for that side of the roadway.
  - iii. With the right tires within 12 inches of the face of the curb where raised curbs are present.
  - iv. With any part of the tires or vehicle on or above the roadway where raised curbs are not present.
- e. On any private property without the consent of the owner of the property.
- f. Angle parking is prohibited and only parallel parking is allowed on both sides of East Howard Street between Center Street and Water Street. (Ord. 1996-4; 5/13/96)

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1303.*

**Sec. 11-142. Parking Restrictions for Second Division Vehicles and Semitrailers.**

No vehicle of the "Second Division" as defined in Section 1-217 of the Illinois Vehicle Code and having a gross weight in pounds including vehicle and maximum load, as referred to and defined in the Illinois Vehicle Code, of 8,001 pounds or more and no semitrailers shall park on any street within the Village limits of Durand,

Illinois for more than two (2) consecutive hours in any twenty-four (24) hour period.

**Sec. 11-143. Emergency Caused by Snowfall; Snow Removal; Depositing Snow on Streets.**

- a. On all residential streets, excluding those residential streets on which parking is already prohibited by ordinance, it shall be unlawful for any person to stop, stand or park any vehicle in the Village during a snow emergency. If a snow emergency is declared after 10:00 p.m., the owner, co-owner, or driver of any vehicle stopped, parked, or permitted to stand on any residential street shall have until 8:00 a.m. the following.
- b. A snow emergency is declared to be in effect immediately after two (2) inches of snow has accumulated and will remain in effect until the snow has been plowed to the curb line.
- c. Notwithstanding any provisions of this section, no person shall stop, stand or park any vehicle on Center Street during a snow emergency between the hours of 2:00 a.m. and 6:00 a.m.
- d. Any vehicle parked in violation of this section is declared to be an obstruction to traffic and an immediate hazard to essential snow removal operations.
- e. Any vehicle in violation of this section shall be ticketed by a police officer or public works employee and may be removed or towed without notice to or consent of the owner or person in charge thereof. The cost of any such towing shall be at the owner's expense and in addition to any fine or ticket payment. The driver of the vehicle and any registered owner or co-owner thereof shall be jointly and severally liable for payment of all towing and storage charges in connection with the violation.
- f. The Police Department shall keep records of such towing including the license number of the vehicle, if any; the date, time, the location of the vehicle towed and the name of the company providing the towing service; and any other information required by the Chief of Police.
- g. No person shall deposit or cause to be deposited any snow upon any street or alley of the Village on that portion of the traveled way cleared or scheduled for clearance of any snow accumulation.
- h. No snow shall be deposited on any street of the Village in such manner as to obstruct a public sidewalk, nor shall it be deposited upon a neighboring parkway or other private property, or hamper the vision of an intersection of traveled roadways. ([Ord. 2022-3; 1/24/22](#))

**Sec. 11-144. Payment.**

- A. The owner, or agent of the owner, or driver of any vehicle stopped, parked or permitted to stand in violation of the provisions of Article XIII of Chapter 11 of the Municipal Code of the Village of Durand, Illinois, may avoid prosecution by paying to the Village Clerk's office, to such officer or other persons as may be designated by the Village Clerk, by surrendering to such officer or designated person the traffic ticket delivered to him or her or upon such vehicle after indicating thereon his name, address and date. Such officer or other designated person shall give the person paying the said amounts as follows a receipt therefore bearing his signature, the date of payment, and the ticket number.
- B. The fine for violation of Section 11-141 of the Durand Village Ordinance shall be as follows:

- a. \$10.00 if paid within 15 days.
  - b. \$20.00 if paid after 15 days.
  - c. If the above fine is not paid within 30 days and legal or civil action proceedings have begun, the fine shall be \$40.00 plus all cost incurred by the Village.
- C. The fine for violation of Section 11-142 or Section 11-143 of the Durand Village Ordinance shall be as follows:
- a. \$25.00 if paid within 15 days.
  - b. \$50.00 if paid after 15 days.
  - c. If the above fine is not paid within 30 days and legal or civil action proceedings have begun, the fine shall be \$75.00 plus all cost incurred by the Village.
- D. The fine for violation of Section 11-140 of the Durand Village Ordinance shall be as follows:
- a. \$100.00 if paid within 30 days.
  - b. If the above fine is not paid within 30 days and legal or civil action proceedings have begun, the fine shall be \$200.00 plus all cost incurred by the Village.

**Sec. 11-145. Notice of Violation; Payment in Lieu of Penalty.**

Each police officer or public works employee shall attach to every vehicle parking in violation of any provisions of this division a notice that such vehicle has been so illegally parked and instruct the operator or owner that he or she, in five (5) days, has the right to request hearing on the violation or that he or she may voluntarily waive the right to a hearing and plead guilty as charged to such violation. Each such person may, within five (15) days of the time when such notice was attached to such vehicle, pay as the penalty for and in full satisfaction of such violation, the sum provided by section 11-144.

**Sec. 11-146. Failure to Appear Upon Issuance of Parking Ticket Notice.**

Any person who, after requesting a hearing, fails to appear on the hearing date will be subject to the penalties provided in section 11-144.

**Sec. 11-147. Proof of Culpability in Violation.**

In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked, or permitted such vehicle to be parked, or placed such vehicle at the point where, and for the time during which, such violation occurred.



**Sec. 11-148. Signs Required.**

The Public Works or any other person authorized by the President and Board of Trustees shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions.

**Sec. 11-149. Towing Illegally Parked Vehicles.**

- a. The police department and all members thereof are hereby authorized to remove and tow away or have removed and towed away by commercial towing service, any car or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant or obstructs or may obstruct the movement of any emergency vehicle, or any vehicle which has been parked in any public street or other public place for a period of twenty-four (24) consecutive hours.
- b. Cars so towed away shall be stored by the commercial towing service and shall be restored to the owner or operator thereof after payment of the expenses incurred by the commercial towing service in removing and storing such vehicles.

**Sec. 11-150. Presumption of Liability for Violation.**

The fact that an automobile which is illegally parked is registered in the name of a person shall be considered prima facie proof that such person was in control of the automobile at the time of such parking.

**Sec. 11-151 - 11-159. Reserved.**

## **ARTICLE XIV. MISCELLANEOUS RULES OF THE ROAD**

**Sec. 11-160. Duties when Leaving Vehicle Unattended.**

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key, or when standing upon any perceptible grade without effectively setting the brake and turning the front wheels to the curb or side of the highway.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-1401.*

**Sec. 11-161. Limitations on Backing.**

- a. The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.
- b. The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway.

*State law reference - Similar provision, Illinois Compiled Statutes 625ILCS5/11-1402.*

**Sec. 11-162. Riding on Motorcycles.**

- a. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for 2 persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
- b. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.
- c. No person shall operate any motorcycle with handlebars higher than the height of the shoulders of the operator when the operator is seated in the normal driving position astride that portion of the seat or saddle occupied by the operator.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-1403*

**Sec. 11-163. Riding on Motorized Pedalcycles.**

- a. The operator of a motorized pedalcycle shall ride only astride the permanent and regular seat attached thereto, and shall not permit 2 persons to ride thereon at the same time, unless the motorized pedalcycle is designed to carry 2 persons; any motorized pedalcycle designed for 2 persons must be equipped with a passenger seat and footrests for use of a passenger.
- b. The provisions of Article XIV shall be applicable to the operation of motorized pedalcycles, except for those provisions which by their nature can have no application to motorized pedalcycles.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1403.1.*

**Sec. 11-164. Operation on One Wheel.**

No person shall operate a motorcycle, motor driven cycle, or motorized pedalcycle on one wheel.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1403.2.*

**Sec. 11-165. Special Equipment for Persons Riding Motorcycles, Motor Driven Cycles or Motorized Pedalcycles.**

- A. The operator of a motorcycle, motor driven cycle or motorized pedalcycle and every passenger thereon shall be protected by glasses, goggles or a transparent shield.
- B. For the purposes of this Section, glasses, goggles, and transparent shields are defined as follows:
  - a. **Glasses** means ordinary eye pieces such a spectacles or sunglasses worn before the eye, made of shatter-resistant material. Shatter-resistant material, as used in this Section, means material

so manufactured, fabricated, or created that it substantially prevents shattering or flying when struck or broken.

- b. **Goggles** means a device worn before the eyes, the predominant function of which is protecting the eyes without obstructing peripheral vision. Goggles shall provide protection from the front and sides, and may or may not form a complete seal with the face.
- c. **Transparent Shield** means a windshield attached to the front of a motorcycle that extends above the eyes when an operator is seated in the normal, upright riding position, made of shatter-resistant material, or a shatter-resistant protective face shield that covers the wearer's eyes and face at least to a point approximately to the tip of the nose.

C. Contact lenses are not acceptable eye protection devices.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1404.*

#### **Sec. 11-166. Required Equipment on Motorcycles.**

Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1405.*

#### **Sec. 11-167. Obstruction of Driver's View or Driving Mechanism.**

- a. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
- b. No passenger in a vehicle or streetcar shall ride in such position as to interfere with the driver's or motorman's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle or streetcar.
- c. No passenger on a school bus may ride or stand in a position as to interfere with the driver's view ahead or to the side or to the rear, or to interfere with this control of the driving mechanism of the bus.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1406.*

#### **Sec. 11-168. Following, Parking Near Fire Apparatus Prohibited.**

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or stop such vehicle within 500 feet of any fire apparatus stopped in answer to a fire alarm. (Ord. 2002-9; 6/24/02)

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-1411.*

#### **Sec. 11-169. Crossing Fire Hose.**

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-1412.*

**Sec. 11-170. Driving Upon Sidewalk.**

No person shall drive any motor-driven vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway, or for routine maintenance, utility or emergency service.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-1412.1.*

**Sec. 11-171. Depositing Material on Highway Prohibited.**

- a. No person shall throw, spill or deposit upon any highway any bottle, glass, nails, tacks, wire, cans, or any litter (*as defined in Section 3 of the Litter Control Act.*)
- b. Any person who violates subsection (a) upon any highway shall immediately remove such material or cause it to be removed.
- c. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other debris, except any hazardous substance as defined in Section 3.14 of the Environmental Protection Act, hazardous waste as defined in Section 3.15 of the Environmental Protection Act, and potentially infectious medical waste as defined in Section 3.81 of the Environmental Protection Act, dropped upon the highway from such vehicle.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1413.*

**Sec. 11-172. Depositing Snow upon Street or Alley.**

No person shall deposit or cause to be deposited any snow upon any street or alley of the city on that portion of the traveled way cleared or scheduled for clearance of any snow accumulation.

**Sec. 11-173. Throwing Objects from or at Vehicles.**

It is unlawful for any person to throw objects of any sort, including but not limited to, bottles, cans, stones or litter of any sort, either at a vehicle, or in the direction of a vehicle, or from a vehicle, whether said vehicle is parked, stopped or moving.

**Sec. 11-174. Obstructing Person in Highways.**

No person shall willfully and unnecessarily hinder, obstruct or delay, or willful and an unnecessarily attempt to delay, hinder or obstruct any other person lawfully driving or traveling along or upon any highway within this State or offer for barter or sale merchandise on said highway so as to interfere with the effective movement of traffic.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1416.*

**Sec. 11-175. Obstruction of Public Right of Way.**

No person, vehicle, or object shall be operated, placed, or allowed to remain upon the street or public right of way in such a manner as to form an unreasonable obstruction to the vehicular or pedestrian traffic thereon.

**Sec. 11-176. Operation of All-Terrain Vehicles and Off-Highway Motorcycles on Streets, Roads and Highways.**

- A. It shall be unlawful for any person to drive or operate any all-terrain vehicle or off-highway motorcycle upon any street, highway or roadway in this Village.
- B. All-terrain vehicles and off-highway motorcycles may make a direct crossing provided:
  - a. The crossing is made at an angle of approximately 90 degrees to the direction of the street, road or highway and at a place where no obstruction prevents a quick and safe crossing; and
  - b. The all-terrain vehicle or off-highway motorcycle is brought to a complete stop before attempting a crossing; and
  - c. The operator of the all-terrain vehicle or off-highway motorcycle yields the right of way to all pedestrian and vehicular traffic which constitutes a hazard; and
  - d. That when crossing a divided highway, the crossing is made only at an intersection of the highway with another public street, road, or highway.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1426.*

**Sec. 11-177. Illegal Driving or Operation.**

It is unlawful for any person to drive or operate any all-terrain vehicle or off-highway motorcycle in the following ways:

- A. **Careless Operation.** No person shall operate any all-terrain vehicle or off-highway motorcycle in a careless or heedless manner so as to be grossly indifferent to the person or property of other persons, or at a rate of speed greater than will permit him in the exercise of reasonable care to bring the all-terrain vehicle or off-highway motorcycle to a stop within the assured clear distance ahead.
- B. **Reckless Operation.** No person shall operate any all-terrain vehicle or off-highway motorcycle in such a manner as to endanger the life, limb or property of any person.
- C. In any tree nursery or planting in a manner which damages or destroys growing stock, or creates a substantial risk thereto.
- D. On private property, without the written or verbal consent of the owner or lessee thereof. Any person operating an all-terrain vehicle or off-highway motorcycle upon lands of another shall stop

and identify himself upon the request of the landowner or his duly authorized representative, and, if requested to do so by the landowner shall promptly remove the all-terrain vehicle or off-highway motorcycle from the premises.

- E. Notwithstanding any other law to the contrary, an owner, lessee, or occupant of premises owes no duty of care to keep the premises safe for entry or use by others for use by an all-terrain vehicle or off-highway motorcycle, or to give warning of any condition, use, structure or activities on such premises.

Nothing in this subsection limits any way liability which otherwise exists for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

- F. On publicly owned lands unless such lands are designated for use by all-terrain vehicles or off-highway motorcycles. For publicly owned lands to be designated for use by all-terrain vehicles or off-highway motorcycles a public hearing shall be conducted by the governmental entity that has jurisdiction over the proposed land prior to the designation.

Nothing in this subsection limits in any way liability which otherwise exists for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activities.

G. Other Prohibitions.

- a. No person, except persons permitted by law, shall operate or ride any all-terrain vehicle or off-highway motorcycle with any firearm in his possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or rendered unable to fire and is in a carrying case.
- b. No person shall operate any all-terrain vehicle or off-highway motorcycle emitting pollutants in violation of standards established pursuant to the Illinois Environmental Protection Act.
- c. No person shall deposit from an all-terrain vehicle or off-highway motorcycle on the snow, ice or ground surface, trash, glass, garbage, insoluble material, or other offensive matter.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1427.*

**Sec. 11-178. Operation of Golf Carts on Streets, Roads, and Highways.**

- A. It shall be unlawful for any person to drive or operate any golf cart upon any street, highway, roadway, or sidewalk in this Village.
- B. Except as provided under subsection (C) of this Section, golf carts may make a direct crossing over a street, highway or roadway that runs through a golf course provided:
  1. The crossing is made at an interchange approved by the local unit of government and at a place where on obstruction prevents a quick and safe crossing; and
  2. The golf cart is brought to a complete stop before attempting a crossing; and

3. The operator of the golf cart yields the right of way to all pedestrian and vehicular traffic which constitutes a hazard; and
  4. There is no tunnel or overpass ramp provided for the golf cart to cross through the golf course.
- C. For purposes of this Section, **Golf Cart** means a vehicle specifically designed and intended for the purposes of transporting one or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1428.*

**Sec. 11-179 - 11-189. Reserved.**

## **ARTICLE XV. BICYCLES**

**Sec. 11-190. Application of Rules.**

- a. It is unlawful for any person to do any act forbidden or fail to perform any act required in this Code.
- b. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provision of this Code.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1501.*

**Sec. 11-191. Traffic Laws Apply to Persons Riding Bicycles.**

Every person riding a bicycle upon a highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Code except as to special regulations in this Code related solely to bicycles, and except as to those provision of this Code which by their nature can have no application.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1502.*

**Sec. 11-192. Riding on Bicycles.**

- a. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- b. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except that an adult may carry a child securely attached to his person in a back pack or sling.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1503.*

**Sec. 11-193. Clinging to Vehicles.**

- a. No person riding upon a bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.
- b. No person shall attach himself to the outside on any moving motor vehicle.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\11-1504*

**Sec. 11-194. Position of Bicycles and Motorized Pedalcycles on Roadways - Riding on Roadways and Bicycles Paths.**

- A. Any person operating a bicycle or motorized pedalcycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway except under the following situations:
  - a. When overtaking and passing another bicycle, motorized pedalcycle or vehicle proceeding in the same direction; or
  - b. When preparing for a left turn at an intersection or into a private road or driveway; or
  - c. When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, motorized pedalcycles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right-hand curb or edge. For purposes of this subsection, a "substandard width lane" means a lane that is too narrow for a bicycle or motorized pedalcycle and a vehicle to travel safely side by side within the lane.
- B. Any person operating a bicycle or motorized pedalcycle upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1505.*

**Sec. 11-195. Riding Bicycles or Motorized Pedalcycles on Roadways.**

Person riding bicycles or motorized pedalcycles upon a roadway shall not ride more than 2 abreast, except on paths or parts of roadways set aside for their exclusive use. Persons riding 2 abreast shall not impede the normal and reasonable movement of traffic and, on a lined roadway, shall ride within a single lane subject to the provision of Section 11-1505 of 625ILCS.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1505.1.*

**Sec. 11-196. Carrying Articles.**

No person operating a bicycle shall carry any package, bundle or article which prevents the use of both



hands in the control and operation of the bicycle. A person operating a bicycle shall keep at least one hand on the handlebars at all times.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1506.*

**Sec. 11-197. Lamps and Other Equipment on Bicycles.**

- a. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the Department which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- b. A bicycle shall not be equipped with nor shall any person use upon a bicycle any siren.
- c. Every bicycle shall be equipped with a brake which will adequately control movement of and stop and hold such bicycle.
- d. No person shall sell a new bicycle or pedal for use on a bicycle that is not equipped with a reflex reflector conforming to specifications prescribed by the Department, on each pedal, visible from the front and rear of the bicycle during darkness from a distance of 200 feet.
- e. No person shall sell or offer for sale a new bicycle that is not equipped with side reflectors. Such reflectors shall be visible from each side of the bicycle from a distance of 500 feet and shall be essentially colorless or red to the rear of the center of the bicycle and essentially colorless or amber to the front of the center of the bicycle provided. The requirements of this paragraph may be met by reflective materials which shall be at least 3/16 of an inch wide on each side of each tire or rim to indicate as clearly as possible the continuous circular shape and size of the tires or rims of such bicycle and which reflective materials may be of the same color on both the front and rear tire or rim. Such reflectors shall conform to specifications prescribed by the Department.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1507.*

**Sec. 11-198. Lamps on Motorized Pedal-Cycles.**

Every motorized pedal-cycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a type approved by the Department which shall be visible from all distance from 100 feet to 600 feet to the rear when in front of lawful, low-powered beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1507.1.*

**Sec. 11-199. Turn and Stop Signals.**

- a. Except as provided in this Section, a person riding a bicycle shall comply with Section 11-83.
- b. A signal of intention to turn right or left when required shall be given during not less than the last 100

feet traveled by the bicycle before turning, and shall be given while the bicycle is stopped waiting to turn. A signal by hand and arm need not be given continuously if the hand is needed in the control or operation of the bicycle.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1511.*

**Sec. 11-200. Bicycles on Sidewalks.**

- a. A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.
- b. A person shall not ride a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, where such use of bicycles is prohibited by official traffic-control devices.
- c. A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1512.*

**Sec. 11-201. Bicycle Parking.**

- a. A person may park a bicycle on a sidewalk unless prohibited or restricted by an official traffic-control device.
- b. A bicycle parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.
- c. A bicycle may be parked on the roadway at any angle to the curb or edge of the roadway at any location where parking is allowed.
- d. A bicycle may be parked on the roadway abreast of another bicycle or bicycles near the side of the roadway at any location where parking is allowed.
- e. A person shall not park a bicycle on a roadway in such a manner as to obstruct the movement of a legally parked motor vehicle.
- f. In all other respects, bicycles parked anywhere on a highway shall conform with the provisions of this Code regulating the parking of vehicles.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1513.*

**Sec. 11-202. Bicycle Racing.**

- a. Bicycle racing on a highway shall not be unlawful when a racing event has been approved by State or local authorities on any highway under their respective jurisdictions. Approval of bicycle highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.

- b. By agreement with the approving authority, participants, in an approved bicycle highway racing event may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to assure the safety of all highway users.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\11-1514.*

**Sec. 11-203 - 11-209. Reserved.**

## **ARTICLE XVI. LIGHTS, LAMPS AND EQUIPMENT**

### **Sec. 11-210. Scope and Effect of Equipment Requirements.**

- a. It is unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment in the Chapter or which is equipped in any manner in violation of this Code, or for any person to do any act forbidden or fail to perform any act required under this Chapter.
- b. The provisions of this Chapter with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors or to farm-wagon type trailers having a fertilizer spreader attachment permanently mounted thereon, having a gross weight of not to exceed 36,000 pounds and used only for the transportation of bulk fertilizer or to farm-wagon type tank trailers of not to exceed 2,000 gallons capacity, used during the liquid fertilizer season as field-storage "nurse tanks" supplying the fertilizer to a field applicator and moved on highways only for bringing the fertilizer from a local source of supply to farm or field or from one farm or field to another.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-101.*

### **Sec. 11-211. When Lighted Lamps are Required.**

- a. When operated upon any highway in this Village, every motorcycle shall at all times exhibit at least one lighted lamp, showing a white light visible for at least 500 feet in the direction the motorcycle is proceeding. However, in lieu of such lighted lamp, a motorcycle may be equipped with and use a means of modulating the upper beam of the headlamp between high and a lower brightness. No such headlamp shall be modulated, except to otherwise comply with this Code, during times when lighted lamps are required for other motor vehicles.
- b. All other motor vehicles shall exhibit at least 2 lighted headlamps, with at least one on each side of the front of the vehicle, which satisfy United States Department of Transportation requirements, showing white lights, including that emitted by high intensity discharge (HID) lamps, or lights of a yellow or amber tint, during the period from sunset to sunrise, at times when rain, snow, fog, or other atmospheric conditions require the use of windshield wipers, and at any other times when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernable at a distance of 1000 feet. Parking lamps may be used in addition to but not in lieu

of such headlamps. Every motor vehicle, trailer, or semi-trailer shall also exhibit at least 2 lighted lamps, commonly known as tail lamps, which shall be mounted on the left rear and the right rear of the vehicle so as to throw a red light visible for at least 500 feet in the reverse direction, except that a truck, tractor or road tractor manufactured before January 1, 1968 and all motorcycles need be equipped with only one such tail lamp. (Ord. 2002-9; 6/24/02)

- c. Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light a rear registration plate when required and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating a rear registration plate, shall be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-201.*

#### **Sec. 11-212. Clearance, Identification and Side Marker Lamps.**

- a. Every motor vehicle of the second division, the length of which together with any trailer or trailers in tow thereof, is more than 25 feet or the width of which is more than 80 inches exclusive of mirrors, bumpers and other required safety devices, while being operated on the highways of this State during the period from sunset to sunrise, shall display on the front of the vehicle 2 yellow or amber lights, one on each upper front corner of the vehicle, which shall be plainly visible at a distance of at least 500 feet; also on the front of the body of that vehicle near the lower left hand corner one yellow or amber tinted reflector, and near the lower right hand corner one yellow or amber tinted reflector; also red reflectors on the rear of the body of that vehicle, not more than 12 inches from the lower left and right hand corners. All motor vehicles of the second division more than 20 feet long, and all trailers and semitrailers, except trailers and semitrailers having a gross weight of 3,000 pounds or less including the weight of the trailer and maximum load, while being operated on the highways of this State during the period from sunset to sunrise, shall display on each side of the vehicle at approximately the one-third points of the length of the same, at a height not exceeding 5 feet above the surface of the road, and reflecting on a line approximately at right angles to the center line of the vehicle, 2 amber tinted reflectors. After January, 1974, all new motor vehicles of the second division more than 20 feet long, and all trailers and semitrailers except trailers and semitrailers having a gross weight of 3,000 pounds or less including the weight of the trailer and maximum load sold as new in this State, while being operated from sunset to sunrise, shall display on each side of the vehicle, not more than 12 inches from the front, one amber tinted reflector, and not more than 12 inches from the rear one red reflector at a height not exceeding 5 feet above the surface of the road, and reflecting on a line approximately at right angles to the center line of the vehicle, approved by the Department.
- b. Every trailer and semitrailer having a gross weight of 3,000 pounds or less including the weight of the trailer and maximum load, towed either by a motor vehicle of the first division or a motor vehicle of the second division shall be equipped with 2 red reflectors, which will be visible when hit by headlight beams 300 feet away at night, on the rear of the body of such trailer, not more than 12 inches from the lower left hand and lower right-hand corners.
- c. Every vehicle designated in paragraph (a) or (b) of this Section that is manufactured after December 31, 1973, shall, at the places and times specified in paragraph (a) or (b) of this Section, display reflectors and clearance, identification, and side marker lamps in conformance with the specifications prescribed by the Department.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-202.*

**Sec. 11-213. Lamp or Flag on Projecting Load.**

Whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in Section 11-101 of the 625ILCS hereof, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this Section shall be in addition to the red light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-204.*

**Sec. 11-214. Spot Lamps and Auxiliary Driving Lamps.**

- a. Any motor vehicle may be equipped with not to exceed one spot lamp and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than 100 feet ahead of the vehicle.
- b. Any motor vehicle may be equipped with not to exceed three auxiliary driving lamps mounted on the front at a height not less than 12 inches nor more than 42 inches above the level surface upon which the vehicle stands.
- c. The restrictions of subsections (a) and (b) of this Section shall not apply to authorized emergency vehicles or equipment used for snow and ice removal operations if owned or operated by or for any governmental body.
- d. The minimum and maximum height restrictions prescribed in subsection (b) of this Section shall not apply to privately owned motor vehicles on which a snow plow is mounted, while in transit between or during snow and ice removal operations. This exemption shall apply only during the period from November 15 through April 1, and only when the snow plow blade, commonly referred to as a "moldboard" is properly and securely affixed to the front of the motor vehicle.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-207.*

**Sec. 11-215. Signal Lamps and Signal Devices.**

- a. Every vehicle other than an antique vehicle displaying an antique plate operated in this Village shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light visible from a distance of not less than 500 feet to the rear in normal sunlight and which shall be actuated upon application of the service (foot) brake, and which may but need not be incorporated with other rear lamps. During times when lighted lamps are not required, an antique vehicle may be equipped with a stop lamp or lamps on the rear of such vehicle of the same type originally installed by the manufacturer as original equipment and in working order. However, at all other times, such antique vehicle must be equipped with stop lamps meeting the requirements of Section 11-16-6 of 625ILCS.

- b. Every motor vehicle other than an antique vehicle displaying an antique plate shall be equipped with an electric turn signal device which shall indicate the intention of the driver to turn to the right or to the left in the form of flashing lights located at and showing to the front and rear of the vehicle on the side of the vehicle toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit a white or amber light, or any shade of light between white and amber. The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit a red or amber light. An antique vehicle shall be equipped with a turn signal device of the same type originally installed by the manufacturer as original equipment and in working order.
- c. Every trailer and semitrailer shall be equipped with an electric turn signal device which indicates the intention of the driver in the power unit to turn to the right or turn to the left in the form of flashing red or amber lights located at the rear of the vehicle on the side toward which is to be made and mounted on the same level and as widely spaced laterally as practicable.
- d. Turn signal lamps must be visible from a distance of not less than 300 feet in normal sunlight.
- e. Motorcycles and motor-driven cycles need not be equipped with electric turn signals. Antique vehicles need not be equipped with turn signals unless such were installed by the manufacturer as ordinal equipment.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-208.*

**Sec. 11-216. Additional Lighting Equipment.**

- a. Any motor vehicle may be equipped with not more than 2 side cowl or fender lamps which shall emit an amber or white light without glare.
- b. Any motor vehicle may be equipped with not more than one running Board courtesy lamp on each side thereof which shall emit a white or amber light without glare.
- c. Any motor vehicle may be equipped with one or more back-up lamps but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-209.*

**Sec. 11-217. Use of Head Lamps and Auxiliary Driving Lamps.**

- a. Whenever the driver of any vehicle equipped with an electric driving head lamp, driving head lamps, auxiliary driving lamp or auxiliary driving lamps is within 500 feet of another vehicle approaching from the opposite direction, the driver shall dim or drop such head lamp or head lamps and shall extinguish all auxiliary driving lamps.
- b. The driver of any vehicle equipped with an electric driving head lamp, head lamps, auxiliary driving lamp or auxiliary driving lamps shall dim or drop such head lamp or head lamps and shall extinguish driving lamps when there is another vehicle traveling in the same direction less than 300 feet to the

front of him.

- c. No vehicle shall have the lighting system modified to allow more than 2 electric head lamps to be lighted while operating in the dimmed or dropped position.
- d. Nothing in this Section shall prohibit the use of auxiliary driving lamps, commonly referred to as "fog" lamps, when used in conjunction with head lamps, if such auxiliary driving lamps are adjusted and so aimed that the glaring rays are not projected into the eyes of drivers of oncoming vehicles.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-210.*

**Sec. 11-218. Number of Driving Lamps Required or Permitted.**

- a. At all-time specified in Section 11-211 at least 2 lighted driving lamps shall be displayed, one on each side of the front of every motor vehicle other than a motorcycle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.
- b. Whenever a motor vehicle equipped with driving lamps as herein required is also equipped with any auxiliary driving lamps or a spot lamp or any other lamp on the front thereof, not more than a total of 4 of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-211.*

**Sec. 11-219. Special Restrictions on Lamps.**

- a. No person shall drive or move any vehicle or equipment upon any highway with any lamp or device on the vehicle or equipment displaying a red light visible from directly in front of the vehicle or equipment except as otherwise provided in this Act.
- b. Subject to restrictions of this Act, flashing lights are prohibited on motor vehicles except as a means for indicating a right or left turn as provided in Section 11-215 or the presence of a vehicular traffic hazard requiring unusual care as expressly provided in Section 11-83 or 11-220.
- c. Unless otherwise expressly authorized by this Code, all other lighting or combination of lighting on any vehicle shall be prohibited.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-212.*

**Sec. 11-220 Oscillating, Rotating or Flashing Lights on Motor Vehicles.**

- A. The use of red or white oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited except on:
  - a. Law enforcement vehicles of State, Federal or local authorities;
  - b. A vehicle operated by a police officer or county coroner and designated or authorized by local authorities, in writing, as a law enforcement vehicle; however, such designation or authorization must be carried in the vehicle;

- c. Vehicle of local fire departments and State or Federal fire fighting vehicles.
  - d. Vehicles which are designed and used exclusively as ambulance or rescue vehicles; furthermore, such lights shall not be lighted except when responding to an emergency call for and while actually conveying the sick or injured.
- B. The use of amber oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited except on:
- a. Second division vehicles designed and used for towing or hoisting vehicles; furthermore, such lights shall not be lighted except as required in this paragraph 1; such lights shall be lighted when such vehicles are actually being used at the scene of an accident or disablement; if the towing vehicle is equipped with a flatbed that supports all wheels of the vehicle being transported, the lights shall not be lighted while the vehicle is engaged in towing on a highway; if the towing vehicle is not equipped with a flatbed that supports all wheels of a vehicle being transported, the lights shall be lighted while the towing vehicle is engaged in towing on a highway during all times when the use of headlights is required under Section 12-201 of this Code (625 ILCS 5/12-201); (**Ord. 2002-9, 6/24/02**)
  - b. Motor vehicles or equipment of the State of Illinois, local authorities and contractors; furthermore, such lights shall not be lighted except while such vehicles are engaged in maintenance or construction operating within the limits of construction projects;
  - c. Vehicles or equipment used by engineering or survey crew; furthermore, such lights shall not be lighted except while such vehicles are actually engaged in work on a highway;
  - d. Vehicles of public utilities, municipalities, or other construction, maintenance or automotive service vehicles except that such lights shall be lighted only as a means for indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing while such vehicles are engaged in maintenance, service or construction on a highway;
  - e. Oversized vehicle or load; however, such lights shall only be lighted when moving under permit issued by the Department under Section 625ILCS 5/15-301 of the ILCS;
  - f. The front and rear of motorized equipment owned and operated by the State of Illinois or any political subdivision thereof, which is designed and used for removal of snow and ice from highways;
  - g. Fleet safety vehicles registered in another state, furthermore, such lights shall not be lighted except as provided for in Section 11-220 of this Code;
  - h. Such other vehicles as may be authorized by local authorities;
  - i. Law enforcement vehicles of State or local authorities when used in combination with red oscillating, rotating or flashing lights;



- j. Vehicles used for collecting or delivering mail for the United States Postal Service provided that such lights shall not be lighted except when such vehicles are actually being used for such purposes;
  - k. Any vehicle displaying a slow-moving vehicle emblem as provided in Section 625ILCS 5-12-205 of the ILCS;
  - l. All trucks equipped with self-compactors or roll-off hoists and roll-on containers for garbage or refuse hauling. Such lights shall not be lighted except when such vehicles are actually being used for such purposes; and
  - m. Security vehicles of the Department of Mental Health and Developmental Disabilities; however, the lights shall not be lighted when being used for security related purposes under the direction of the Superintendent of the facility where the vehicle is located.
  - n. Vehicles used by a security company, alarm responder, or control agency, if the security company, alarm responder, or control agency is bound by a contract with a Federal, State or local government entity to use the lights.
- C. The use of blue oscillating, rotating or flashing lights, whether lighted or unlighted is prohibited except:
- a. On vehicles owned or fully operated by a: voluntary fire fighter; paid fire fighter; part-paid fire fighter; call fire fighter; member of the Board of trustees of a fire protection district; paid or unpaid member of a rescue squad; paid or unpaid member of a voluntary ambulance unit; rescue squad vehicles not owned by a fire department.  
  
However, such lights are not to be lighted except when responding to a bonafide emergency.
  - b. Police department vehicles in cities having a population of 500,000 or more inhabitants.
  - c. Law enforcement vehicles of State or local authorities when used in combination with red oscillating, rotating or flashing lights.
  - d. Vehicles of local fire departments and State or Federal fire fighting vehicles when used in combination with red oscillating, rotating or flashing lights.
  - e. Vehicles which are designed and used exclusively as ambulance or rescue vehicles when used in combination with red oscillating, rotating or flashing lights; furthermore, such lights shall not be lighted except when responding to an emergency call.
- D. The use of a combination of amber and white oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited, except motor vehicles or equipment of the State of Illinois, local authorities and contractors may be so equipped; furthermore, such lights shall not be lighted except when such vehicles are engaged in highway maintenance or construction operations within the limits of highway construction projects.
- E. All oscillating, rotating or flashing lights referred to in this Section shall be of sufficient intensity,

when illuminated, to be visible at 500 feet in normal sunlight.

- F. Nothing in this Section shall prohibit a manufacturer of oscillating, rotating or flashing lights or his representative from temporarily mounting such lights on a vehicle for demonstration purposes only.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-215.*

**Sec. 11-221. Operation of Oscillating, Rotating or Flashing Lights.**

Oscillating, rotating or flashing lights located on or within police vehicles in this State shall be lighted whenever a police officer is in pursuit of a violator of a traffic law or regulation.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-216.*

**Sec. 11-222 - 11-229. Reserved.**

## **ARTICLE XVII. BRAKES**

**Sec. 11-230. Brakes.**

**A. Brake equipment required.**

- a. Every motor vehicle, other than a motor driven cycle and an antique vehicle displaying an antique plate, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including 2 separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least one wheel on a motorcycle and at least 2 wheels on all other first division and second division vehicles. If these 2 separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes.
- b. Every motor-driven cycle when operated upon a highway shall be equipped with at least one brake which may be operated by hand or foot.
- c. Every antique vehicle shall be equipped with the brakes of the same type originally installed by the manufacturer as original equipment and in working order.
- d. Every trailer or semitrailer of a gross weight of over 3,000 pounds, when operated upon a highway must be equipped with brakes adequate to control the movement of, to stop and to hold such vehicle, and designed so as to be operable by the driver of the towing vehicle from its cab. Such brakes must be so designed and connected that in case of an accidental breakaway of a towed vehicle over 5,000 pounds, the brakes are atomically applied.
- e. Every motor vehicle, trailer, pole trailer or semitrailer, sold in this State or operated upon the highways shall be equipped with the service brakes upon all wheels of every such vehicle,

except any motor-driven cycle, and except that any trailer, pole trailer or semitrailer 3,000 pounds gross weight or less need not be equipped with brakes, and except that any trailer or semitrailer with gross weight over 3,000 pounds but under 5,001 pounds need be equipped with brakes on only one wheel on each side of the vehicle. Any motor vehicle and truck tractor having 3 or more axles and manufactured prior to July 25, 1980 need not have brakes on the front wheels, except when such vehicles are equipped with at least 2 steerable axles, the wheels of one such axle need not be equipped with brakes. However, a vehicle that is more than 30 years of age and which is driven on the highways only in going to and returning from an antique auto show or for servicing or for a demonstration need be equipped with 2-wheel brakes only.

**B. Performance ability of brakes.**

- a. The service brakes upon any motor vehicle or combination of vehicle operating on a level surface shall be adequate to stop such vehicle or vehicles when traveling 20 miles per hour within a distance of 30 feet when upon dry asphalt or concrete pavement surface free from loose material.
- b. Under the above conditions the hand brake shall be adequate to stop such vehicle or vehicles, except any motorcycle, within a distance of 55 feet and the hand brake shall be adequate to hold such vehicle or vehicles stationary on any grade, which operated.
- c. Under the above conditions the service brakes upon an antique vehicle shall be adequate to stop the vehicle within a distance of 40 feet and the hand brake adequate to stop the vehicle within a distance of 55 feet.
- d. All braking distances specified in this Section apply to all vehicles mentioned, whether such vehicles are unloaded or are loaded to the maximum capacity permitted under this Act.
- e. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.
- f. Brake assembly requirements for mobile homes shall be the standards required by the United States Department of Housing and Urban Development adopted under Title Vi of the Housing and Community Development Act of 1974.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-301.*

**Sec. 11-231 - 11-239. Reserved.**

## **ARTICLE XVIII. TIRES**

**Sec. 11-240. Tires.**

It shall be unlawful to operate on any street any motor vehicle, which is not equipped with tires conforming to the requirements of the Illinois Compiled Statutes.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\12-401.*

**Sec. 11-241 - 11-249. Reserved.**

## **ARTICLE XIX. GLASS, WINDSHIELDS AND MIRRORS**

**Sec. 11-250. Windshield and Safety Glazing Material in Motor Vehicles.**

- A. Every motor vehicle operated upon the highways of this State shall be equipped with a front windshield, which complies with those standards as established pursuant to this Section and Section 11-252 of this Code. This subsection shall not apply to motor vehicles designed and used exclusively for off-highway use, motorcycles, motor-driven cycles, motorized pedalcycles, nor to motor vehicles registered as antiques vehicles when the original design of such vehicles did not include front windshields.
- B. No person shall knowingly sell any 1936 or later model motor vehicle unless such vehicle is equipped with safety glazing material conforming to specifications prescribed by the Department wherever glazing material is used in doors, windows and windshields. Regulations promulgated by the Department specifying standards for safety glazing material on windshields shall, as a minimum, conform with those applicable Federal Motor Vehicles Safety Standards (49 CAR 571.205). These provisions apply to all motor vehicles of the first and second division but with respect to trucks, including truck tractors, the requirements as to safety glazing material apply to all glazing material used in doors, windows and windshields in the driver's compartments of such vehicles.
  - a. It is unlawful for the owner or any other person knowingly to install or cause to be installed in any motor vehicle any glazing material other than safety glazing material conforming to the specifications prescribed by the Department.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-501.*

**Sec. 11-251. Mirrors.**

Every motor vehicle operated singly or when towing another vehicle, shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of a least 200 feet to the rear of such motor vehicle.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-502.*

**Sec. 11-252. Windshield must be Unobstructed and Equipped with Wipers.**

- A. No person shall drive a motor vehicle with any sign, poster, window application, reflective material, no reflective material or tinted film upon the front windshield, side wings or side windows immediately adjacent to each side of the driver. A nonreflective tinted film may be used along the uppermost portion of the windshield if such material does not extend more than 6 inches down from the top of the windshield. Nothing in the Section shall create a cause of action on behalf of a buyer against a dealer or manufacturer who sells a motor vehicle with a window, which is in violation of this Section.
- B. Nothing contained in this Section shall prohibit the use of nonreflective, smoked to tinted glass, nonreflective film, perforated window screen or other decorative window application on windows to the rear of the driver's seat treated in this manner shall be equipped with a side mirror on each side of the motor vehicle which are in conformance with Section 11-100.2 of the ILCS.
- C. No person shall drive a motor vehicle with any objects placed or suspended between the driver and the front windshield, rear window, side wings, or side windows immediately adjacent to each side of the driver which materially obstructs the driver's view.
- D. Every motor vehicle, except motorcycles, shall be equipped with a device, controlled by the driver, for clearing rain, snow, moisture or other obstructions from the windshield; no person shall drive a motor vehicle with snow, ice, moisture, or other material on any of the windows or mirrors, which materially obstructs the driver's clear view of the highway.
- E. No person shall drive a motor vehicle when the windshield, side or rear windows are in such defective condition or repair as to materially impair the driver's view to the front, side, or rear. A vehicle equipped with a side mirror on each side of the vehicle, which is in conformance with the Section 11-100.2 of the ILCS, will be deemed to be in compliance in the event the rear window of the vehicle is materially obscured.
- F. Paragraphs (A) and (B) of this Section shall not apply to:
  - a. Motor vehicle manufactured prior to January 1, 1982; or
  - b. To those motor vehicles properly registered in another jurisdiction.
- G. Paragraph (A) of this Section shall not apply to any motor vehicle:
  - a. That is owned and operated by a person afflicted with or suffering from a medical illness, ailment, or disease which would require that person to be shielded from the direct rays of the sun; or
  - b. That is used in transporting a person when such person resides at the same address as the registered owner of the vehicle and such person is afflicted with or suffering from a medical illness, ailment, or disease which would require such person to be shielded from the direct rays of the sun.

It must be certified by a physician licensed to practice medicine in Illinois that such

person owning and operating or being transported in a motor vehicle is afflicted with or suffers from such illness, ailment, or disease and such certification must be carried in the motor vehicle at all times. The certification shall be legible and shall contain the date of issuance, and the name, address, and signature of the attending physician, and the name, address, and medical condition of the person requiring exemption. The information on the certificate must remain current and shall be renewed annually by the attending physician.

- H. Paragraph (A) of this Section shall not apply to motor vehicle stickers or other certificates issued by State or local authorities which are required to be displayed upon motor vehicle windows to evidence compliance with requirements concerning motor vehicles.
- I. Those motor vehicles exempted under paragraph (f)(1) of this Section shall not cause their windows to be treated as described in paragraph (a) after January 1, 1993.
- J. Any person convicted under paragraphs (a), (b), or (i) of this Section shall be ordered to alter any nonconforming windows into compliance with this Section.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-503.*

**Sec. 11-253 - 11-259. Reserved.**

## **ARTICLE XX. MISCELLANEOUS EQUIPMENT REQUIREMENTS**

### **Sec. 11-260. Horns and Warning Devices.**

- a. Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonable loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.
- b. No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in the subsection. Any authorized emergency vehicle as defined in this Chapter may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet, but such siren, whistle or bell, shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law in either of which events the driver of such vehicle shall sound such siren, whistle or bell, when necessary to warn pedestrians and other drivers of the approach thereof.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-601.*

**Sec. 11-261. Mufflers, Prevention of Noise.**

Every motor vehicle driven or operated upon the highways of this State shall at times be equipped with an adequate muffler or exhaust system in constant operation and properly maintained to prevent any excessive or unusual noise. No such muffler or exhaust system shall be equipped with a cutout, bypass or similar device. No person shall modify the exhaust system of a motor vehicle in a manner, which will amplify or increase the noise of such vehicle above that emitted by the muffler originally installed on the vehicle, and such original muffler shall comply with all the requirements of this Section.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-602.*

**Sec. 11-262. Emission of Gas, Smoke.**

It shall be unlawful to operate any vehicle, which emits dense smoke or such an amount of smoke or fumes as to be dangerous to the health of persons or as to endanger the drivers of other vehicles.

**Sec. 11-263. Driver and Passenger Required to use Safety Belts - Exceptions and Penalty.**

- A. Each driver and front seat passenger of a motor vehicle operated on a street or highway in this State shall wear a properly adjusted and fastened seat safety belt; except that, a child less than 6 years of age shall be protected as required pursuant to the Child Passenger Protection Act (625 ILCS 25/1 et seq.). Each driver under the age of 18 years and each of the driver's passengers under the age of 18 years of a motor vehicle operated on a street or highway in the State shall wear a properly adjusted and fastened seat safety belt. Each driver of a motor vehicle transporting a child 6 years of age or more, but less than 16 years of age, in the front seat of the motor vehicle shall secure the child in a properly adjusted and fastened seat safety belt. (Ord. 2002-9; 6/24/02)
- B. Paragraph (A) shall not apply to any of the following:
  - a. A driver or passenger frequently stopping and leaving the vehicle or delivering from the vehicle, if the speed of the vehicle between stops does not exceed 15 miles per hour.
  - b. A driver or passenger possessing a written statement from a physician that such person is unable, for medical or physical reasons, to wear a seat safety belt.
  - c. A driver or passenger possessing an official certificate or license endorsement issued by the appropriate agency in another state or country indicating that the driver is unable for medical, physical, or other valid reasons to wear a seat belt.
  - d. A driver operating a motor vehicle in reverse.
  - e. A motor vehicle with a model year prior to 1965.
  - f. A motorcycle or motor driver cycle.
  - g. A motorized pedalcycle.
  - h. A motor vehicle, which is not required to be equipped with seat safety belts under federal law.

- i. A motor vehicle operated by a rural letter carrier of the United States postal service while performing duties as a rural letter carrier.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-603.1.*

- C. Failure to wear a seat safety belt in violation of this Section shall not be considered evidence of negligence, shall not limit the liability of an insurer, and shall not diminish any recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. (Ord. 2002-9; 6/24/02)
- D. Violation of this Section shall be a petty offense and subject to a fine not to exceed \$55. (Ord. 2002-9; 6/24/02)
- E. No motor vehicle, or driver or passenger of such vehicle, shall be stopped or searched by any law enforcement officer solely on the basis of a violation or suspected violation of this Section. (Ord. 2002-9; 6/24/02)
- F. No Person under the age of 18 years shall operate any motor vehicle, except a motor driven cycle or motorcycle, with more than one passenger in the front seat of the motor vehicle and no more passengers in the back seats than the number of safety belts, except that each driver under the age of 18 years operating a second division vehicle having a gross vehicle weight rating of 8,000 pounds or less that contains only a front seat may operate the vehicle with more than one passenger in the front seat, provided that each passenger is wearing a properly adjusted and fastened seat safety belt. (Ord. 2002-9; 6/24/02)

**Sec. 11-264. Transporting Child Under Age of 4; Restraint System.**

When any person is transporting a child in this Village under the age of 4 years in a non-commercial motor vehicle of the first division, a motor vehicle of the second division with a gross vehicle weight rating of 9,000 pounds or less, or a recreational vehicle on the roadways, streets or highways of the Village, such person shall be responsible for providing for the protection of such child by properly securing him or her in a restraint system. The parent or legal guardian of a child under the age of 4 years shall provide a child restraint system to any person who transports his or her child. Any person who transports the child of another shall not be in violation of this Section unless a child restraint system was provided by the parent or legal guardian but not used to transport the child.

For purposes of this Section and Section 11-105 of the ILCS, "child restraint system" means any device which meets the standards of the United States Department of Transportation designed to restrain, seat or position children.

State Law Reference - Similar Provisions, Illinois Compiled Statute 625ILCS5\25/4.

**Sec. 11-265. Children 4 Years of Age or Older but Under Age of 6 - Restraint System or Seat Belts.**

Every person, when transporting a child 4 years of age or older but under the age of 6, as provided in Section 11-264 of this Act, shall be responsible for securing that child in either a child restraint system or seat belts.



**Sec.11-265.1. Children 6 years of age or older but under the age of 18; seat belts.**

Every person under the age of 18 years, when transporting a child 6 years of age or older but under the age of 18 years, as provided in Section 4 of this Act (625 ILCS 25/4), shall be responsible for securing that child in a properly adjusted and fastened seat safety belt. (Ord. 2002-9; 6/24/02)

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5/25/4(a).*

**Sec. 11-266. Suspension System.**

- a. It shall be unlawful to operate a motor vehicle on any highway of this Village when the suspension system has been modified from the original manufactured design by lifting the body from the chassis in excess of 3 inches or to cause the horizontal line from the front to the rear bumper to vary over 3 inches in height when measured from a level surface of the highway to the lower edge of the bumper.
- b. Nothing in this Section shall prevent the installation of manufactured heavy-duty equipment to include shock absorbers and overload springs, nor shall anything contained in this Section prevent a person to operate a motor vehicle on any highway of this Village with normal wear of the suspension system if normal wear does not affect the control or safe operation of the vehicle. This Section shall not apply to motor vehicles designed or modified primarily for off-highway racing purposes while such vehicles are in tow or to motorcycles or motor driven cycles.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-607.*

**Sec. 11-267. Frame and Floor Height.**

- A. No person shall operate upon a highway a first division vehicle, which has a clearance between the frame and ground in excess of 22 inches. The lowest portion of the body floor shall not be more than 4 inches above the top of the frame. No such vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision or cause wheels to come in contact with the body under normal conditions.
- B. No person shall operate upon a highway a second division vehicle which has a clearance between the frame and ground which is in excess of the limits specified within this subsection for its gross vehicle weight rating (GVWR) category. For the purpose of this section, GVWR means the manufacturer's gross vehicle weight rating whether or not the vehicle is modified by the use of parts not originally installed by the manufacturer. No portion of the body floor shall be raised above the frame.
  - a. The frame height of second division vehicles, whose GVWR is under 4,500 pounds, shall be no more than 24 inches.
  - b. The frame height of second division vehicles, whose GVWR is more than 4,500 pounds and less than 7,500 pounds and less, shall be no more than 26 inches.
  - c. The frame height of second division vehicles, whose GVWR is more than 7,500 pounds and less than 10,000 pounds, shall be no more than 28 inches.

- C. Under subsections (a) or (b) of this Section, measurement shall be made when a vehicle is unladen on a level surface at the lowest point from the bottom of the original vehicle manufacturers longitudinal frame rail between the front axle and second axle on the vehicle.
- D. This Section does not apply to specially designed or modified motor vehicles when operated off highways. Such motor vehicles may be transported upon the highway only by use of a trailer or semitrailer. The specially designed or modified motor vehicle may also be transported upon another vehicle, providing that the entire weight of the specifically designed or modified vehicle is resting upon the transporting vehicle.
- E. An officer making an arrest under this Section shall order the vehicle driver to remove the vehicle from the highway. A person convicted under this Section shall be ordered to bring his vehicle into compliance with this Section.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-607.1.*

#### **Sec. 11-268. Bumpers.**

- A. It shall be unlawful to operate any motor vehicle with a gross vehicle weight rating of 9,000 pounds or less or any motor vehicle registered as a recreational vehicle under this Code on any highway of this Village unless such motor vehicle is equipped with both a front and rear bumper.

Except as indicated below, maximum bumper heights of such motor vehicles shall be determined by weight category of gross weight rating (GVWR) measured from a level surface to the highest point of the bottom of the bumper when the vehicle is unloaded and the tires are inflated to the manufactures recommended pressure.

Maximum bumper heights are as follows:

| <b>Max. Front<br/>Bumper Ht.</b> | <b>Max. Rear<br/>Bumper Ht.</b> |
|----------------------------------|---------------------------------|
|----------------------------------|---------------------------------|

#### **All motor vehicles of the first division EXCEPT multipurpose passenger vehicles:**

|           |           |
|-----------|-----------|
| 22 inches | 22 inches |
|-----------|-----------|

#### **Multipurpose passenger vehicles and ALL other motor vehicles:**

|                                    |           |           |
|------------------------------------|-----------|-----------|
| 4,500 lbs. and under GVWR          | 24 inches | 26 inches |
| 4,501 lbs. through 7,500 lbs. GVWR | 27 inches | 29 inches |
| 7,501 lbs. through 9,000 lbs. GVWR | 28 inches | 30 inches |

For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. The bumper on any vehicle modified or

altered shall be at least 4.5 inches in vertical height and extend no less than the width of the respective wheel tracks outermost distance.

However, nothing in this Section shall prevent the installation of bumper guards.

- B. This Section shall not apply to motor vehicles designed or modified primarily for off-highway purposes while such vehicles are in tow or to motorcycles or motor driven cycles, nor to motor vehicles registered as antique vehicles when the original design of such vehicles did not include bumpers. The provisions of this Section shall not apply to any motor vehicle driven during the first 1000 recorded miles of that vehicle, dealer or transporter displaying a special plate or plates while such vehicle is (1) being delivered from the manufacturing or assembly plant to the purchasing dealer or distributor, or from one dealership or distributor to another; (2) being moved by the most direct route from one location to another for the purpose of installing special bodies or equipment; or (3) being driven for purposes of demonstration by a prospective buyer with the dealer or his agent present in the cab of the vehicle during the demonstration.

The dealer shall, prior to the receipt of any deposit made or any contract signed by the buyer to secure the purchase of a vehicle, inform such buyer, by written statement signed by the purchaser to indicate acknowledgement of the contents thereof, of the legal requirements of this Section regarding front and rear bumpers if such vehicle is not to be equipped with bumpers at the time of delivery.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-608.*

**Sec. 11-269. Width, Length, Height of Vehicle and Load.**

- a. The maximum width, length and height of any vehicle and its load shall not exceed the limits expressed in the Illinois Compiled Statutes.
- b. No passenger type vehicle shall be operated on the streets with a load extending beyond the line of the fenders on the left side of the vehicle nor extending more than six (6) inches beyond the line of the fenders on the right side thereof.
- c. No combination of vehicles coupled together shall consist of more than two (2) units, but such limitation shall not apply to vehicles operated in daytime when transporting poles, machinery and other objects which cannot be readily dismembered, nor to such vehicles operated at nighttime by a public utility when engaged in emergency repair work, but such loads carried at night shall be clearly marked with sufficient lights to show the full dimensions of the load.
- d. No part of the load of a vehicle shall extend more than three (3) feet in front of the extreme front portion of the vehicle.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\15-101*

**Sec. 11-270. Weight.**

It shall be unlawful to drive on any street any motor vehicle with a weight, including load, in excess of that permitted by the Illinois Compiled Statutes for driving on improved highways, or with weight distributed in a manner not conforming to such law, or in violation of special weight limits provided for by ordinance and sign

posted.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS5\15-111.*

**Sec. 11-271. Weight restrictions on damaged streets.**

Whenever by reason of deterioration, rain, snow, freezing and thawing or other climatic conditions, streets or highways within the Village may be damaged or destroyed, the maximum weights permitted to be transmitted to the surface of said street by any vehicle shall be limited to conform for a period not to exceed ninety days in any one calendar year with the following:

|                                  |             |
|----------------------------------|-------------|
| 2 axles, single rear tires       | 7,000 lbs.  |
| 2 axles, dual rear tires         | 18,000 lbs. |
| 3 or more axles, dual rear tires | 30,000 lbs. |
| Gross axle load                  | 11,000 lbs. |

A notice of the above prohibitions and restrictions shall be posted at each end of that portion of all such highways or streets that are of the same or similar construction as any highway or street referred to above as being in danger of being damaged or destroyed.

The Village superintendent of streets is authorized and directed to cause signs to be erected and maintained at each end of all such streets or highways, which signs shall designate the maximum weight restrictions here adopted and shall read as follows:

**"NOTICE VEHICLES RESTRICTED TO  
THE FOLLOWING GROSS WEIGHTS":**

|                                  |             |
|----------------------------------|-------------|
| 2 axles, single rear tires       | 7,000 lbs.  |
| 2 axles, dual rear tires         | 18,000 lbs. |
| 3 or more axles, dual rear tires | 30,000 lbs. |
| Gross axle load                  | 11,000 lbs. |

**VIOLATORS SUBJECT TO FINE**  
By order of the Village Board of Durand, Illinois"

**Section 11-272. Tinted registration plate covers.**

- a. It shall be unlawful to operate any motor vehicle that is equipped with tinted plastic or tinted glass registration plate covers.
- b. A violation of this Section or a similar provision of a local ordinance shall be an offense against laws

and ordinances regulating the movement of traffic.

*State law reference - Similar provisions, Illinois Compiled Statute 625ILCS5\12-610.5.*

**Sec. 11-273 - 11-279. Reserved.**

## **ARTICLE XXI. SNOWMOBILES**

**Sec. 11-280. Operation generally.**

Section 1-1. **Dealer** - A dealer means a person, partnership, or corporation, engaged in the business of manufacturing, selling, or leasing snowmobiles at wholesale or retail.

Section 1-2. **Dangerous Drug** - Dangerous drug means any drug defined as a depressant or stimulant substance in the Illinois Controlled Substance Act and cannabis as defined in the Cannabis Control Act of the State of Illinois.

Section 1-3. **Peace Officer** - A peace officer is any person authorized under the status of the State of Illinois to make arrest for a violation of any statute or ordinance, whether it be a total arrest power of all statutes or any portion of any statutes.

Section 1-4. **Highway** - Highway means the entire width between boundary lines of any highway, road, street, avenue, alley or public driveway.

Section 1-5. **Intoxicating Beverage** - Intoxicating beverage means any beverage enumerated in the Liquor Control act of the State of Illinois.

Section 1-6. **Local Authority** - Local authority means the municipal Board or body having authority to adopt local police regulations under the constitution and laws of this state.

Section 1-7. **Narcotic Drug** - Narcotic drug means any substance defined as a narcotic drug in the Illinois Controlled Substance Act.

Section 1-8. **Operate** - Operate means to ride in or on, other than as a passenger, use or control the operation of a snowmobile in any manner, whether or not the snowmobile is underway.

Section 1-9. **Operator** - Operator means every person who operates or is in actual physical control of a snowmobile.

Section 1-10. **Owner** - Owner means the person other than a lien holder having title to a snowmobile.

Section 1-11. **Register** - Register means the act of assigning a registration number to a snowmobile by State statute and by local ordinance.

Section 1-12. **Roadway** - Roadway means that portion of a highway, improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term roadway as used in this act refers to any such roadway separately, but not to all

such roads collectively.

Section 1-13. **Snowmobile** - Snowmobile means a self-propelled device designed for travel on snow or ice or natural terrain, steered by skis or runners and supported in part by skis, belts, or cleats.

Section 1-14. **Application and Jurisdiction** - No portion of this ordinance shall preclude the State of Illinois or its officers or agents from enforcing the Illinois Snowmobile Registration and Safety Act under 625ILCS/5, Section 601-1 through 612-1 inclusive.

Section 2-1. **Enforcement** - It is the duty of sheriffs, deputy sheriffs and other police officers to arrest any person detected in violation of any of the provisions of this ordinance.

Section 2-2. **Inspection** - Duly authorized police officers may stop and inspect any snowmobile at any time for the purpose of determining if the provisions of this ordinance are being complied with. If the inspecting officer discovers any violation of the provisions of this ordinance, he may issue a summons to the operator of such snowmobile requiring that the operator appear before the Circuit Court for the county in which the offense was committed. Every snowmobile subject to this ordinance if underway and upon being hailed by a designated law enforcement must stop immediately.

Section 2-3. **Resistance to Officers** - It is unlawful for any person to resist or obstruct any peace officer in a discharge of his duties under this ordinance.

Section 3-1. **Operation of unnumbered snowmobiles** - Except as otherwise provided in the ILCS, no person shall after the effective date of this act operate any snowmobile within the corporate limits unless such snowmobile has been registered and numbered in accordance with the provisions of the *Illinois Snowmobile Registration and Safety Act*.

Section 4-1. **Headlamp** - All snowmobiles in operation shall display at least one lighted headlamp, white in color, having a minimum candlepower of sufficient intensity to exhibit a white light plainly visible from a distance of at least 500 feet ahead during hours of darkness under normal atmospheric conditions.

Section 4-2. **Taillights** - All snowmobiles while in operation shall display at least one red taillight having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.

Section 4-3. **Brakes** - All snowmobiles shall have an operating brake system in good mechanical condition.

Section 4-4. **Mufflers** - No snowmobile shall be sold or offered for sale or operated unless it is equipped with a sound muffling device installed by the manufacturer and under no circumstances shall this muffler device be modified or removed by the owner operator.

Section 5-1. **General Speed Restrictions** - No snowmobile may be driven upon any roadway within the corporate limits of this community at a speed which is greater than is reasonable and proper with regard to traffic conditions and the use of the highway, or endangers the safety of any person or property. The fact that the speed of the snowmobile does not exceed the applicable maximum speed limit does not relieve the driver of the snowmobile from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around the curve, when approaching a hillcrest, when traveling upon any narrow or

winding roadway, or special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and a duty of all persons to use due care.

Section 5-2. Unless some other speed restriction is established by the posting of speed limit signs under the authority of the city council, the maximum speed limits for snowmobiles within the corporate limits are as follows:

- a. 30 M.P.H. in any residential or business district.
- b. 15 M.P.H. in any alley.
- c. 20 M.P.H. while passing through any school zone properly posted.

Section 5-3. **Reckless Driving** - Any person who drives any snowmobile with a willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

Section 5-4. **Racing** - No person shall engage in any race on any roadway within the corporate limits. Race means the act of two or more individuals competing or racing on any street or highway, in a situation in which one of the snowmobiles is beside or to the rear of a snowmobile operated by a competing driver and the one driver attempts to prevent the competing driver from passing or overtaking him, either by acceleration or maneuver or one or more individuals competing in a race against time on any street or roadway in this municipality.

Section 5-5. **Minimum Speed Regulation** - No person shall drive a snowmobile at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation of his snowmobile or in compliance with the direction of a peace officer.

Section 5-6. **Driving on Right Side of Roadway** - Snowmobiles shall be operated on all roadways as close to the right hand side of the roadway as possible. Snowmobiles proceeding in opposite directions shall pass each other to the right and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

Section 5-7. **Limitations on Overtaking on the Left** - No snowmobiles shall be driven to left side of the center of the roadway in overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

Section 5-8. **Additional Limitations on Driving to the left of Center of the Roadway** - No snowmobile shall be driven on the left side of the roadway when approaching or upon the crest of a grade or curve in the highway where the driver's view is obstructed, when approaching within 100 feet of any bridge, viaduct or tunnel, and no driver may pass to the left where signs or markings are in place to define a no passing zone as indicated by pavement striping or appropriate signing.

Section 5-9. **Following too Close** - The operator of a snowmobile shall not follow another vehicle more closely than is reasonable and prudent having due regard for the speed of such vehicles and the traffic upon the condition of the highway.

Section 5-10. **Starting Parked Snowmobile** - No operator shall start a snowmobile which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

Section 5-11. **Signals Required** - A signal of intention to turn right or left when required must be given continuously during not less than the last 100 feet traveled by the snowmobile before turning within a business or residence district.

Section 5-12. **Signal by Hand or Arm or Signal Device** - Any stop or turn signal when required shall be given either by means of a hand and arm or by electric turn signal device conforming to the requirements of the ILCS.

Section 5-13. **Method of Giving Hand and Arm Signals** - All signals required by this Act shall be given from the left side of the vehicle of the following manner:

- a. **Left Turn** - hand and arm extended horizontally.
- b. **Right Turn** - hand and arm extended upward.
- c. **Stop or Decrease of Speed** - hand and arm extended downward.

Section 5-14. **Right-of-way** - Any snowmobile approaching or entering an intersection from a different roadway shall yield the right-of-way to a vehicle on the opposite roadway, which is entering from the right at approximately the same time. The driver of the vehicle or snowmobile on the left must yield the right-of-way to the vehicle on the right.

Section 5-15. **Right-of-way Turning Left** - The operator of a snowmobile intending to turn to the left within an intersection or into an alley, private road or driveway, shall yield the right-of-way to any vehicle approaching from the opposite direction which is so close as to constitute an immediate hazard, but said snowmobile operator having so yielded may proceed at such time as a safe interval occurs.

Section 5-16. **Snowmobile Entering Stop Intersection** - Except when directed to proceed by a peace officer or traffic control signal, every operator of a snowmobile approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the operator of the snowmobile shall yield the right-of-way to any vehicle which has entered the intersection from another roadway or which is approaching so closely on the roadway as to constitute an immediate hazard during the time when the operator is moving across or within the intersection, but said operator having so yielded may proceed at such time as a safe interval occurs.

Section 5-17. **Snowmobile Entering a Yield Intersection** - The operator of a snowmobile approaching a yield sign shall in obedience to such signs slow down to a speed reasonable for the existing conditions and if required for safety, to stop, shall stop at a clearly marked line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the operator shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such operator is moving across or within the intersection. If a



snowmobile is involved in a collision at an intersection or interferes with the movement of other vehicles after driving past the yield right-of-way sign, such collision or interference shall be deemed prima facie evidence of the driver's failure to yield right-of-way.

**Section 5-18. Obedience to Traffic Control Devices.**

- a. The operator of any snowmobile shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this act and it shall be unlawful for any snowmobile operator to leave the roadway and travel across private property to avoid an official traffic control device.
- b. Snowmobile traffic facing a steady red signal at an automatic traffic control device must stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain standing until an indication to proceed is indicated by a green traffic control signal.

**Section 5-19. Accidents** - Operators of snowmobiles involved in any accident with another snowmobile or any other motor vehicle or pedestrian shall make accident reports in accordance with the provisions of the Illinois State Snowmobile Registration and Safety Act, Chapter 95 1/2, Article VI, Section 606-I.

**Section 5-20. Pedestrian Right-of-Way** - The operator of all snowmobiles shall yield the right-of-way, slowing down or stopping if need be to so yield to a pedestrian crossing a roadway within a crosswalk, but in any case every driver of a snowmobile shall exercise due care to avoid colliding with any pedestrian and give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or obviously confused, incapacitated or intoxicated person.

**Section 5-21. Persons under the influence of Intoxicating Liquor or Narcotic Drugs** - No person who is under the influence of intoxicating liquor may drive or be in actual physical control of any snowmobile within this municipality, and further no person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a snowmobile may drive or be in actual physical control of any snowmobile within this corporate limits.

**Section 5-22.** No person shall consume any alcoholic liquor while operating a snowmobile within this municipality and any alcoholic liquor transported in a snowmobile shall be in its original package and with the seal unbroken.

**Section 5-23. Obstruction of Operator's View or Driving Mechanism** - No person shall operate a snowmobile when it is so loaded with passengers as to obstruct the operators view or his operation of the driving mechanism.

**Section 5-24. Obstructing Roadways** - No operator shall willfully or unnecessarily hinder, obstruct, or delay or attempt to delay, hinder or obstruct any other person unlawfully driving or traveling along or upon any roadway within the corporate limits.

**Section 5-25. Horns and Warning Devices** - All snowmobiles when operated upon a roadway in this municipality shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonable loud or harsh sound or a whistle. No snowmobile shall be equipped with any siren, whistle or

bell.

Section 5-26. No person shall operate a snowmobile within the municipality on any roadway unless they are in possession of a valid operator's license issued by the State of Illinois or are a resident of another state and possess a valid operator's license from that state.

Section 5-27. No person, except persons permitted by law, shall operate or ride any snowmobile with any firearm in his possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is in a carrying case.

Section 5-28. No person may operate a snowmobile on any state highway within the limits of the municipality, except to cross said state highway at a ninety degree angle yielding to all traffic and crossing only when it is safe to do so.

Section 5-29. No person shall operate a snowmobile on the tracks or right-of-way of an operating railroad.

Section 5-30. No person shall operate a snowmobile in any tree nursery or planting in a manner, which damages or destroys growing stock, or creates a substantial risk thereto.

Section 5-31. No person shall operate a snowmobile on private property, without the written consent of the owner or lessee thereof. Any person operating a snowmobile upon the lands of another shall stop and identify himself upon the request of the landowner or his duly authorized representative, and, if requested to do so by the landowner shall promptly remove the snowmobile from the premises.

Section 5-31. An owner, lessee, or occupant of premises owes no duty to keep the premises safe for entry or use by others for snowmobiling, or to give warning of any unsafe condition or use of or structure or activity on such premises. This subsection does not apply where permission to snowmobile is given for a valuable consideration other than to this State or any political subdivision or municipality thereof.

Section 5-32. An owner, lessee or occupant of premises who gives permission to another to snowmobile upon such premises does not thereby extend any assurance that the premises are safe for such purpose, or assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted. This subsection shall not apply where permission to snowmobile is given for valuable consideration other than to the Village.

Section 5-33. No person shall operate any snowmobile emitting pollutants in accordance with standards established pursuant to the State Environmental Protection Act.

Section 5-34. No person shall deposit from a snowmobile on the snow, ice, or ground surface, trash, glass, garbage, insoluble material, or other offensive matter.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS40\5-1.*

## **Sec. 11-281. Operation on Highways.**

It is unlawful for any person to drive or operate any snowmobile on a highway in this Village except as follows:

- A. On highways other than toll ways, interstate highways and limited-access highways snowmobiles may make a direct crossing provided:

- a. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and
  - b. The snowmobile is brought to a complete stop before crossing a highway; and
  - c. The operator yields the right-of-way to all oncoming traffic, which constitutes a hazard.
- B. On highways other than state highways, toll ways, interstate highways and limited-access highways snowmobiles may be operated on the roadway and in the same direction as traffic.
- C. On highways other than state highways, toll ways, interstate highways and limited-access highways snowmobiles may be operated on roadways when it is necessary to cross a bridge or culvert or when it is impracticable to gain immediate access to an area adjacent to a highway where a snowmobile is to be operated.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS50\5-2.*

#### **Sec. 11-282. Youthful Operators.**

##### **Youthful Operators.**

- a. No Person under 10 years of age may operate a snowmobile.
- b. Persons at least 10 and less than 12 years of age may operate a snowmobile only if they are either accompanied on the snowmobile by a parent or guardian or a person at least 18 years of age designated by a parent or guardian.
- c. Persons at least 12 and less than 16 years of age may operate a snowmobile only if they are either accompanied on the snowmobile by a parent or guardian or a person at least 16 years of age designated by a parent or guardian, or such operator is in possession of a certificate issued by the Department authorizing the holder to operate snowmobiles.
- d. Any person who operates a snowmobile on a highway as provided in Section 11-281 shall (1) possess a valid motor vehicle driver's license; or (2) possess a safety certificate as provided for in this Section. Any such person less than 16 years of age shall also be under the immediate supervision of a parent or guardian or a person at least 18 years of age designated by the parent or guardian.
- e. Violations of this Section done with the knowledge of a parent or guardian shall be deemed a violation by the parent or guardian and punishable under this Act.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS40\5-3.*

#### **Sec. 11-283. Operation on Ice.**

Snowmobiles may be operated on the frozen waters of the Village subject to the rules and regulations of the State Department of Conservation.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS40\5-4.*

**Sec. 11-284. Operating with Firearms; Emitting Pollutants; Unlawful Deposits.**

- a. No person, except persons permitted by law, shall operate or ride any snowmobile with any firearm in his possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung in a carrying case.
- b. No person shall operate any snowmobile emitting pollutants in accordance with standards established pursuant to the State Environmental Protection Act.
- c. No person shall deposit from a snowmobile on the snow, ice, or ground surface, trash, glass, garbage, insoluble material, or other offensive matter.

*State law reference - Similar provisions, Illinois Compiled Statutes 625ILCS40/5-6.*

**Sec. 11-285 - 11-289. Reserved.**

## **ARTICLE XXII. NON-OPERATING MOTOR VEHICLES**

**Sec. 11-290. Definitions.**

The term "inoperable motor vehicle" as used in this Article shall mean any motor vehicle from which, for a period of at least seven (7) days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own power. The term "inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily, for a period not exceeding seven (7) days, incapable of being driven under its own power in order to perform ordinary service or repair operations.

**Sec. 11-291. Public Nuisance Declared.**

It is hereby declared that all inoperable motor vehicles, whether on public or private property and in view of the general public, are a public nuisance. Any motor vehicle or part thereof which is inoperable or deteriorated or in need of repair which is located for seven (7) days or more upon public or private property within the Village of Durand, Illinois, outside any enclosure which encloses the vehicle completely from lateral view on all sides, is hereby declared to be a public nuisance.

**Sec. 11-292. Repairs/Time Limit.**

Any inoperable motor vehicle which has been rendered temporarily, for a period of seven (7) days or more, incapable of being driven under its own power in order to perform ordinary service or repair operations is hereby declared to be a public nuisance. Said inoperative motor vehicle which has been rendered temporarily, for a period of (7) days or more, incapable of being driven under its own power in order to perform ordinary service or repair operations shall be placed in an enclosure or building which encloses the vehicle completely from lateral view on all sides so that it is not in view of the general public.

**Sec. 11-293. Exceptions.**

Nothing in this Article shall apply to any motor vehicle that is kept within a building or an enclosure which encloses the vehicle completely from lateral view on all sides, so as not to be in view of the general public, or to a motor vehicle on the lawfully zoned premises of a place of business engaged in the repair, wrecking or junking of motor vehicles.

**Sec. 11-294. Penalty.**

Any owner or lessees or any other person in control of the premises and the owner or lessee or any other person in control of a motor vehicle who permits a public nuisance as declared in this Article, to exist or who maintains such public nuisance shall, upon conviction, be punished by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), and each day's failure to comply with the provisions of this Article shall constitute a separate offense. Each motor vehicle, which is permitted to exist as a public nuisance, shall constitute the subject of a separate offense.

**Sec. 11-295. Enforcement.**

This Article shall be enforced by the Police Department of the Village of Durand, Illinois, or by such agencies of the County of Winnebago, Illinois, as may from time to time be designated to enforce this Article by the Village of Durand.

**Sec. 11-296. Removal, After Notice.**

- a. Police officers of the Durand Police Department, officers of the State of Illinois Police Department and Winnebago County deputy sheriffs are hereby authorized to remove, after seven (7) days from the issuance of the municipal notice, any inoperable motor vehicle or parts thereof.
- b. Prior to removing any inoperable motor vehicle or parts thereof, said law enforcement agency shall send a municipal notice to the owner or occupier of the public or private property involved where said inoperable motor vehicle or parts thereof are located and if, after making every reasonable effort to determine the owner of said inoperable motor vehicle or parts thereof, the owner can be determined, shall also send a municipal notice to said owner at the owner's last known residence, stating in substance, that said inoperable motor vehicle or parts thereof, after reasonably describing same in said notice, are to be removed by said owner or occupier of the public or private property involved or by the owner of the said offending inoperable motor vehicle within seven (7) days after the date of the service of said notice and that failure to do so may result in the filing of a complaint for the maintaining of a public nuisance, the penalty for which is a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for each days failure to remove the said public nuisance and further that failure to do so may also result in the removal of the said inoperable motor vehicle or parts thereof and that the owner or occupier of the land involved and or the owner of the said inoperable motor vehicle or the parts thereof shall be liable for the payment of reasonable charges for towing and storage of such inoperable motor vehicle or parts thereof as a condition to regaining possession. Said municipal notice may be served by deposit in the U.S. mail with sufficient postage for delivery of same, or by personal service of said notice by said law enforcement agency, or by deposit in the U.S. mail by certified mail, return receipt requested, or registered mail with the proper postage prepaid addressed to said owner or occupier of the premises involved and to the last known address of the owner of said inoperable motor vehicle or parts thereof if same can be determined after making reasonable effort to do so as herein provided.

- c. After seven (7) days from the issuance of said municipal notice, said inoperable motor vehicle or parts thereof which have not been removed shall be removed by said law enforcement agency to a suitable storage area. The owner or occupier of the land involved or the owner of said inoperable motor vehicle or the parts thereof, shall be liable for the payment of reasonable charges for towing and storage of such inoperable motor vehicle or parts thereof as a condition to regaining possession.

**Sec. 11-297. Public Nuisance Declared.**

It shall be unlawful and it is hereby declared to be a public nuisance to have more than one motor vehicle on property owned, leased or controlled by any person that does not display a current automobile license plate or sticker issued by any state of the United State to the particular motor vehicle on which it is displayed, whether or not said motor vehicle is operable or inoperable, except that this Article shall not apply (a) to any motor vehicle kept within a building or an enclosure which encloses the vehicle complete from lateral view on all sides so as not to be in the view of the general public, or (b) to new or used car lots which are properly zoned for the same.

**Sec. 11-298 - 11-299. Reserved.**

## **ARTICLE XXIII. Recreational Off Highway Vehicles/Utility Terrain Vehicles (UTV)**

**Sec. 11-300. Operation Generally.**

Except as otherwise specifically provided in this article, it is unlawful for any person to drive or operate a recreational off highway vehicle/UTV upon any roadway which is subject to Village jurisdiction.

Recreational off highway vehicles (“OHV’s”) and utility terrain vehicles (UTV’s”) may only be operated on streets within the Village of Durand in accordance with the following rules and regulations:

- a. The OHV and/or UTV is covered by a liability insurance policy as required by § 7-601 of the Illinois Vehicle Code.
- b. The operator of the OHV and/or UTV carries with him or her proof of liability insurance as required by § 7-602 of the Illinois Vehicle Code.
- c. Any person who operates an OHV and/or UTV must be at least eighteen (18) years of age and possess a valid driver’s license to operate a motor vehicle issued by the Illinois Secretary of State or the equivalent office in a foreign jurisdiction.
- d. OHV’s and UTV’s shall only be allowed to be operated on roadways subject to Village jurisdiction between the hours of 6:00 a.m. and 11:00 p.m. If operated one half hour before sunrise, and one-half hour after sunset, as established by the National Weather Service, OHV’s and UTV’s must be equipped with a yellow flashing light visible from at least one hundred (100) feet from the rear of the OHV and/or UTV.

- e. No person shall operate an OHV and/or UTV in on a roadway subject to Village jurisdiction in excess of any posted speed limit in accordance with Article VII, Sec. 11-60 of this Chapter.
- f. OHV's and/or UTV's may be operated on any roadway subject to Village jurisdiction where the speed limit is thirty-five (35) miles per hour or less, provided, however, that an OHV and/or a UTV may make a direct crossing at an intersection where the roadway has a posted speed limit of more than thirty-five (35) miles per hour, except upon any toll road, interstate highway, or controlled access highway.
- g. OHV's and/or UTV's may not be operated on any roadway within the Village which is **not** subject to the jurisdiction of Winnebago County and/or the Village of Durand exclusively.
- h. OHV's and/or UTV's may not be operated in Saelens Park except on marked designated route(s) for access to Center Street or to Otter Creek Drive.
- i. OHV's and/or UTV's shall have their headlights and taillights lighted at all times when operated on roadways over which the Village has jurisdiction.
- j. OHV's and UTV's may not be operated on any public sidewalk.
- k. Operators of OHV's and UTV's must yield the right-of-way to overtaking vehicles at all times.
- l. Any person who operates an OHV or UTV on a roadway over which the Village has jurisdiction must adhere to all applicable state laws and/or local ordinances concerning the possession and use of alcoholic beverages and all illegal drugs, as well as all other state and/or local traffic laws.
- m. The maximum occupancy of OHV's and UTV's traveling on Village roadways shall be equal to the amount of safety belts or passenger restraints in the OHV or UTV.
- n. Each operator and passenger of an OHV or UTV shall wear a properly fastened and adjusted safety restraint belt. Children must be secured in a child restraint system as required pursuant to the Child Passenger Protection Act (625 ILCS § 25/1, *et seq.*)
- o. OHV's and UTV's are only allowed to park in parking spaces designated as handicapped if the operator or at least one (1) passenger has a valid handicapped parking sticker.
- p. OHV's and UTV's are prohibited from driving and parking in the Center Square (Downtown Square).
- q. OHV's and UTV's are prohibited from driving and parking in the areas and roadways described, marked, and identified on Exhibit "A", which is attached to this ordinance and is incorporated by reference as if set forth fully herein. **(Ord. 2024-13; 5/13/24)**
- r. OHV's and UTV's shall travel on the street in the same direction as traffic.

**Sec. 11-301. Required Equipment.**

An OHV and UTV operated on a Village roadway shall have the following equipment in good working condition at all times:

- a. Brakes
- b. Steering Apparatus
- c. Four (4) or more tires
- d. Rearview mirror
- e. A slow-moving emblem as required by 625 ILCS § 5/12-709 attached to the rear of the OHV or UTV
- f. Two (2) headlights that emit white light visible from at least five hundred (500) feet to the front.
- g. Two (2) taillights that emit red light visible from at least one hundred (100) feet from the rear of the OHV or UTV
- h. Brake lights on the rear of the OHV or UTV
- i. Turn signals on the front and rear of the OHV or UTV
- j. Seat belts for each passenger
- k. Yellow flashing light visible from at least one hundred (100) feet from the rear of the OHV or UTV (if operated one half hour before sunrise or after sunset)
- l. Red reflectorized warning devices in front and rear of the OHV or UTV
- m. Eye protection to be worn or a windshield installed
- n. Horn

**Sec. 11-302. Permits.**

- (a) No person shall operate an OHV or UTV without first obtaining a permit from the Village of Durand as set forth in this section.
- (b) Permits will be issued for each fiscal year (May 1 to April 30) with no proration.
- (c) Permits shall be granted for the operation of an OHV or UTV by the applicant only and will remain valid for the particular OHV or UTV only as long the OHV or UTV continues to meet all of the requirements of this Chapter.



- (d) The first-time annual cost of a permit is \$75.00 per OHV or UTV and shall be paid to the Village of Durand by the applicant. The annual cost of a renewal permit will be \$50.00 for each subsequent year. Proof of current insurance coverage will be required and verified prior to the issuance of a renewal permit.
- (e) Every application for a permit shall be made on the form(s) as provided by the Village of Durand which shall contain the following information:
  - i. Name and address of applicant
  - ii. Name of liability insurance carrier and proof of insurance
  - iii. Serial number, make, model and description of the OHV or UTV
  - iv. Waiver of liability signed by the applicant releasing the Village of Durand and agreeing to indemnify and hold the Village of Durand harmless from any and all claims resulting either directly or indirectly from the operation of the OHV or UTV on Village roadways and/or the property commonly identified as “Medina Manor”.  
(Ord. 2022-9; 7/25/22; revised Ord. 2024-13; 5/13/24)
  - v. A signed statement by the applicant verifying that the OHV or UTV is in compliance with all provisions of the Village of Durand's Code of Ordinances and the Illinois Vehicle Code. (Ord. 2022-9; 7/25/22)
  - vi. Photocopy of the applicant's current driver's license
  - vii. Any such other and further information as the Village of Durand may require from time to time.
- (f) If the applicant and OHV/UTV are qualified under the terms and conditions of this Chapter, the Village Chief of Police, or his or designee, shall issue a permit as visible proof of compliance. The permit shall be displayed at all times on the rear of the OHV or UTV.

**Sec. 11-303. Enforcement.**

- (a) The Village of Durand may prosecute violators for any act constituting a violation of this Chapter. Any violations of this Chapter shall be punishable by a fine of not less than one hundred dollars (\$100.00) for a first-time offense; two hundred and fifty dollars (\$250.00) for a second offense; and five hundred dollars (\$500.00) for a third or each subsequent offense, along with possible revocation of the permit in accordance with the process set forth immediately below.
- (b) A permit issued pursuant to Section 11-302 may be suspended or revoked by the Village Chief of Police, or his or her designee, in accordance with subsection (c). below, if:
  - 1. There is any material misrepresentation made by the applicant on the application submitted in accordance with Section 11-302; or
  - 2. The required liability insurance is no longer in full force and effect; or

3. There is evidence that the permit holder can no longer safely operate the OHV or UTV; or
  4. If a permit holder has been convicted of three or more violations of this Chapter; or
  5. There is a reason that the Village Chief of Police feels is appropriate to ensure the safety and well being of the citizens of the Village of Durand;
- (c) The Village Chief of Police, or his or her designee, shall issue a notice of intent to suspend and/or revoke a permit along with a corresponding right to a hearing in writing and either hand-deliver the notice to the permit holder or send said notice by certified mail, return receipt requested, to the permit holder at the address listed on the application. The notice shall specifically instruct the permit holder that he or she, within five (5) days, has the right to request a hearing on the suspension and/or revocation of the permit. Failure to request a hearing in the specified timeframe shall result in waiver to the right to a hearing and will subject the permit holder to suspension and/or revocation as a matter of course upon a finding by the Village Board that cause for suspension and/or revocation exists. Service of the notice of intent shall be effective immediately after personal service, or on the day of the post mark of the certified mail receipt.

**Sec. 11-304. Special Event Permits.**

- (a) The Village of Durand may issue a Special Event Permit for use of an OHV and/or UTV to volunteers of organizations within the Village of Durand who are assisting with special events and have filled out the required Special Event Permit Application. Special Even Permits shall be issued at no charge at the sole discretion of the Village and shall only be valid for the duration of the event for which the Special Event Permit is requested. Any holder of a Special Event Permit must comply with all other requirements of this Chapter and any applicable state and/or local law.
- (b) Any public or governmental entity may apply annually for a Governmental Activities Permit. A Governmental Activities Permit shall be issued at no charge at the sole discretion of the Village and shall be valid for the resulting fiscal year (May 1 to April 30). A holder of a Governmental Activities Permit must comply with all other requirements of this Chapter and any applicable state and/or local law.

**(Ord. 2022-7; 5/9/22)**

## **CHAPTER 12**

### **OFFENSES – MISCELLANEOUS**

#### **Sec. 12-1. Elements of the Offense – Disorderly Conduct.**

A person commits disorderly conduct when he knowingly:

- a. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or
- b. Transmits in any manner to the fire department of any city, town, Village or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or
- c. Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place; or
- d. Transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed; or
- e. Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or
- f. While acting as a collection agency as defined in the "Collection Agency Act" [225ILCS 425/1 *et seq.*] or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy, or intimidate the alleged debtor; or
- g. Transmits a false report to the Department of Children and Family Services under Section 4 of the "Abused and Neglected Child Reporting Act" [325ILCS 5/4]; or
- h. Transmits a false report to the Department of Public Health under the Nursing Home Care Act [210ILCS 45/1-101 *et seq.*]; or
- i. Transmits in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required; or
- j. Transmits a false report under Article II of "An Act in relation to victims of violence and abuse", approved September 16, 1984, as amended [320 ILCS 15/0.01 *et seq.*]; or

- k. With intent to annoy another, makes a telephone call, whether or not conversation thereby ensues.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\26-1.*

**Sec. 12-2. Nuisances Generally. Deleted. (Ord. 2023-3; Deleted; 3/27/2023)**

**Sec 12-3. Assault.**

A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\12-1.*

**Sec. 12-4. Battery.**

A person commits battery if he intentionally or knowingly without legal justification and by any means:

- a. Causes bodily harm to an individual; or
- b. Makes physical contact of an insulting or provoking nature with an individual.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\12-3.*

**Sec. 12-5. Criminal Damage to Property.**

A person commits an illegal act when he:

- a. Knowingly damages any property of another without his consent; or
- b. Recklessly by means of fire or explosive damages property of another; or
- c. Knowingly starts a fire on the land of another without his consent; or
- d. Knowingly injures a domestic animal of another without his consent; or
- e. Knowingly deposits on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building; or
- f. Damages any property, other than as described in subsection (b) of Section 20-1 of the Illinois Compiled Statutes, with intent to defraud an insurer.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\21-1.*

**Sec. 12-6. Public Indecency.**

- A. Any person of the age of seventeen (17) years and upwards who performs any of the following acts in

a public place commits a public indecency:

- a. An act of sexual penetration or sexual conduct as defined in 720ILCS5/12-12; or
  - b. A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person; or
- B. "Public place" for purposes of this section means any place where the conduct may reasonably be expected to be viewed by others.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\11-9.*

**Sec. 12-7. Noise.**

A. Purpose of Section, it is found and declared that:

- a. The making and creation of loud, unnecessary, or unusual noises within the limits of the Village is a condition which has existed for some time and the extent and volume of such noises is increasing.
- b. The making, creation, or maintenance of such loud, unnecessary, unnatural, or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and aide a detriment to public health, comfort, convenience, safety, welfare, and prosperity of the residents of the Village.
- c. The necessity in the public interest for the provisions and prohibitions contained in this Section is declared as a matter of legislative detem lination and public policy, and it is further declared that the provisions and prohibitions contained and enacted in this Section are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Village and its inhabitants.
- d. No person owning, or in possession or control of, any building or premises shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood in which such building or premises is situated, or be dangerous or detrimental to the public health.

B. Penalty for Violation of Section.

Any person or persons, corporation, firm, or organization which shall violate any provision of this Ordinance shall be fined not less than two hundred fifty and 00/100 dollars (\$250.00) nor more than seven hundred fifty and 00/100 dollars (\$750.00), plus any court costs. Each day any violation of this ordinance shall continue shall constitute a separate offense. The number of repeated violations shall be taken into account when assessing the fine amount. This Section may be enforced by the Winnebago County Sheriff's Department and/or the Village.

C. Disturbing, Endangering Health, Peace, or Safety of Others.

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the Village.

D. Acts Specifically Declared to be Violations of this Section.

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this Section, but such enumeration shall not be deemed to be exclusive, namely:

- a. *Radios; phonographs; sound-producing or reproducing machines and devices.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, chamber or outside area in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 10:00 p.m. and 7:00 a.m. on Sunday through Thursday; and between the hours of midnight through 7:00 a.m. on Friday and Saturday, in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or area in which it is located shall be prima facie evidence of a violation of this section.
- b. *Loudspeakers; amplifiers for advertising.* The using, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets or public way for the purpose of commercial advertising or attracting the attention of the public to any building or structure except with permission of the Village Chief of Police. The term "public way" means all streets, alleys, sidewalks, boulevards, public parking lots, and other public rights-of-way.
- c. *Yelling, shouting, hooting, whistling, or singing.* Yelling, shouting, hooting, whistling, or singing on the public streets or public property, particularly between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday or 11:00 p.m. and 7:00 a.m. on Friday and Saturday, or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- d. *Animals; birds.* The keeping of any animal or bird which by causing frequent or long continued noise, including, but not limited to, barking, howling, crying, squawking, chirping, or hissing, which shall disturb the comfort or repose of any persons in the vicinity.
- e. *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- f. *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration or repair of any building or structure between the hours of 9:00 p.m. and 6:00 a.m. except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Village.

- g. *Schools; courts; churches.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in use.
  - h. *Piledrivers; hammers; other power tools or devices.* The operation between the hours of 9:00 p.m. and 6:00 a.m. of any piledriver, power mower, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other power tool, saw or device, the use of which is attended by loud or unusual noise.
  - i. *Blowers.* The operation of any noise creating blower or power fan unless the noise from such blower or fan is muffled sufficient to deaden such noise.
- E. Exceptions to Regulations.

The following are exempt from the regulations set forth in Section D:

- a. Sirens and bells on emergency vehicles.
- b. Fire and burglar alarms.
- c. Emergency management warning systems.
- d. Train whistles and horns.
- e. Authorized fireworks display; and
- f. Authorized concert, parades, and events previously approved by the Village. (**Ord. 2021-11; 9/13/21**)

#### **Sec. 12-8. Discharging Firearms, Fireworks.**

It shall be unlawful to fire or discharge any firearm in the Village, or to fire or discharge any fireworks other than at an approved public display in accordance with Illinois Revised Statutes, Chapter 127 1/2,128.

#### **Sec. 12-9. Mob Action.**

Mob action consists of any of the following:

- a. The use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law; or
- b. The assembly of 2 or more persons to do an unlawful act; or
- c. The assembly of 2 or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS525/1.*

**Sec 12-10. Unlawful Assembly.**

The assembly of any persons to witness an unlawful act, knowing that such act is in violation of Federal law, State law, or local ordinance.

**Sec. 12-11. Barbed Wire and Electrically Charged Fences.**

It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons or animals, or any above ground wire charged with electric current. (Ord. 2006-1; 6/12/06)

**Sec. 12-12. Dense Smoke; Testing.**

It shall be unlawful to cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the Village so as to cause annoyance or discomfort to the residents thereof.

**Sec. 12-13. Sound Amplification Systems**

It shall be unlawful to cause or permit to be operated any sound amplifier or radio so as to cause unnecessary sound audible on any street or other public place.

**Sec. 12-14. Climbing Telephone Poles.**

No person shall climb upon any telegraph pole, telephone pole, electric light pole, or sign pole, unless in the performance of his duties.

**Sec. 12-15. Curfew for Minors.**

A. It shall be unlawful for a person less than eighteen (18) years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian, or unless engaged in a business or occupation which the laws of this state authorize a person less than eighteen (18) years of age to perform:

- a. Between 12:01 a.m. and 6:00 a.m. Saturday.
- b. Between 12:01 a.m. and 6:00 a.m. Sunday.
- c. Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

B. It shall be unlawful for a person less than sixteen (16) years of age to be present at or upon any public assembly building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian, or unless engaged in a business or occupation which the laws of this state authorize a person less than sixteen (16) years of age to perform.

- a. Between 11:01 p.m. and Friday and 6:00 a.m. Saturday.
- b. Between 11:01 p.m. Saturday and 6:00 a.m. Sunday.



- c. Between 10:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.
- C. It shall be unlawful for a person less than fourteen (14) years of age to be present at or upon any public assembly building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian, or unless engaged in a business or occupation which the laws of this state authorize a person less than fourteen (14) years of age to perform.
  - a. Between 10:01 p.m. and Friday and 6:00 a.m. Saturday.
  - b. Between 10:01 p.m. Saturday and 6:00 a.m. Sunday.
  - c. Between 9:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.
- D. It shall be unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate subsection (a), (b) or (c) of this section.
- E. Whoever violates any of the provisions of this Section shall be fined twenty-five (\$25.00) dollars. **(Ord. 2001-2; 3/26/01)**

**Sec. 12-16. Tobacco.**

- A. Sale of tobacco products, tobacco accessories, electronic cigarettes, and/or smoking herbs to persons under 21 years of age. It shall be unlawful for any person, firm, or corporation to sell, buy for, furnish, exchange or give away any tobacco products, tobacco accessories, electronic cigarettes, and/or smoking herbs in any form to any person under the age of 21 years.
- B. Possession of tobacco products, tobacco accessories, electronic cigarettes, and/or smoking herbs by persons under 21 years of age. No person under 21 years of age shall have in his or her possession any tobacco product, tobacco accessory, electronic cigarette, and/or smoking herb(s) in any form.
- C. Violation of state law. It shall be unlawful for any person to violate:
  - a. The Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act (720 ILCS § 675/1 et. Seq.), as amended;
  - b. The Display of Tobacco Products Act (720 ILCS § 675/1 et. Seq.), as amended;
  - c. The Prevention of Cigarette Sales to Minors Act (720 ILCS § 675/1 et. Seq.), as amended;
  - d. The Smokeless Tobacco Limitation Act (720 ILCS § 675/1 et. Seq.), as amended;
  - e. The Tobacco Accessories and Smoking Herbs Control Act (720 ILCS § 675/1 et. Seq.), as amended; and
  - f. The Cigarette Health Warning Act (410 ILCS § 85/1 et seq.). as amended. **(Ord 2019-11; 7/22/19)**
- D. **Penalty.** Any person who violates this Section is guilty of a petty offense and shall be fined twenty-

five (\$25.00) dollars. (Ord. 2001-2; 3/26/01).

**Sec. 12-17. Reckless Conduct.**

A person who causes bodily harm to or endangers the bodily safety of an individual by any means commits reckless conduct if he performs recklessly the acts which cause the harm or endanger safety, whether they otherwise are lawful or unlawful.

**Sec. 12-18. Theft.**

A person commits theft when he knowingly:

- a. Obtains or exerts unauthorized control over property of the owner; or
- b. Obtains by deception control over property of the owner; or
- c. Obtains by threat control over property of the owner; or
- d. Obtains control over stolen property knowing the property to have been stolen or under such circumstance as would reasonably induce him to believe that the property was stolen; or
- e. Intends to deprive the owner permanently of the use or benefit of the property; or
- f. Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or
- g. Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit; or
- h. Obtains or exerts control over property in the custody of any law enforcement agency which is explicitly represented to him by any law enforcement officer or any individual acting in behalf of a law enforcement agency as being stolen.

**Sec. 12-19. Theft of Lost or Mislaid Property.**

A person who obtains control over lost or mislaid property commits theft when he:

- a. Knows or learns the identity of the owner or knows, or is aware of, or learns of a reasonable method of identifying the owner, and
- b. Fails to take reasonable measures to restore the property to the owner, and
- c. Intends to deprive the owner permanently of the use or benefit of the property.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS\16-2.*

**Sec. 12-20. Use of Property; Theft of Labor or Services.**

A person commits theft when he obtains the temporary use of property, labor or services of another, which are available only for hire, by means of threat or deception or knowing that such use is without the consent of

the person providing the property, labor or services.

**Sec. 12-21. Offense of Retail Theft.**

A person commits the offense of retail theft when he or she knowingly:

- a. Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or
- b. Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or
- c. Transfers any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or
- d. Under-rings with the intention of depriving the merchant of the full retail value of the merchandise; or
- e. Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart; or
- f. Represents to a merchant that he or another is the lawful owner of property, knowing that such representation is false, and conveys or attempts to convey that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant; or
- g. Uses or possesses any theft detection shielding device or theft detection device remover with the intention of using such device to deprive the merchant permanently of the possession, use or benefit of any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment without paying the full retail value of such merchandise.
- h. Obtains or exerts unauthorized control over property of the owner and thereby intends to deprive the owner permanently of the use or benefit of the property when a lessee of the personal property of another fails to return it to the owner, or if the lessee fails to pay the full retail value of such property to the lessor in satisfaction of any contractual provision requiring such, within 30 days after written demand from the owner of its return. A notice in writing, given after the expiration of the leasing agreement, by registered mail, to the lessee at the address given by the lessee and shown on the leasing agreement shall constitute proper demand.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\16a-3.*

**Sec. 12-22. Criminal Trespass to Residence.**

A person commits the offense of criminal trespass to a residence when, without authority, he knowingly enters or remains within any residence, including a house trailer. For purposes of this Section, in the case of a multi-unit residential building or complex, "residence" shall only include the portion of the building or complex which is the actual dwelling place of any person and shall not include such places as common recreational areas or lobbies.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\19-4.*

**Sec. 12-23. Reserved.**

**Sec. 12-24. Criminal Trespass to Vehicles.**

Whoever knowingly and without authorization enters any part of or operates any vehicle, aircraft, watercraft or snowmobile commits a Class A misdemeanor.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\21-2.*

**Sec. 12-25. Criminal Trespass to Real Property.**

- a. Whoever enters upon the land or building, other than a residence, or any part thereof of another, after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden, or remains upon the land or in a building, other than a residence, of another after receiving notice from the owner or occupant to depart, commits a Class C misdemeanor.
- b. A person has received notice from the owner or occupant within the meaning of Subsection (a) if he has been notified personally, either orally or in writing including a valid court order as defined by subsection (7) of Section 112A-3 of the Code of Criminal Procedure of 1963 [725ILCS5/112A-3] granting remedy (2) of subsection (b) or Section 112A-14 of that Code [725ILCS 5/112A-14], or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.
- c. This Section does not apply to any person, whether a migrant worker or otherwise, living on the land with permission of the owner or of his agent having apparent authority to hire workers on such land and assign them living quarters or a place of accommodations for living thereon, not to anyone living on such land at the request of, or by occupancy, leasing or other agreement or arrangement with the owner or his agent, nor to anyone invited by such migrant worker or other person so living on such land to visit him at the place he is living upon the land.
- d. A person shall be exempt from prosecution under this Section if he beautifies unoccupied and abandoned residential and industrial properties located within any municipality. For the purpose of this subsection, "unoccupied and abandoned residential and industrial property" means any real estate (1) in which the taxes have not been paid for a period of at least 2 years; and (2) which has been left unoccupied and abandoned for a period of at least one year; and "beautifies" means to landscape, clean up litter, or to repair dilapidated conditions on or to board up windows and doors.

- e. No person shall be liable in any civil action for money damages to the owner of unoccupied and abandoned residential and industrial property, which that person beautifies pursuant to subsection (d) of this Section.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\21-3.*

**Sec. 12-26. Criminal Damage to Government Supported Property.**

Any of the following acts is a Class 4 felony when the damage to property is \$500.00 or less, and any such act is a Class 3 felony when the damage to property exceeds \$500.00 but does not exceed \$10,000.00; a Class 2 felony when the damage to property exceeds \$10,000.00 but does not exceed \$100,000.00; and a Class 1 felony when the damage to property exceeds \$100,000.00. A person commits criminal damage to government supported property when he:

- a. Knowingly damages any property supported in whole or in part with State funds, funds of a unit of local government or school district, or Federal funds administered or granted through State agencies without the consent of the State; or
- b. Knowingly, by means of fire or explosive, damages property supported in whole or in part with State funds, funds of a unit of local government or school district, or Federal funds administered or granted through State agencies; or
- c. Knowingly starts a fire on property supported in whole or in part with State funds, funds of a local government or school district, or Federal funds administered or granted through State agencies without the consent of the State; or
- d. Knowingly deposits on land or in a building supported in whole or in part with State funds, funds of a unit of local government or school district, or Federal funds administered or granted through State agencies without the consent of the State, any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building.

When damages to property exceeds \$10,000, the court shall impose upon the offender a fine equal to the value of the damages to the property.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\21-4.*

**Sec. 12-27. Criminal Trespass to State Supported Land.**

- a. Whoever enters upon land supported in whole or in part with State funds, or Federal funds administered or granted through State agencies or any building on such land, after receiving, prior to such entry, notice from the State or its representative that such entry is forbidden, or remains upon such land or in such building after receiving notice from the State or its representative to depart, and who thereby interferes with another person's lawful use or enjoyment of such building or land, commits a Class A misdemeanor.
- b. A person has received notice from the State within the meaning of sub-section (1) \* if he has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry to him or a group of which he is a part, has been conspicuously posted or exhibited at the main entrance

to such land or the forbidden part thereof.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS5\21-5.*

**Sec. 12-28. Removed.**

**Sec. 12-29. Air Rifle Act.**

Short title. This Act may be cited as the Air Rifle Act.

**Sec. 12-30. Definitions.**

As used in this Act:

1. **Air Rifle.** Means and includes any air gun, air pistol, spring gun, spring pistol, B-B gun, paint ball gun, pellet gun or any implement that is not a firearm which impels a breakable paint ball containing washable marking colors or, a pellet constructed of hard plastic, steel, lead or other hard materials with a force that reasonably is expected to cause bodily harm.
2. **Municipalities** include cities, Villages, incorporated towns and townships.
3. **Dealer** means any person, co-partnership, association or corporation engaged in the business of selling at retail or renting any of the articles included in the definition of "air rifle".

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS535/1.*

**Sec. 12-31. Selling, Renting, or Transferring of Air Rifles to Minors.**

It is unlawful for any dealer to sell, lend, rent, give or otherwise transfer an air rifle to any person under the age of 16 years of age where the dealer knows or has cause to believe the person to be under 16 years of age or where such dealer has failed to make reasonable inquiry relative to the age of such person and such person is under 16 years of age.

It is unlawful for any person to sell, give, lend or otherwise transfer any air rifle to any person under 16 years of age except where the relationship of parent and child, guardian and ward or adult instructor and pupil, exists between such person and the person under 16 years of age, or where such person stands in loco parentis to the person under 16 years of age.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS535/2.*

**Sec. 12-32. Carrying and Discharging Air Rifles.**

It is unlawful for any person under 16 years of age to carry any air rifle on the public streets, roads, highways or public lands within this State, unless such person under 16 years of age carries such rifle unloaded.

It is unlawful for any person to discharge any air rifle from or across any street, road, highway or public

land or any public place except on a safely constructed target range.

It is unlawful for any person under 16 years of age to discharge any air rifle in the Village of Durand, unless such person is under the direct supervision of a responsible adult.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS535/3.*

#### **Sec. 12-33. Possession of Air Rifles, Exceptions.**

Notwithstanding any provision of this Act, it is unlawful for any person under 16 years of age to have in his possession any air rifle if it is:

1. Kept within his house of residence or other private enclosure;
2. Used by the person under 16 years of age and he is a duly enrolled member of any club, team or society organized for educational purposes and maintaining as part of its facilities or having written permission to use an indoor or outdoor rifle range under the supervision guidance and instruction of a responsible adult and then only if said air rifle is actually being used in connection with the activities of said club team or society under the supervision of a responsible adult; or
3. Use in or on any private grounds or residence under circumstances when such air rifle is fired, discharged or operated in such a manner as not to endanger persons or property and then only if it is used in such manner as to prevent the projectile from passing over any grounds or space outside the limits of such grounds or residence.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS535/4.*

#### **Sec. 12-34. Seizure of Air Rifles.**

The Police Officer shall seize, take, remove or cause to be removed at the expense of the owner, any air rifle sold or used in any manner in violation of this Act.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS535/6.*

#### **Sec. 12-35. Municipal Ordinances.**

The provisions of any ordinance enacted by any municipality which impose greater restrictions or limitations in respect to such sale and purchase, use or possession of air rifle as herein defined than are imposed by 702ILCS Act 535, are not invalidated nor affected by this 702ILCS Act 535.

*State law reference - Similar provisions, Illinois Compiled Statute 720ILCS535/8.*

## CHAPTER 13

### PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS<sup>1</sup>

| Article |                     | -thru- |       |
|---------|---------------------|--------|-------|
|         | In General          | 13-1   | 13-15 |
| II      | Itinerant Merchants | 13-16  | 13-29 |
| III     | Solicitors          | 13-30  | 13-38 |

## ARTICLE I. IN GENERAL

### Sec. 13-1. Peddler's License Required.

It shall be unlawful for any person to engage in the business of peddler without having first obtained a license therefore.

- a. **Peddler** means any person who transports tangible personal property for retail sales within this Village who does not maintain, in the Village, an established office, distribution house, sales house, warehouse, service center or residence from which such business is conducted. However, this Act does not apply to any person who delivers tangible personal property within this Village who is fulfilling an order for such property, which was solicited or placed by mail or other means. This Act does not apply to any person holding a valid permit issued by this Village to engage in retail sales.
- b. **Person** means any individual corporation, partnership, trust, firm, association or other entity.

*Cross-reference - Licenses generally, 10-1 et seq.*

### Sec. 13-2. Application for Peddler's License; Content.

Applications for a license as a peddler shall be made in writing to the Village Clerk, and shall state the number of vehicles, if any, intended to be operated, the kind of article or merchandise to be peddled and the permanent address of the peddler.

### Sec. 13-3. Fee for Peddler's License.

- A. The fee for a peddler's license shall be as follows:
  - a. For peddlers using a car, wagon, automobile or other vehicle the fee shall be fifty dollars (\$50.00) for each vehicle for an annual license and five dollars (\$5.00) for each such vehicle for a daily license.
  - b. For peddlers not using any vehicle, the fee shall be fifty dollars (\$50.00) for an annual license and five dollars (\$5.00) for a daily license.



B. A daily license shall be effective from 7:00 a.m. to 5:00 p.m. only.

**Sec. 13-4. Cheating and Fraud.**

Any person who shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee, while acting as a peddler, solicitor or itinerant merchant in the Village or who shall barter, sell, peddle or take orders for any goods, wares or merchandise other than those specified in his application for a license shall be guilty of a violation of this Code and the Village President may revoke his license for such offense.

**Sec. 13-5. Conducting Business on Private Premises when Uninvited.**

It shall be unlawful for any peddler, solicitor or itinerant merchant to go upon any private premises for the purpose of conducting his business when he is not invited to do so, fails to leave any private premises when requested to do so by the owner or occupant.

**Sec. 13-6 - 13-15. Reserved.**

## **ARTICLE II. ITINERANT MERCHANTS**

**Sec. 13-16. Defined.**

For the purpose of this article "itinerant merchant" shall mean any merchant temporarily engaging or intending to engage in business as a merchant in the Village for a period of time not exceeding one hundred (100) days. Peddlers shall not be considered itinerant merchants.

**Sec. 13-17. License Required.**

It shall be unlawful to do business in the Village as an itinerant merchant without having first secured a license therefore.

*Cross-reference - Licenses generally, 10-1 et seq.*

**Sec. 13-18. Application; Contents.**

Every application for such a license required by this article shall set forth the commodities to be sold, and the place intended to be occupied or used for the business.

**Sec. 13-19. License Fee.**

The fee for a license required by this article shall be twenty dollars (\$20.00) for one (1) month and five dollars (\$5.00) for one (1) day.

**Sec. 13-20. Cleanup and Garbage Disposal.**

Every itinerant merchant shall be responsible for cleaning up and properly disposing of garbage and litter at the end of each business day at the place the said merchant is occupying as his, her or its place of business and it shall be unlawful for an itinerant merchant to fail to do so. (Ord. 2009-10; 5/26/09).

**Sec. 13-21 to 13-29. Reserved.**

## **ARTICLE III. SOLICITORS**

**Sec. 13-30. Defined.**

For the purpose of this Article, the term “solicitor” shall mean any person calling at residences without the previous consent of the occupant for the purpose of soliciting orders, sales, subscriptions, or business of any kind. (Ord. 2022-18; 12/12/22)

**Sec. 13-31. Exemptions from Article.**

The provisions of this article shall not apply to officers or employees of the village, county, state or federal government, or any subdivision thereof, when on official business.

**Sec. 13-32. Registration Required.**

- a. A registration fee of \$100.00 shall accompany each Village of Durand permit application, covering a period expiring thirty (30) days after the date of registration, except if the applicant is a member in good standing of the Durand Area Retailers Trades and Services organization ("DARTS"), in which case the registration fee shall be \$100.00, covering a period expiring one (1) year after the date of registration.
- b. A licensing fee of \$25.00 per person shall accompany the permit application, unless the applicant is a member in good standing of DARTS, in which case the individual licensing fee is waived. (Ord. 2022-18; 12/12/22)

**Sec. 13-33. Registrant to Give Information.**

Any person registering as a solicitor shall give his name, address, signature, the name of his employer, the nature of the products or services he intends to solicit, the names of the manufacturers of such products, or of the organization which he is representing, the proposed method of operation in the Village, and any such other information as the Chief of Police may deem necessary to process the applicant. (Ord. 2015-10; 08/24/15)

**Sec. 13-34. Defined.**

For the purpose of this Article, the term "solicitor" shall mean any person who engages in the door-to-door activity of seeking to sell goods, wares, merchandise, foodstuffs, services of any kind, nature or character for any kind of consideration for delivery at the premises where sold; or seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description for any consideration

whatsoever for delivery at a future date; or seeking to obtain prospective customers for application or purchase of insurance of any type of character; or seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication, unless said business is performed on behalf of a school, religious institution, licensed not-for-profit organization, or falls under the definition of non-commercial activity. Non-commercial activity shall be defined as activities that are not commercial in nature, such as activities that do not involve the sale of any commercial item, but rather which are solely consisting of:

- a. Religious or political free speech without any corresponding financial or commercial activity;
- b. Solicitation of gratuitous donations for non-commercial entities or undertakings such as charities, political organization, churches or similar matters without the provision of any non-gratuitous consideration, product or service; or
- c. Other similar activities not involving commerce or trade or the sale of any commercial item. If there is any element of commercial activity, a given activity shall not qualify as non-commercial activity (e.g., the solicitation of payments in exchange for a commercial item shall be deemed commercial activity. **(Ord. 2022-18; 12/12/22)**)

**Sec. 13-35. Issuance of Certificate of Registration.**

Each registrant who shows evidence of good character and who pays the required fee shall be furnished a certificate indicating that he has registered and the dates covered by such registration.

**Sec. 13-36. Duty to Carry and Exhibit Registration Certificate.**

Each person shall at all times while soliciting in the Village carry upon his person the registration certificate issued pursuant to this article and the same shall be exhibited by the registrant whenever he is required to do so by any police officer or by any person solicited.

**Sec. 13-37. Revocation; Grounds.**

Any registration certificate issued pursuant to this article may be revoked by the Village President or the chief of police for any state or federal law, or whenever the registrant shall cease to possess the qualifications and character required in this article for the original issuance of the certificate.

**Sec. 13-38. Special Requirements for Charitable Solicitations.**

- a. Any person who desires to solicit in the Village for charitable purposes shall first apply to the Village Board of trustees and shall prove to the satisfaction of the Board of trustees that the purpose of the solicitation is, in fact, charitable.
- b. The Village Board of Trustees, upon being satisfied that the purpose of the proposed solicitation is charitable shall fix dates when the solicitation may be made. No solicitation shall be made on any days other than those established by the Board of trustees.

**Sec. 13-39. Penalty.**

Any person, firm or corporation violating any provision of this Article shall be subject to a penalty of

\$100.00 per day for each offense, and a separate offense shall be deemed committed on each day on which or during which a violation occurs or continues. **(Ord. 2015-10; 08/24/15)**

<sup>1</sup>*Cross reference - Distributing handbills and samples, 3-17.*

*State law reference - Authority of Village to regulate peddlers, transient vendors, itinerant merchants, Ill. Rev. Stat. Ch. 24, 11-42-5.*

## **CHAPTER 14**

### **POLICE<sup>1</sup>**

|         |                   |               |       |
|---------|-------------------|---------------|-------|
| Article |                   | <i>-thru-</i> |       |
|         | Reserved          | 14-1          | 14-15 |
| II      | Police Department | 14-16         | 14-30 |

#### **ARTICLE I. RESERVED**

**Sec. 14-1 - 14-15. Reserved.**

#### **ARTICLE II. POLICE DEPARTMENT**

##### **DIVISION 1. GENERALLY**

**Sec. 14-16 Created; Composition.**

There is hereby created a police department, an executive department of the Village which shall consist of the chief of police and such other positions as may be provided from time to time by the Village Board of Trustees.

**Sec. 14-17. General Duties of Members.**

It shall be the duty of the members of the police department to enforce all of the provisions of this Code, ordinances of the Village and all statutes effective in the Village and to preserve order and prevent infractions of the law and arrest violators thereof.

**Sec. 14-18. Service of Process.**

Any member of the police department shall serve any process required under this Code.

**Sec. 14-19. Conduct of Members.**

It shall be the duty of every member of the police department to conduct himself in a proper and law-abiding manner and to avoid the use of unnecessary force. Each member of the department shall obey the orders and directions of his superior.

**Sec. 14-20. Members to Appear as Witness.**

Every member of the police department shall appear as a witness whenever this is necessary in a prosecution for a violation of this Code, or other ordinance of the Village.

**Sec. 14-21 - 14-25. Reserved.**

**DIVISION 2. CHIEF OF POLICE**

**Sec. 14-26. Office Created; Appointment.**

There may be created the office of chief of police who may be appointed by the Village President with the consent of the Village Board of trustees.

**Sec. 14-27. Bond Required.**

Before entering upon his duties the Chief of Police shall file with the Village Clerk a bond in the sum of five thousand dollars (\$5,000.00) with sureties approved by the Village Board of Trustees conditioned to indemnify the Village for any loss or liability due to or occasioned by any act or failure to act on the part of the chief of police.

*Cross-references - Surety bonds generally, 2-5; bonds of officers generally, 2-19.*

**Sec. 14-28. Powers and Duties Generally.**

The chief of police or designated officer shall keep such records and make such reports concerning the activities of the police department as may be required by state law or by the Village Board of trustees. The chief of police or the police committee shall be responsible for the performance by the police department of its functions, and all persons who are members of the police department shall serve subject to their orders.

**Sec. 14-29. Authority to Make Rules and Regulations and Designate Rank.**

The chief of the police department or the police committee may make or prescribe such rules and regulations for the conduct and guidance of the members of the police department as they shall deem advisable. Such rules and regulations when approved by the Village Board of trustees shall be binding on all members of the police department. The respective rank and grade of the members, as to superiority within the police department may be prescribed by regulation.

**Sec. 14-30. Custody of Lost, Stolen, or Abandoned Property.**

The police department shall have the custody of all lost, abandoned or stolen property recovered in the Village.

<sup>1</sup>*Cross references - authority of police to direct traffic, 11-5; authority of police in respect to abandoned vehicles, 11-149 et seq.*

**CHAPTER 15**  
**STREETS AND SIDEWALKS<sup>1</sup>**

| Article |                            | -thru- |       |
|---------|----------------------------|--------|-------|
|         | In General                 | 15-1   | 15-27 |
| II      | Construction & Excavations | 15-28  | 15-61 |

**ARTICLE I. IN GENERAL**

**Sec. 15-1. Supervision Generally; Enforcement.**

All public streets, alleys, sidewalks and other public ways in the Village shall be under the supervision of the Superintendent of Public Works. He shall have supervision over all work thereon, and the cleaning thereof, and shall be charged with the enforcement of all ordinances relating to such public places, except traffic ordinances, and is hereby authorized to enforce such ordinances.

**Sec. 15-2. Injury to Streets, etc.**

- a. It shall be unlawful for any person to injure any sidewalk, street or alley pavement.
- b. It shall be unlawful for any person/motor vehicle to cause damage or injury to any city parking lot area or to spin loose gravel or newly laid surface on property owned by the Village of Durand.

**Sec. 15-3. Injury to New Pavement.**

It shall be unlawful to walk upon or drive any vehicle or animal upon, or injure any newly laid street or sidewalk pavement while the same is guarded by a warning sign or barricade or to knowingly injure any soft newly made pavement.

**Sec. 15-4. Pavement to be Kept in Good Repair; Supervision of Work.**

All public street, alley and sidewalk pavement shall be kept in good repair. Such repair work, whether done by the Village or by the abutting owner, shall be under the supervision of the Superintendent of Public Works.

**Sec. 15-5. 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 Public Works, as soon as possible.

**Sec. 15-6. Obstructions Generally.**

It shall be unlawful for any person to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specifically authorized by ordinance or by the Superintendent of Public Works.

**Sec. 15-7. Obstructing Drains.**

It shall be unlawful for any person to obstruct any drain in any public street or alley.

**Sec. 15-8. Scaffolds and Ladders Over Public Ways.**

Any scaffolds or ladders placed in such a position that they overhang or can fall onto any public street, alley or other public place or way in the Village, shall be firmly and properly constructed and safeguarded.

**Sec. 15-9. Placing Articles on Window Ledges, etc.**

It shall be unlawful to place any movable article on any window ledge, or other place abutting on a public street, alley or other public 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 street, sidewalk or other public place.

**Sec. 15-10. Private Use of Public Places for Advertising or Display Purposes.**

It shall be unlawful for any person, firm or corporation, to use any street, sidewalk or other public place as space for the display or sale of goods or merchandise or to write or make any signs or advertisements on any such pavements.

**Sec. 15-11. Encroachment Generally.**

It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or other public property.

**Sec. 15-12. Erection of Poles and Wires.**

It shall be unlawful to erect or maintain any poles or wires on or over any public street, alley, or other public way without having first secured permission from the Village Board of Trustees.

**Sec. 15-13. Permit and Bond Required for Erection of Gas Pumps.**

- a. It shall be unlawful to maintain or erect any gasoline pump or tank in any public street, alley or sidewalk, without having first obtained a permit therefore from the Village Board of Trustees.
- b. No permit required by subsection (a) shall be issued until the applicant furnishes a bond or indemnity policy with a corporate surety to indemnify the Village against loss or liability in the sum of ten thousand dollars (\$10,000.00) occasioned by such tank or pump.

*Cross-reference - Permits generally, 10-1 et seq.*

**Sec. 15-14. Stairways; Other Openings.**



It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the Board of Trustees. All such lawfully maintained openings shall be guarded by a suitable strong cover or a railing, to the approval of the Superintendent of Public Works.

**Sec. 15-15. 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 do injury to any person, animal or property.
- b. Coal or other materials may be deposited in streets preparatory to delivery or use, provided such deposit does not reduce the useable width of the roadway at that point to less than eighteen (18) feet; provided that such material or coal, other than material to be used in actual building construction, shall not be permitted to remain on 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 street after nighttime.

**Sec. 15-16. 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 materials or any glass or other articles, which might cause injury to person, animals or property.
- b. Merchandise or other articles may be deposited on sidewalks preparatory to delivery if the useable width of the sidewalk is not thereby reduced to less than four (4) feet; and provided that no such article shall remain on such walk for more than one-half (1/2) hour.

**Sec. 15-17. Games in Public Ways.**

It shall be unlawful to play any games upon any street, alley or sidewalk, where such games cause unnecessary noise, or interfere with traffic or pedestrians.

**Sec. 15-18 - 15-27. Removal of Snow and Ice from Sidewalks.**

- a. **Parcels Zoned Retail or Industrial - Generally.** It is hereby made the duty of every owner or tenant of any lot, piece or parcel of land zoned any form of Retail or Industrial situated in the Village alongside of which there has been constructed and maintained or hereafter may be constructed and maintained a sidewalk. and which is not located on the Village's – Downtown Square, to keep the snow and ice cleaned off the sidewalks in such a manner that travel thereon will be convenient and safe. Said requirement shall not apply to any lot, piece or parcel of land zoned residential within the Village. Such snow and ice shall be removed from said sidewalk as soon as practicable after the snow or ice has fallen or collected on the sidewalk, and in case the snow and ice is not removed from said sidewalk within five (5) hours after notice to remove the same has been given to the owner or tenant of the lot, piece or parcel of land alongside of which the said sidewalk runs, by the superintendent of public works, then the owner of said lot piece, or parcel of land or in case the same is occupied by a tenant, then the tenant thereof shall, upon conviction, pay a penalty of not less than fifty (50) dollars but no more than one hundred (100) dollars, with each and every day constituting a new and separate

offense, in addition to the expense of removing the debris.

- b. Parcels located on the "Downtown Square". The Village will remove snow and ice on all concrete sidewalks installed on the Village's – "Downtown Square" in 2022 that are adjacent to parking stalls which were striped in 2022 between the hours of 2:00 A.M. and 6:00 A.M.

Between the hours of 6:00 A.M. and 2:00 A.M. of the following day, it is hereby made the duty of every owner or tenant of any lot, piece or parcel of land situated on the Village's "Downtown Square" (as defined below) alongside of which there has been constructed and maintained or hereafter may be constructed and maintained a sidewalk. to keep the snow and ice cleaned off the sidewalks in such a manner that travel thereon will be convenient and safe. The entire length and at least 48 inches of the width of the abutting sidewalk shall be cleared.

Subject to the above, during the regular business hours of any business operating on the "Downtown Square", snow and ice shall be removed from said sidewalk by the owner, tenant, or agent of said business as soon as practicable after the snow or ice has fallen or collected from the sidewalk. The entire length and at least 48 inches of the width of the abutting sidewalk shall be cleared. In case the snow and ice is not removed from said sidewalk within two (2) hours after notice to remove the same has been given to the owner or tenant of the lot piece or parcel of land alongside of which the said sidewalk runs, by the superintendent of public works, then the owner of said lot, piece or parcel of land or in case the same is occupied by a tenant then the tenant thereof shall, upon conviction, pay a penalty of not less than fifty (50) dollars but no more than one hundred (100) dollars, with each and every day constituting a new and separate offense, in addition to the expense of removing the debris.

Subject to the above, during non-business hours of any business operating on the – "Downtown Square" or if the owner or tenant of a parcel of property located on the "Downtown Square" does not operate a business, snow and ice shall be removed from said sidewalk by the owner, tenant, or agent of the property as soon as practicable after the snow and ice has fallen or collected from the sidewalk. The entire length and at least 48 inches of the width of the abutting sidewalk shall be cleared. In case the snow and ice are not removed from said sidewalk within five (5) hours after notice to remove the same has been given to the owner or tenant of the lot piece or parcel of land alongside of which the sidewalk runs, by the superintendent of public works, then the owner of said lot, piece or parcel of land or in case the same is occupied by a tenant, then the tenant thereof shall. Upon, conviction, pay a penalty of not less than fifty (50) dollars but no more than one hundred (100) dollars, with each and every day constituting a new and separate offense, in addition to the expense of removing the debris.

The owners or tenants of any lot, piece or parcel of land situated within the Village alongside of which there has been constructed and maintained a sidewalk and who have been charged with removing ice from said sidewalk shall use an ice melt mixture consisting of magnesium or calcium chloride or any other ice salt blend which has been approved by the superintendent of public works in advance for usage on the subject sidewalks. The use of rock salt to remove ice from any of the subject sidewalks located on the "Downtown Square" is expressly prohibited.

For purposes of this Ordinance, the "Downtown Square" shall be defined as any parcel of real estate bearing a physical address within the following boundaries:

- The portion of N01th Center Street running North of West Howard Street and Oak Street and

ending at East Main Street and West Main Street. (Ord. 2022-17; 12/12/22)

## **ARTICLE II. CONSTRUCTION AND EXCAVATIONS<sup>2</sup>**

### **DIVISION I. GENERALLY**

#### **Sec. 15-28. Barricades and Lighting.**

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

#### **Sec. 15-29. Disturbing Barricades; Warning Lights.**

It shall be unlawful to disturb or interfere with any barricade or lights lawfully placed to protect or mark any new pavement, excavation or opening in any public street, alley or sidewalk.

#### **Sec. 15-30. Sidewalk Construction to be Paid by Property Owners; Responsibility for Repairs.**

The cost of the construction of all new sidewalks in the Village shall be paid by the owners of the property abutting the new sidewalk.

#### **Sec. 15-31. Responsibility for Repairs of Sidewalks.**

Whenever any existing sidewalk is willfully or negligently injured by any person, the cost of repairing the sidewalk shall be paid by said person.

#### **Sec. 15-32 - 15-199. Reserved.**

### **DIVISION II. ALTERATIONS AND WORK ON PUBLIC ROADS AND PROPERTY.**

#### **Sec. 15-200. Definitions.**

**Person** means any person, persons, firm, corporation, or any organization or concern.

#### **Sec. 15-201. Permit Required.**

It shall be unlawful for any person, except a public utility which has by ordinance or agreement been authorized by the Village to maintain its public utility facilities within the Village, to make any excavation or

alteration in or across, or to tunnel under any curb, gutter or street or any Village property or property to which the Village possesses right of way without first having secured a permit therefore from the Superintendent of Public Works.

**Sec. 15-201a. Notice Required.**

All persons and organizations shall, at least 48 hours prior to commencement of construction or repair of roads, roadways, curbs, gutters, public water, lighting or sewer systems or of any other public infrastructure within the Village of Durand or of construction or repair work on or within any property over or within which the Village of Durand shall have an easement or right of way, notify the Durand Superintendent of Public Works in order to arrange for appropriate construction inspection and approval. In addition to all other approvals and permits that may be required, the inspection and approval of the Village Engineer shall be required. The Superintendent of Public Works shall, at his discretion upon receipt of the aforesaid notice, immediately notify the Village Engineer to arrange for his inspection and approval. Work performed or materials and equipment installed without all required inspections and approvals including that of the Village Engineer may be considered unacceptable at the discretion of the Village Engineer, and may have to be replaced at no cost to the Village Engineer or the Village of Durand. (Ord. 1999-12; 08/99)

**Sec. 15-202. Application.**

The application for a permit required by this Ordinance shall be filed with the Village Clerk. The application shall state the name of the applicant, where he resides, on whose behalf the work is to be done, the nature of the work that is desired to be done, and the reason therefore, the size, type, and location of the street surface or other improvement to be injured or altered and the exact location where the work is to be done. The application shall be under oath, sworn to before a Notary Public and signed by the applicant and said application shall contain a statement that the applicant agrees that if he shall injure or alter for any purpose whatsoever any pavement of any street, alley, sidewalk, curb or gutter or any part thereof, or dig any hole, trench, ditch or drain, or dig or remove any sod, stone, curb, earth, sand or gravel from any street, alley, sidewalk, parkway or other public property, that he shall be responsible and liable to the Village for damages to persons or property in consequence thereof which the Village shall suffer or be adjudged to pay. It shall further contain a statement that the applicant shall pay all damages to the street surface or improvement that may arise due to operations of the applicant or any person on behalf of the applicant and applicant agrees to pay all damages that may be recovered against the Village to any person or property occasioned by or in any manner resulting from the operations of applicant or any person on behalf of the applicant on public property.

**Sec. 15-203. Bond Requirements; Conditions.**

If the Superintendent of Public Works find the permit requested should be issued, the applicant shall be required to enter into a bond of not less than one hundred and fifty per cent (150%) of the cost of the project as determined by the Superintendent of Public Works with corporate sureties furnished by a reputable surety company as approved by the Superintendent of Public Works, conditioned that the applicant will do the work for which he has applied for a permit in a proper and workmanlike manner and in accordance with the specifications set forth; that the applicant will pay all damages to the street surface or improvement that may arise due to operations of the applicant or any person on behalf of the applicant and that the applicant will pay all damages that may be recovered against the Village to any person or property occasioned by or in any manner resulting from the operations of the applicant or any person on behalf of the applicant on public property. Said bond shall be effective for a duration of one (1) year after the date applicant has ceased his

operations.

**Sec. 15-204. Permit Fee.**

The permit fee shall be fifty dollars (\$50.00).

**Sec. 15-205. Specifications; Restoration.**

Any person doing any work or having work performed by another pursuant to a permit shall promptly restore any street surface or other property which may be injured or damaged in any manner. Street surfaces so injured shall be restored by a reputable contractor, firm or individual in accordance with the following specifications:

- a. All dirt and rubble shall be removed from the excavation site. The Village Superintendent of Public Works, or such officer or agent as may be designated from time to time by the Village, shall be notified prior to restoration of the injured street surface so that an on-site inspection may take place during the restoration process.
- b. Permanent and semi-permanent street surfaces shall be repaired to their original condition by the person doing the work. Where the excavation is within the surface area of any street, it shall be backfilled by using sand or stone screenings in layers not less than six (6) inches in depth. Each layer shall be thoroughly compacted by tamping by the use of ramming tools or hand tampers. The final layer of road repair shall be not less than six (6) inches of CA2 crushed road stone or equivalent plus not less than six (6) inches of CA6 crushed road stone or equivalent for a total of not less than twelve (12) inches of crushed road stone and compacted utilizing the above methods. Four (4) to six (6) weeks shall be allowed for settling before finishing or such other time as may be directed by the Superintendent of Public Works or such other officer or agent as may be designated from time to time by the Village. (Ord. No. 1999-5; 05/1999)
- c. If the surface of the street is concrete, the surface shall be replaced by using concrete, which meets state specifications and is equal in thickness to the original surface and finished in a manner similar and equal to the original surface. If the original surface was of a bituminous nature, the surface shall be repaired by using bituminous patching mixture, which meets state specifications, for a thickness of two (2) inches or the thickness of the original surface, whichever is greater. The bituminous patching material shall be smoothed and rolled until thoroughly compacted to the line and grade of the original surface.
- d. Any gravel or crushed stone surface shall be backfilled as described previously in this section and the street surface repaired by using the same type of surfacing material to a depth equal to the original street surface.

**Sec. 15-206. Penalties.**

Any person, persons, corporation, firm, or any organization or concern who shall intentionally injure any road, highway, or public property of the Village of Durand, without first securing a permit as required above, shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and each and every day such work continues shall constitute a new and separate offense. Failure to restore the road, highway, or public property to the original condition as provided by this Ordinance, shall subject the offender

to a penalty not to exceed one hundred dollars (\$100.00) for each and every day such failure continues after written notice by or on behalf of the Superintendent of Public Works or the Village Clerk or the Village of Durand.

**Sec. 15-207 - 15-299 Reserved.**

**DIVISION 3. DRIVEWAY CONSTRUCTION AND MAINTENANCE.**

**Sec. 15-300. Permit Required.**

No person shall hereafter construct, reconstruct, build, establish or maintain a driveway over, across or upon any portion of the public walk or public parkway right of way without first having obtained a written permit to do so from the Superintendent of Public Works. No permit shall be issued for construction or establishment of any such driveway except in accordance with the provisions herein contained.

Applicants are entitled to a driveway permit only if:

- a. The driveway will not create undue safety hazard;
- b. It will not impede safe and efficient flow of traffic;
- c. It does and will conform in all respects to existing traffic, zoning and building provisions.
- d. Engineering guidelines, restrictions and/or requirements, established for any street or other project that would be affected by construction of the driveway for which a permit is or should be sought, will not be violated, unless, for good cause shown, an exception is approved by the Village Engineer or the Village Board of Trustees.

Applications for permit must be made in writing and filed with the Village Clerk upon forms furnished by the Village. Said application shall contain the name and address of the person making the application, the name of the contractor or person who is to construct said driveway and the proposed location and dimensions of such driveway. Complete plans and specifications shall be filed with the Village Clerk at least forty-eight (48) hours before permit shall be issued.

**Sec. 15-301. Supervision.**

All such work shall be done under the jurisdiction of the Superintendent of Public Works and in accordance with the ordinances of the Village and shall be inspected upon completion by the constituted members of such Department.

**Sec. 15-302. Specifications.**

All plans and specification must conform to the following minimum requirements before permit for construction or reconstruction shall be permitted:

- a. Driveway for other than residential or dwelling house use shall be constructed of Portland cement concrete with a minimum test factor of three thousand pounds per square inch (3,000 P.S.I.) and at

least six inches (6")) in thickness or two and one-half inches (2 1/2") of asphalt with six-inch (6") gravel base.

- b. Driveway for residential or dwelling house use shall be constructed in a manner and of material equal at least to that existing for the paving of the public street adjacent thereto, except where concrete pavement exists in the public street and bituminous surface is desired for the driveway. Such surface shall be permitted provided it shall have a minimum depth of two inches (2") without any loose material on top and has a base of water bound macadam at least six inches (6") thick, and provided that a Portland cement concrete apron with a minimum test factor of three thousand pounds per square inch (3,000 P.S.I.) and not less than three feet (3') in width be constructed between the existing concrete pavement and the proposed bituminous driveway surface.
- c. Where a driveway of any kind of material is constructed across the sidewalk space, it shall conform to the sidewalk grade as established by the Village Engineer or the Village Board of Trustees.
- d. Where a driveway of any kind of material is constructed across an existing sidewalk, said sidewalk shall be removed and replaced with Portland cement concrete with a minimum test factor of three thousand pounds per square inch (3,000 P.S.I.) for the full width of the driveway and for a distance of at least twelve inches (12") on both sides of said walk. This portion shall be no less than six inches (6") thickness.
- e. Macadam, gravel, cinder, and other types of driveways where permitted herein shall be not less than six inches (6") thick, compacted depth.
- f. Where paving in the public street is of concrete, and a concrete driveway is constructed, a one inch (1") bituminous pre-molded expansion joint with load transmission unit shall be placed approximately three feet (3') from the edge of the said concrete paving and normal to the center line of the driveway.
- g. The width of the driveway for other than residential or dwelling house shall not exceed thirty feet (30') at the property line. Where two (2) or more adjoining driveways are provided for the same property, a safety island of not less than twenty feet (20') at the property line shall be provided. Not more than two (2) such driveways shall be allowed to any one owner for any one piece of property on any one street for each one hundred feet (100') of continuous frontage thereof. The Village Board of Trustees reserves the right to waive the width requirement.
- h. The width of the driveways for residential or dwelling house shall not be less than ten feet (10') nor more than thirty feet (30') at the property line. The Village Board of Trustees reserves the right to waive the width requirement.
- i. The width of the driveway opening at the curb line or edge of street pavement shall not exceed the width of the driveway at the inner or property edge plus twenty feet (20'), nor be less than the width of the driveway at the property line plus ten feet (10'). In no instance should the radius be less than three feet (3') at curb corners, and this only when the driveway is flared; or more than ten feet (10') when the driveway is at right angles to the street line. The centerline of all driveways must be approximately at right angles to the centerline of the pavement in the public street for a distance of at least ten feet (10') from curb line or edge of street pavement.
- j. All driveways shall be so graded between the street and the sidewalk that it will not be necessary to

change the established grade of either and will not elevate or depress any portion of either. No part of said driveway shall extend beyond the curb line or edge of street pavement in such a manner as to change the grade of said street or obstruct the free flow of water in any gutter. Where elevations or depressions are necessary in the parkway strip between the curb and walk, said parkway shall be graded on both sides of the driveway to a distance sufficient to create a gradual ascent or descent.

- k. Where curbs exist, combined curb and gutter and separate curbing shall be entirely removed for the full width of the driveway opening at the curb line or as directed by the Superintendent of Public Works. If an existing joint in said curb is within five feet (5') of the end of the driveway opening, remove the existing curbing to said joint, otherwise cut said combined curb and gutter or separate curbing, making a neat edge truly at right angles to the edge of the pavement and truly vertical. Integral curbing, which is that type placed with the pavement and molded as an integral part of it, must be removed for the full depth from the top curb to the bottom of the pavement. The edge must be cut as above described. No combined curb and gutter, straight curb or integral curb shall be removed within five feet (5') of a public crosswalk.
- l. Where driveways cross open ditches in the parkways, culverts shall be installed. Said culverts shall be of such size and length and shall be constructed of such material as determined by the Superintendent of Public Works, depending on the conditions existing. In no instance shall the size of opening be less than that obtained by a twelve-inch (12") diameter pipe.
- m. Where existing catch basin is in the area of the proposed driveway, the tops shall be removed and turned into the Village. A heavier cover shall be furnished and set by the Superintendent of Public Works, and the additional cost thereof shall be paid by the contractor.
- n. Where storm sewer inlet is in the area of the proposed driveway, the tops shall be removed and replaced with a manhole top with perforated lid. Said top shall be set by the Superintendent of Public Works, and the additional cost thereof shall be paid by the contractor.
- o. Where any existing utility shutoff or control valve, fire hydrant or utility pole is in the area of the proposed driveway, such changes or relocations must be arranged with the utility or fire department involved as may be required by said utility or fire department, and the additional cost thereof shall be paid by the contractor.
- p. All driveways constructed or reconstructed over, across or upon any public street, public parkway, or public right of way in the Village shall be kept and maintained at all times in accordance with the provisions hereof by the persons so constructing, reconstructing or using the same as an adjunct or appurtenance to lands or properties immediately adjacent thereto.

#### **Sec.15-303. Permit Fee.**

The permit fee shall be twenty dollars (\$20.00).

#### **Sec. 15-304. Penalties.**

Any person, persons, corporation, firm or any organization or concern who shall violate any provision of this ordinance shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and each and every day such violation continues shall constitute a new and separate offense.



**Sec. 15-305 - 15-399. Reserved.**

#### **DIVISION 4. UNOBSTRUCTED VIEW AT INTERSECTIONS**

**Sec. 15-400. Sight Clear Distance.**

On any corner lot, within one-half of the right-of-way width from the intersection of the nearest right-of-way lines, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of three (3) feet and ten (10) feet above the plane surface formed by the center line grades of the intersecting streets.

**Sec. 15-401. Penalties.**

Any person violating or disobeying this Ordinance shall be fined upon conviction not less than \$10.00 nor more than \$100.00 for each offense with the fine to be recovered in the manner and form as provided by law. A separate offense shall be deemed committed upon each day during or on which the violation of this Ordinance occurs or continues.

**Sec. 15-402 - 15-499. Reserved.**

#### **DIVISION 5. REGULATE ENCROACHMENT -RIGHT-OF-WAY**

**Sec. 15-500. Definitions.**

- a. **Roadway Right-of-Way** is defined as those areas existing or acquired by dedication or by fee simple for highway purposes; also, the areas acquired by temporary mow during the time the easement is in effect.
- b. **Encroachment** is defined as any building, fence, sign, or any other structure or object of any kind (with the exception of utilities and public road signs), which is placed, located or maintained in, on or over any portion of the roadway right-of-way.

**Sec. 15-501. Encroachment Prohibited.**

It shall be unlawful for any person, firm or corporation to erect or cause to be erected, to retain or cause to be retained, an encroachment (*herein above defined*), within the limits of any roadway right-of-way within the corporate limits of the Village of Durand.

**Sec. 15-502. Intent.**

This Article is intended to and shall be in addition to all other ordinances, rules and regulations concerning encroachments and shall not be construed as repealing or rescinding any other ordinance or part of any ordinance unless in direct conflict therewith.

**Sec. 15-503. Penalty.**

Any person, firm or corporation violating this Article shall be fined not less than \$100.00 nor more than \$500.00 for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists.

**Sec. 15-504 - 15-599. Reserved.**

**DIVISION 6. PROHIBIT CONNECTION OF SANITARY OR INDUSTRIAL WASTE SEWER TO STORM WATER DRAINAGE SYSTEMS**

**Sec. 15-600. Prohibited.**

It shall be unlawful for any person, firm or corporation to connect or cause to be connected, any drain carrying, or to carry, any toilet, sink, basement, septic tank, cesspool, industrial waste, or any fixture or device discharging polluting substances, to any storm water drain in the Village of Durand.

**Sec. 15-601. Penalty.**

Any person, firm or corporation violating this Article shall be fined not less than \$100.00 nor more than \$500.00 for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists.

<sup>1</sup>*Cross references - Department of public works, 2-126 et seq.; use of streets in construction operations, 7-15; use of sidewalks in construction operations, 7-16; motor vehicles and traffic, Ch. 11.*

*State law reference - General power of Village over streets and public ways, Ill. Rev. Stat. Ch. 24, 11-80-1.*

<sup>2</sup>*Cross reference - Care to be taken to avoid injury to roots of trees and shrubs when making excavations, 17-19.*

## CHAPTER 16

### TAXATION

| Article |                           | <i>-thru-</i> |       |
|---------|---------------------------|---------------|-------|
|         | Reserved                  | 16-1          | 16-15 |
| II      | Retailer's Occupation Tax | 16-16         | 16-28 |
| III     | Service Occupation Tax    | 16-29         | 16-31 |

### ARTICLE I. RESERVED

#### **Sec. 16-1. Municipal Automobile Renting Occupation Tax.**

Section 1. A tax is hereby imposed upon all persons engaged in the business of renting automobiles in the Village at the rate of one percent of the gross receipts from such rentals made in the course of such business while this ordinance is in effect, in accordance with the provisions of Section 8-11-7 of the Illinois Municipal Code.

Section 2. Every such person engaged in such business in the Village shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Sections Two and Three of "An Act in Relation to a Tax upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption" approved June 29, 1993, as amended.

Section 3. At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the renting of automobiles during the preceding month.

Section 4. The Village Clerk is hereby directed to transmit to the State Department of Revenue a certified copy of this ordinance not later than five days after the effective date of this ordinance.

Section 5. This ordinance shall be effective on the first day of the calendar month next following publication as provided in Municipal Code Section 1-2-4. Certified proof of publication shall be forwarded to the Illinois Department of Revenue along with the certified copy of this ordinance as required by Section 4.

#### **Sec. 16-2. Municipal Automobile Renting Use Tax.**

Section 1. A tax is hereby imposed upon the privilege of using in this Village an automobile which is rented from a renter outside Illinois and which is titled or registered with an agency of this State's government in this Village at the rate of one percent of the rental price of such automobile while this ordinance is in effect, in accordance with the provisions of Section 8-11-8 of the Illinois Municipal Code.

Section 2. The tax provided for in this ordinance shall be collected from the persons whose Illinois address for titling or registration purposes is given as being in this Village.

Section 3. The tax imposed by this ordinance shall be paid to the Illinois Department of Revenue.

Section 4. The Village Clerk is hereby directed to transmit to the State Department of Revenue a certified copy of this ordinance not later than five days after the effective date of this ordinance.

Section 5. This ordinance shall be effective on the first day of the second calendar month next following publication as provided in the Municipal Code Section 1-2-4. Certified proof of publication shall be forwarded to the Illinois Department of Revenue along with the certified copy of this ordinance required by Section 4.

**Sec. 16-3 - 16-15. Reserved.**

## **ARTICLE II. RETAILER'S OCCUPATION TAX\***

### **Sec. 16-16. Imposed; Taxable Basis; Rate.**

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in the Village at the rate of one (1) per cent of the gross receipts from such sales made in the course of the business.

### **Sec. 16-17. Tax Returns to be Made to the State; Due Date.**

Every person engaged in the business of selling tangible personal property in the Village shall file on or before the last day of each calendar month, the report to the state department of revenue required by state law.

*State law reference - Authority of Village to impose retailer's occupation tax and procedure for collection, Ill. Rev. Stat. Ch. 120, 442.*

### **Sec. 16-18. Tax to be Remitted to State.**

At the time the monthly report is filed, there shall be paid to the state department of revenue the amount of tax imposed by the Village on account of the receipts from sales of tangible personal property during the preceding month.

**Sec. 16-19 - 16-26. Reserved.**

## **ARTICLE III. Municipal Cannabis Retailers' Occupation Tax \***

### **Sec. 16-27. Tax imposed; Rate.**

- a. A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the City/Village at the rate of 2.75% of the gross receipts from these sales made in the course of that business.

- b. The imposition of this tax is in accordance with the provisions of Sections 8-11- 22, of the Illinois Municipal Code (65 ILCS 5/8-11-22). (Ord. No 2019-14; 09/23/19)

**Sec. 16-28. Collection of tax by retailers.**

- a. The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.
- b. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article. (Ord. No 2019-14; 9/23/19)

**Sec. 16-29 Reserved.**

**Sec. 16-30. Monthly Return to be Made to State; Due Date.**

Every supplier or serviceman required to account for the municipal service occupation tax for the benefit of the Village shall file, on or before the last day of each calendar month, the report to the state department of revenue required by state law.

**Sec. 16-31. Tax to be Remitted to State.**

At the time the report required by this article is filed, there shall be paid to the state department of revenue the amount of tax hereby imposed.

*State law reference - Authority of Village to impose service occupation tax and procedure generally, Ill. Rev. Stat. Ch. 24, 8-11-5.*

**Sec. 16-32. Use Tax.**

A tax is hereby imposed in accordance with the provisions of Section 8-11-6 of the Illinois Municipal Code upon the privilege of using in the municipality any item of tangible personal property which is purchased outside Illinois at retail from a retailer, and which is titled or registered with an agency of Illinois government. The tax shall be at a rate of 1% of the selling price of such tangible property with selling price to have the meaning as defined in the Use Tax Act, approved July 14, 1955.

**Sec. 16-33. Collection.**

Such tax shall be collected by the Illinois Department of Revenue for all municipalities imposing the tax and shall be paid before the title or certificate of registration for the personal property is issued.

## ARTICLE IV. Service Occupation Tax

### Sec. 16-34. Imposed, Basis, Rate.

Section 1. A tax is imposed on all persons engaged in the following occupations or privileges:

- a. Persons engaged in the business of transmitting messages by means of electricity, at the rate of 3.5% of the gross receipts from such business originating within the corporate limits of Durand, Illinois.
- b. Pursuant to 65 ILCS 5/8-11-2, the rates set forth in subsection (a) above shall be effective:
  - a. On August 1, 1998 for residential customers; and
  - b. On the earlier of
    - i. The first bill issued on or after January 1, 2001, or
    - ii. The date of the first bill issued pursuant to 220 ILCS 5/16-104, for nonresidential customers. **(Ord. No 1998-8; 08/10/98)**
- c. Persons engaged in the business of distributing, supplying, furnishing, or selling electricity for use or consumption within the corporate limits of Durand, Illinois, and not for resale, at the rate of 3.5% of the gross receipts therefrom.

Section 2. No tax is imposed by this ordinance with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the constitution and statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of transmitting messages be subject to taxation under the provisions of this ordinance for such transactions as are or may become subject to taxation under the provisions of "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the "Illinois Municipal Code".

Section 3. Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or there under of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

Section 4. For the purposes of this ordinance the following definitions shall apply:

- a. **Gross Receipts** means the consideration received for the transmission of messages, or for distributing, supplying, furnishing or selling gas or electricity for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of transmitting said messages without any deduction on account

of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever.

- b. **Transmitting Messages**, in addition to the usual and popular meaning of person to person communication, shall include the furnishing, for a consideration, of services or facilities (whether owned or leased), or both, to persons in connection with the transmission of messages where such persons do not, in turn, receive any consideration in connection therewith, but shall not include such furnishing of services or facilities to persons for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration, by such persons to other persons, for the transmission of messages.
- c. **Person** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or a representative appointed by order of any court.

Section 5. This ordinance shall take effect after publication and the tax provided for herein shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the 1st day of July, 1993.

Section 6. On or before the last day of August, 1993, each taxpayer shall make a return to the Village Treasurer for the month of July, 1993, stating:

- a. His name;
- b. His principal place of business;
- c. His gross receipts during these months upon the basis of which the tax is imposed;
- d. Amount of tax;
- e. Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every month thereafter, each taxpayer shall make a like return to the Village Treasurer for a corresponding period.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village Treasurer, the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

Section 7. If it shall appear that an amount of tax has been paid which was not due under the provisions of this ordinance, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this ordinance from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefore shall be so credited.

Section 8. No action to recover any amount of tax due under the provisions of this ordinance shall be

commenced more than three (3) years after the due date of such amount.

Section 9. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provisions of this ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than two hundred dollars (\$200.00) no more than five hundred dollars (\$500.00) and in addition shall be liable in a civil action for the amount of tax due.

Section 10. Upon passage of this ordinance, the Village Clerk shall send a copy of this ordinance to all prospective taxpayers transacting business in the municipality. Furthermore, upon adoption of any annexation agreement or ordinance, the Village Clerk shall likewise send a copy of such agreement or ordinance to known taxpayers under this ordinance.

#### **Sec. 16-35. Electricity Tax.**

A. A tax is imposed on all persons engaged in the following occupations or privileges;

The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:

1. For the first 2,000 kilowatt-hours used or consumed in a month; 0.379 cents per kilowatt-hour;
2. For the next 48,000 kilowatt-hours used or consumed in a month; 0.248 cents per kilowatt-hour;
3. For the next 50,000 kilowatt-hours used or consumed in a month; 0.223 cents per kilowatt-hour;
4. For the next 400,000 kilowatt-hours or consumed in a month; 0.217 cents per kilowatt-hour;
5. For the next 500,000 kilowatt-hours used or consumed in a month; 0.211 cents per kilowatt-hour;
6. For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.199 cents per kilowatt hour;
7. For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.196 cents per kilowatt-hour;
8. For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.192 cents per kilowatt-hour;
9. For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.189 cents per kilowatt-hour;



10. For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.186 cents per kilowatt-hour. (Ord. 1998-5; 6/22/98)
- B. Pursuant to 65 ILCS 5/8-11-2, the rates set forth in subsection (a) above shall be effective: (A) on August 1, 1998 for residential customers; and (B) on the earlier of (1) the first bill issued pursuant to 220 ILCS 5/16-104, for nonresidential customers. (Ord. 1998-8; 08/10/98)
- C. Pursuant to 65 ILCS 5/8-11-2, Article IV Section 16-34 of the Village of Durand Municipal Code (commonly known as the Gross Receipts Utility Tax) shall specifically remain in effect:
- a. For receipts attributable to residential customers, until July 31, 1998; and
  - b. For receipts attributable to nonresidential customers, the earlier of
    - i. Through the last bill issued prior to December 31, 2000, or
    - ii. The date of the first bill issued to such nonresidential customer pursuant to 220 ILCS 5/16-104.
- D. The provisions of this amended Section 16-35 shall not be effective until August 1, 1998.

**Sec. 16-36. Exceptions.**

a. None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the constitution and statutes of the United States, be made the subject of taxation by this State or any political sub-division thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the Municipal Retailers' Occupation Tax Act as authorized by 65 ILCS 5/8-11-1; nor shall any tax authorized by this Article be imposed upon any person engaged in a businesses or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the municipality, whether privately or municipally owned or operated, or exercising the same privilege within the municipality.

**Sec. 16-37. Additional Taxes.**

Such tax shall be in addition to other taxes levied upon the taxpayer or its business. (Ord. 1998-5; 6/22/98)

**Sec. 16-38. Collection.**

The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering the electricity shall constitute a debt owed to the municipality by such person delivering the electricity, provided that the person delivering electricity shall be allowed a credit for such tax related to deliveries of electricity the charges for which are written off as un-

collectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering the electricity shall also be authorized to add such gross charge an amount equal to 3% of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality in the manner prescribed by the municipality. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to this Article. (Ord. 1998-8; 8/10/98)

**Sec. 16-39. Reports to Municipality.**

On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article to a person delivering electricity as set forth in Section 16-38 and who is not otherwise exempted from paying such tax shall make a return to the city Treasurer for the preceding month stating:

- a. His name.
- b. His principal place of business.
- c. His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- d. Amount of tax.
- e. Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village of Durand, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and taxable gross receipts.

**Sec. 16-40. Credit for Over-Payment.**

If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the Taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefore shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than (3) years after the due date of such amount. (Ord. 1998-5; 6/22/98)

**Sec. 16-41 Penalty.**

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any

other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) in addition, shall be liable in a civil action for the amount of tax due. (See 65 ILCS 5/8-11-2)

Section Two: In the event that Public Act 90-561 is declared unconstitutional, or is Section 16-34 of Article IV created by this Amendatory Ordinance is voided by court action, the provisions of Article IV, Section 16-34 of the Municipal Code of the Village of Durand as it previously existed prior to this Amendatory Ordinance (commonly known as the Gross Receipts Utility Tax) shall remain in effect in all respects as if it had never been amended by this ordinance, and any amounts paid to the Village by any person delivering electricity pursuant to this Amendatory Ordinance shall be deemed to have been paid pursuant to the Gross Receipts Utility Tax as it existed prior to the passage of this Amendatory Ordinance.

Section Three: The Village Clerk is authorized to publish this ordinance as provided by law.

Section Four: This ordinance shall become effective ten days after the date of its publication.

Section Five: Except as provided herein, the Municipal Code of the Village of Durand shall remain in full force and effect. **(Ord. 1998-5; 6/22/98)**

## **ARTICLE V. Municipal Utility Tax**

## CHAPTER 17

### VEGETATION

| Article |                                   | -thru- |       |
|---------|-----------------------------------|--------|-------|
|         | In General                        | 17-1   | 17-15 |
| II      | Trees & Shrubs                    | 17-16  | 17-29 |
|         | Div. I: Generally                 | 17-16  | 17-26 |
| IV      | Div II: Planting in Public Places | 17-27  | 17-29 |

## ARTICLE I. IN GENERAL

### Sec. 17-1. Certain Weeds Prohibited; Declared a Nuisance.

Any weeds such as Jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind, found growing in any lot or tract of land in the Village are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain on any such place.

### Sec. 17-2. Excessive Height of Weeds, Plants and Grass Prohibited and Declared a Nuisance.

It shall be unlawful for any person to permit any weeds, grass or plants other than trees, bushes, flowers or other ornamental plants to grow to a height exceeding six (6) inches anywhere in the Village. Any such plants or weeds exceeding such height are hereby declared to be a nuisance. (Ord. 2006-4; 6/26/06)

### Sec. 17-3. Barberry Bushes Prohibited; Declared a Nuisance.

It shall be unlawful and is hereby declared a nuisance for any person to plant or permit the growth of the bush of the tall, common or European barberry, further known as Berberis Vulgaris or its horticultural varieties, within the Village.

### Sec. 17-4. Notice to Abate Unlawful Weeds and Plants.

It shall be the duty of the health officer or official appointed by the Village President and approved by the Board of trustees to serve or cause to be served notice upon the person to whom was sent the tax bill for the general taxes on the property for the last preceding year of any premises on which weeds, grass or plants are permitted to grow in violation of the provisions of this article, and to demand the abatement of the nuisance within five (5) days. (Ord. 2006-4; 6/26/06)

### Sec. 17-5. Abatement by Village; Charges; Lien.

If the person served with a notice pursuant to this article does not abate the nuisance within five (5) days after receiving the notice, the health officer may proceed to abate the nuisance. Notice may be served personally or by regular first-class mail, postage prepaid, addressed to the persons to whom was sent the tax bill for the general taxes on the property for the last preceding year. Notice served by regular mail will be

deemed to have been received on the second day after being mailed. After the village mows each lot, the health officer shall again serve notice upon the person to whom was sent the tax bill for the general taxes on the property for the last preceding year stating the substance of the foregoing sections and informing him of the charge for mowing each such lot. This notice served subsequent to the lot being mowed shall be served personally upon, or sent by certified mail to, the person to whom was sent the tax bill for the general taxes on the property for the last preceding year. Each lot mowed by the village or its agents shall be charged a sum of not less than Two Hundred Fifty (\$250.00) Dollars but not more than Seven Hundred Fifty (\$750.00) Dollars per lot and the charge shall be a lien on the premises until paid." (Ord. 2022-15; 10/24/22)

*State law reference - Authority of Village to provide for destruction of weeds at the expense of the owner of the property upon which the weeds are growing, 65 ILCS 5/11-20-7.*

**Sec. 17-6 - 17-15. Reserved.**

## **ARTICLE II. TREES AND SHRUBS**

### **DIVISION 1. GENERALLY**

#### **Sec. 17-16. Injuring Trees Generally.**

It shall be unlawful for any person to injure any tree or shrub planted or growing in any public place.

#### **Sec. 17-17. Injury of Trees by Wires and Poles.**

- a. It shall be unlawful for any person to attach any wire or rope to any tree or shrub in any public street, parkway or other public place without the permission of the Board of trustees.
- b. Any person or company which maintains poles or wires in the streets, alleys or other public places of the Village shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles away from any trees and shrubs in such places so far as may be possible.

#### **Sec. 17-18. Gas Leaks.**

Any person maintaining any gas pipe in the Village shall keep the gas pipes free from leaks so that no injury shall be done thereby to any trees or shrubs.

#### **Sec. 17-19. Care to be Taken to Avoid Injury When Making Excavations.**

In making excavations in streets or other public places proper care shall be taken to avoid injury, if possible, to the roots of any tree or shrub.

#### **Sec. 17-20. Removal from Public Property: Permit Required; Issuance.**

It shall be unlawful to remove or cut down any tree or shrub in any such public place without having

secured a permit therefore. Applications for such permits shall be made to the Village Clerk and shall be referred to the Board of Trustees before issuance.

*Cross-reference - Permits generally, 10-1 et seq.*

**Sec. 17-21. Duty to Trim or Remove Dangerous Tree; Trimming and Removal by Village; Lien.**

- a. Any tree or shrub which overhangs any sidewalk, street or other public place in the Village in such a way as to impede or interfere with traffic or travel shall be trimmed by the owner of the abutting premises or of the premises on which such tree or shrub grows so that the obstruction shall cease.
- b. Any tree or limb of a tree which has become likely to fall on or across any public place or way by reason of disease, age or any other reason shall be removed by the owner of the premises on which such tree grows or stands.
- c. Upon failure of the owner of any premises to comply with this section, the superintendent of public works may trim any such tree or shrub or remove any such tree or branch thereof so that the obstruction or danger to traffic or passage shall be eliminated. He shall keep an account of the expense of the same and such expense shall be charged to the owner of the premises and shall be a lien on the premises until paid.

**Sec. 17-22. Private Plantings.**

Private plantings shall be kept trimmed by the adjacent property owner so that no stems, leaves, or other parts of a plant or vegetation lay upon, across, or extend over a public sidewalk, curb, right-of-way, or edge of pavement. For purposes of the Section, the placement of plantings and shrubs shall be at the sole risk and expense of the adjacent private property owner of the premises whose property fronts the right-of-way where such plantings are located. (Ord. 2018-17; 10/22/18)

**Sec. 17-23. Proximity of Trees to Property Line.**

Trees, plants, and any form of shrubbery three (3) feet in height and under shall not be planted within two (2) feet of any property line. Trees, plants, and any form of shrubbery more than three (3) feet in height shall not be planted within ten (10) feet of any property line. (Ord. 2019-8; 7/8/19)

**17-24 – 17-36. Reserved.**

**DIVISION 2. PLANTING IN PUBLIC PLACES**

**Sec. 17-27. Permit Required.**

It shall be unlawful to plant any tree or bush in any public place, street or parkway without having secured a permit therefore.

*Cross-reference - Permits generally, 10-1 et seq.*

**Sec. 17-28. Application for Permit.**

Applications for a permit required by this article shall be made to the Village Clerk and shall be referred by him to the superintendent of public works before issuance.

**Sec. 17-29. Supervision of Planting Operations.**

All trees and shrubs planted in public places shall be placed subject to the directions and approval of the Superintendent of Public Works.

## **CHAPTER 18**

### **WATER AND SEWERS<sup>1</sup>**

|         |            |               |       |
|---------|------------|---------------|-------|
| Article |            | <i>-thru-</i> |       |
|         | In General | 18-1          | 18-18 |
| II      | Water      | 18-19         | 18-54 |

## **ARTICLE I. IN GENERAL**

### **Sec. 18-1. Office of Superintendent of Water and Sewers Created; Appointment.**

There is hereby established the office of Superintendent of Water and Sewers who shall be appointed by the Village President and Board of Trustees.

### **Sec. 18-2. Duties of Superintendent of Water and Sewers.**

The Superintendent of Water and Sewers shall have charge of the waterworks, the distribution system for water in the Village and the operation of the sanitary sewer system. He shall be responsible for the proper operation of the same; and he is hereby authorized to see to the enforcement of all provisions of this Code and other ordinances pertaining thereto. He shall work in conjunction with the Sanitary Sewer District where applicable.

### **Sec. 18-3. Privy Vaults Prohibited.**

It shall be unlawful to construct, erect or establish any privy vault in the Village.

### **Sec. 18-4. Sewer and Water Connection Charge.**

No person, other than those in the employ of the Village and under the direction of the Village, shall make any connection with any public sewer or public water pipe within the Village without a prior inspection and approval by the Superintendent of Water and Sewers. Anyone desiring to connect to any public sewer or public water pipe in the Village must make application stating where the sewer and water pipe connection is to be made, with reference to the lot lines, and the address of the premises to be served thereby, to the Superintendent of Water and Sewers. The charge for connecting to the Village sewer system shall be the sum of Two Thousand (\$2,000.00) Dollars, and the charge for connecting to the Village public water system shall be the sum of Two Thousand (\$2,000.00) Dollars and said sum(s) shall be paid for in cash at the time of application. **(Ord. 1998-2; 6/8/98)**

### **Sec. 18-5. Waiver of Fee.**

Notwithstanding the provisions of Sec. 18-4 of this Article, the connection fees are waived and need not be paid by anyone applying to connect any unimproved lot or lots that are within the city limits of the Village of Durand, Illinois to any sewer or public water main in the Village when said person has to run water and/or



sewer mains up to the said lot or lots. (Ord. 2018-5, 2/26/18)

**Sec. 18-6. – 18.17 Reserved.**

**Sec. 18-18. Use of Groundwater as a Potable Water Supply Prohibited (Repealed)**

(Ord. 2018-14; 8/22/22)

## ARTICLE II. WATER<sup>2</sup>

### DIVISION 1. GENERALLY

**Sec. 18-18. Use of Groundwater as a Potable Water Supply Prohibited.**

- a. *Use of groundwater as a potable water supply prohibited.* The use or attempt to use a potable water supply groundwater from within the corporate limits of the Village of Durand, as a potable water supply, by the installation or drilling of wells or by any other method is hereby prohibited. This prohibition does not include the Village of Durand.
- b. *Penalties.* Any person violating the provisions of this Ordinance shall be subject to a fine of up to \$1,000.00 per day for each continuing violation.
- c. *Definitions.* "Person" is an individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock, company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents, or assigns.

"Potable water" is any water used for human or domestic consumption, including but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods. (Ord. 2021-3; 2/8/21)

**Sec. 18-19. Obstructing and Polluting Watercourses and Stagnant Pools Prohibited and Declared a Nuisance.**

- a. It shall be unlawful and is hereby declared a nuisance for any person to obstruct or pollute any watercourse or source of water supply in the Village.
- b. Any stagnant pool of water in the Village is hereby declared to be a nuisance. It shall be unlawful for any person to permit any such nuisance to remain or exist on any property under his or its control.

**Sec. 18-20. Tampering with Water Meters, Property of Water System, Sanitary Sewer and Related Property.**

It shall be unlawful for any person not authorized by the Village to tamper with, alter or injure any part of the Village waterworks or supply system, any water meter, or any part of the sanitary sewer system, pumping stations or lagoon. Violators of this section shall be responsible for the cost of repairs or replacement thereof, including, but not limited to the cost of labor and materials. (Ord. 2013-5; 11/25/13) (Ord. 2013-6; 12/9/13)

**Sec. 18-21. Resale and Redistribution of Water Prohibited.**

No water shall be resold or redistributed by the recipient thereof from the Village supply to any premises other than that for which application has been made and the meter installed, except in case of emergency.

**Sec. 18-22. Water Use Restrictions.**

Restrictions on nonessential water use may be implemented by the Superintendent of Public Works, and/or the Superintendent of Water and Sewers, or his or their designee, and with the consent of the Village President, to protect the health and safety of Village resident's dependent on the system. Restricted nonessential uses include lawn watering/sprinkling, garden watering, car washing or any other uses deemed nonessential by the Superintendent of Public Works and/or Superintendent of Water and Sewers and the Village President. Implementation shall consist of notification to all television and radio stations located in the cities of Rockford, Illinois, Freeport, Illinois and Monroe, Wisconsin and to all newspapers located within the Village of Durand, Illinois and by posting notice at the Village Hall and the Sanitary System location for the Village of Durand, Illinois and shall be in effect and enforceable on the date of publication of notice by the said newspaper(s) or on the seventh day following posting of the notice as aforesaid, whichever occurs first. Violations of this Section are subject to a minimum of a \$50.00 per day fine and a maximum fine of \$500.00 per day. Additionally, the Village Attorney is hereby authorized to file suit to recover any and all overhead costs as determined by the Superintendent of Public Works and/or the Superintendent of Water and Sewers. Each day a violation of this Section continues constitutes a separate violation. (Ord. 2013-5, 11/25/13) (Ord. 2013-6, 12/6/13)

**Sec. 18-23 Watering/Sprinkling Regulations.**

a. It shall be unlawful for any person to water a lawn and/or garden at any time except that persons at odd numbered street addresses may water on odd numbered days of the month between the hours of 6 a.m. and 10 a.m., and 6 p.m. and 10 p.m. and persons at even-numbered street addresses may water on even-numbered days of the month between the hours of 6 a.m. and 10 a.m. and 6 p.m. and 10 p.m. (Ord. 2013-5, 11/25/13)

b. Violators of this Section are subject to a minimum of a \$50.00 per day fine and a maximum fine of \$500.00 per day. Each day a violation of this Section continues constitutes a separate violation. (Ord. 2003-9; 9/8/03) (Ord. 2013-5, 11/25/13) (Ord.2013-6, 12/9/13)

**Sec. 18-24 - 18-26. Reserved.**

**DIVISION 2. CONNECTIONS AND WATER SERVICE APPLICATIONS**

**Sec. 18-27. Superintendent of Water and Sewers to Turn on Water.**

No water from the Village water supply shall be turned on for service into any premises by any person other than the superintendent of water and sewers or some person authorized by him to perform this service.

**Sec. 18-28. Form of Application for Water Service.**

Applications to have water turned on shall be made in writing to the Village Clerk, and shall contain an agreement by the applicant to abide by and accept all of the provisions of this chapter as conditions governing the use of the Village water supply.

**Sec. 18-29. Water Turn-on and Turn-off Fees and Sewer Disconnect and Reconnect Fees.**

The fee for the turning on or off of water shall be Twenty-Five Dollars (\$25.00) The fee for disconnecting or reconnecting sewer service due to failure to pay the water/sewer component of the municipal services fee shall be Two Hundred Fifty Dollars (\$250.00). ([Ord. 2010-8; 8/23/10](#))

**Sec. 18-30. Deposit Required (Repealed).**

([Ord. 1987-5; 9/28/87](#))

**Sec. 18-31. Plumbing to Comply with Code Prior to Turning on Water.**

No water shall be turned on for service in premises in which the plumbing does not comply with this Code and other ordinances of the Village; however, water may be turned on for construction work in unfinished buildings, subject to the provisions of this chapter.

**Sec. 18-32. Permit Required and Notice to be Given Prior to Connection.**

No connections with a water main of the Village shall be made, without a permit being issued and twenty-four (24) hours' notice having been given to the superintendent of water and sewers.

*Cross-reference - Permits generally, 10-1 et seq.*

**Sec. 18-33. Installations to be Performed by and at Expense of Owner.**

All service pipes from the mains to the premises served and all connections shall be installed by and at the cost of the owner of the property to be served or the applicant for the service.

**Sec. 18-34. Supervision; Inspections.**

All connections and installations of service pipe shall be made under the supervision of the superintendent of water and sewers and no connections or pipes shall be covered until the work has been inspected by him.

**Sec. 18-35. Work to Conform to Specifications**

No service pipe shall be installed or connection made unless it conforms to specifications drawn up by the Village Board of trustees and approved thereby. A copy of the specifications shall be kept on file by the Village Clerk and shall be open to inspection by any person interested.

**Sec. 18-36. Manner of Making Excavations.**

Excavations for installing or repairing service pipes shall be made in compliance with the provisions of this Code relating to make excavations in streets. It shall be unlawful to place any service pipe in the same excavation with, or directly over, any drainpipe or sewer pipe.

**Sec. 18-37. Shutoff Boxes Required; Location.**

Shutoff boxes or service boxes shall be placed on every service pipe, and shall be located between the curb line and the sidewalk line where this is practicable. Such boxes shall be so located that they are easily accessible and shall be protected from frost.

**Sec. 18-38. Responsibility for Repairs and Right to Enter Premises. (Ord. 2017-2; 3/27/17)**

- a. All repairs for sewer service pipes and plumbing systems of buildings shall be made by and at the expense of the owners of the premises served; provided, however, that in the event repairs are made necessary by blockage, the owner's responsibility for repair shall extend only from the building to the main; if the repair is made necessary by a break in the service, the owner is responsible for repair to breaks located within the owner's property line; breaks located on property owned by the Village shall be repaired by the Village at Village expense.
- b. Responsibility for repairs to, and expenses therefore, water service shall be allocated as follows; the property owner shall be responsible for repairing the service from the building to the shutoff box; the Village shall be responsible for the shutoff box, and from the shutoff box to the main.
- c. The Village public works superintendent, the designated engineer, the meter reader, and other village assistants, agents and representatives shall have the right to enter and have free access at all reasonable hours to all premises to examine, repair, and/or replace meters and back-flow prevention devices and cross-connection control devices, and ascertain the location and usage of all hydrants, pipes, meter, or other fixtures attached to the Village waterworks system.

If such person...

1. Finds that water is being wasted or the integrity of the Village water system is being compromised in any way, on account of the negligence of the customer, occupant or owner of the premises or for want of repairs or failure to install any state or federal required equipment and if such actions are not remedied by the customer, occupant or owner of the premises within the timeframe specified by the Village; or
2. Is denied access to make such examination, repairs, or replacements; then services leading to such premises shall be disconnected from the Village water system after due notice is given pursuant to the procedure set for the below.
  - a. Prior to disconnecting water service to the premises, the public works superintendent or designee, upon direction from the Village President, shall send written notice to the customer and the owner of the premises that the water service will be disconnected if

- i. The Village is not given access to the premises; or
  - ii. If the actions causing the Village water system to be compromised are not remedied with fourteen (14) days from the date of the notice. Such notice shall include the date of disconnection. The disconnection shall not occur until at least ten calendar days after date of the notice.
- b. Such written notice shall be sent certified mail or may be delivered in person by a Village representative. If delivered in person, such disconnection notice may be left with a person over the age of 14. If mailed, such disconnection notice shall be mailed separately from the customary water bill.
- c. Upon receipt of a notice of disconnection, the owner of the premises, occupant and/or customer shall have the right to contest the termination of service. If the owner of the premises, occupant and/or customer desires to contest the termination of service, it must provide the Village public works superintendent with written notice of their desire to contest the termination of service within fourteen calendar days of the date of the disconnection notice. The Village public works superintendent shall then forward such request to contest the termination of service to the Village Board of Trustees.
- d. The Village Board of Trustees shall then conduct a hearing to consider and render a decision on the contest at any scheduled meeting of the Village Board of Trustees. Notice of this hearing date shall be mailed by certified mail, return receipt requested, to the owner of the premises, the local health department and the customer. If the Village Board of Trustees determines that disconnection is warranted, it shall specify in its decision
  - i. The date of disconnection unless the Village is given access to premises, or
  - ii. The actions causing water to be wasted or causing the Village water system to be compromised are remedied, prior to the date of disconnection.
- e. In addition to the other notices required under this Section, if, on the business day prior to the scheduled disconnection the Village has not been given access to premises, or
  - i. The actions causing water to be wasted or causing the Village water system to be compromised have not yet been remedied, a Village representative shall attempt to contact the property owner, occupant or customer by telephone, e-mail, or in person to announce the disconnection on the following business day. In the event the property owner, occupant, or customer cannot be contacted, the Village shall leave a notice at the premises by means of a door sticker that water service will be disconnected the next business day if the Village has not been given access to the premises, or

- ii. The actions causing water to be wasted or causing the Village water system to be compromised have not been remedied prior to disconnection.
  - f. On the day of the scheduled disconnection, upon arriving at the premises, the Village public works employees making the disconnection shall attempt to contact the occupant of the premises at the premises.
  - g. The Village public works department shall not disconnect water service at the meter after 12:00 p.m. unless they are able to reconnect the same day at the standard reconnection charge. The Village public works department shall not disconnect any water service on a holiday or weekend unless they are prepared to reconnect on that holiday or weekend day.
- d. In lieu of disconnection pursuant to subsection (c) above, if such person (1) finds that water is being wasted or the integrity of the Village water system is being compromised in any way, on account of the negligence of the customer, occupant or owner of the premises or for want of repairs or failure to install any state or federal required equipment and if such actions are not remedied by the customer, occupant or owner of the premises within the time frame specified by the Village, then the Village may declare the water waste to be a nuisance and assess a one-time fine and perform such repairs as needed to restore the integrity of the Village water system, with the cost of such repairs to be assessed to the customer, occupant or owner of the premises.
- a. Prior to deeming the activity, a nuisance, assessing a fine, and performing repairs to restore the integrity of the Village water system, the public works superintendent or designed, upon direction from the Village President, shall send written notice to the customer, and the owner of the premises
    - i. Outlining the repairs or equipment needed to remedy the water waste,
    - ii. Indicating the if the actions causing water to be wasted or causing the Village water system to be compromised are not remedied within fourteen (14) days, such actions shall be deemed a nuisance punishable by a one-time fine of not less than \$100.00 but no more than \$500.00, and
    - iii. Indicating the if the actions causing water to be wasted or causing the Village water system to be compromised are not remedied within fourteen (14) days, the Village reserves the right to perform any and all repairs deemed necessary, at its sole discretion, to abate the water waste, with the costs of such repairs being assessed to the owner, occupant, or customer on the following month's customary water bill.
  - b. Such written notice shall be sent certified mail or may be delivered in person by a Village representative. If delivered in person, such notice may be left with a person over the age of 14. If mailed, such notice shall be mailed separately from the customary water bill.
- e. The fee for reconnecting water which has been disconnected pursuant to this Section shall be \$50.00.

- f. Any reconnections to the Village water system shall occur between 8:00 a.m. and 3:00 p.m. Monday through Friday. The customer, owner of the premises, and/or occupant shall be charged and shall pay three times the normal connection fee stated in subsection (e) above should the reconnection occur at a time other than between 8:00 a.m. and 3:00 p.m. Monday through Friday. (Ordinance 2017-2; 3/27/17)

**Sec. 18-39. Notice of Approval of Final Plumbing Inspection Required.**

The owner of a dwelling/building located in the Village of Durand is required to give written notice to the Durand Village Clerk of the approval of a final plumbing inspection. Said notice must be received or postmarked no later than five (5) business days following the acceptance of the said final plumbing inspection. (Ord. 2001-12; 10/22/01)

**Sec. 18-40. Effective Start Date for Sewer and Water Service Charges.**

The Village of Durand shall begin charging for sewer and water services as of the first day following approval of the final plumbing inspection. (Ord. 2001-12; 10/22/01)

**Sec. 18-41. Penalty for Failure to Notify.**

Failure of the owner of a dwelling/building to notify the Durand Village Clerk of the approval of a final plumbing inspection as hereinabove provided shall result in a fine/penalty being assessed against the owner of the dwelling/building in the amount of One Hundred (\$100.00) Dollars which shall be added to the charges for the sewer and water services for the dwelling/building on which the final plumbing inspection was approved and shall be considered an additional charge for sewer and water services. (Ord. 2001-12; 10/22/01)

**Sec. 18-42.**

All service pipes extending from the corporation cock to the curb-stop and from the curb-stop to the shutoff valve shall be of copper and shall be of Type K with the inside diameter conforming to standard iron pipe dimensions but not smaller than one inch (1") inside diameter and shall in each case be connected with brass flared joints or brass compression couplings if the service is underground. (Ord. 2003-5; 6/23/03)

**Sect. 18-43. Meter Setters Required.**

Meter setters are required to be installed in all new construction projects. (Ord. 2006-13; 11/27/06)

**DIVISION 3. METERS AND RATES<sup>3</sup>**

**Sec. 18-44. Meter Required.**

All premises using the Village water supply must be equipped with a water meter.

**Sec. 18-45. Meter to be Supplied by the Village and Installed at the Owner's Expense.**

All water meters required by this Chapter shall be supplied by the Village of Durand, installed by the owner at the owner's expense, and inspected by the Village after installation. (Ord. 2013-6; 12/6/13) (Ord. 2018-5; 2/26/18)

**Sec. 18-46. Water Service Prior to Installation of Meter.**

Before a water meter can be installed on a premises, the owner, occupant or contractor, may receive water at a flat rate charge prescribed by the Board of trustees upon making application therefore.

**Sec. 18-47. Location of Meters.**

Water meters shall be installed in a location that will be of easy access.

**Sec. 18-48. Reading Meters.**

The superintendent of water and sewers shall read or cause to be read every water meter used in the Village at such times as are necessary for the bills to be sent out at the proper time.

**Sec. 18-49. Defective Meters; Testing; Fee.**

Any water meter in the Village shall be taken out and tested by Village personnel upon complaint of a customer and upon payment of a fee of fifty dollars (\$50.00). If the test indicates that the meter is not accurate to the extent required by state regulations, it shall be repaired or replaced and the fee of fifty dollars (\$50.00) shall be returned to the customer. If the test indicates that the meter is accurate to the extent required by state regulations, it shall be put back into service. [\(Ord. 2013-5; 11/25/13\)](#) [\(Ord. 2013-6; 12/6/13\)](#)

If the customer wishes to have the meter tested by the Village's outside licensed contractor he may do so at his own expense. The Village will provide the customer a cost quote for testing and shipping. This amount will be paid to the Village before the meter is removed. The meter may only be removed by Village personnel, or his or their designee. If the test indicates that the meter is not accurate to the extent required by state regulations, the Village will repair or replace it, and the customer shall be reimbursed. [\(Ord. 2013-6; 12/9/13\)](#)

**Sec. 18-50. Sewer and Water Rates.**

That the initial rates for sewer service in the Village shall, effective with usage of May 2021 and to be shown on utility bills processed in June 2021, be billed at a rate of \$32.00 per month per unit, except that sewer rates for the following customers shall be as follows:

|                 |                      |
|-----------------|----------------------|
| Laundromats:    | \$118.47 per month   |
| Public Schools: | \$313.17 per month   |
| Car Washes:     | \$246.46 per month   |
| Nursing Homes:  | \$1,375.18 per month |

That the initial rates for sewer service in the Village shall, effective with usage of May 2022 and to be shown on utility bills processed in June 2022, be billed at a rate of \$33.50 per month per unit, except that sewer rates for the following customers shall be as follows:

|                 |                    |
|-----------------|--------------------|
| Laundromats:    | \$124.03 per month |
| Public Schools: | \$327.86 per month |
| Car Washes:     | \$258.02 per month |



Nursing Homes: \$1,439.68 per month

(Ord. 2021-4; 3/22/21)

That the initial rates for sewer service in the Village shall, effective with usage of April 2017 and to be shown on utility bills processed in May 2017, be billed at a rate of \$25.50 per month per unit, except that sewer rates for the following customers shall be as follows:

Laundromats \$94.40 per month  
Public Schools: \$249.55 per month  
Car Washes: \$196.39 per month  
Nursing Homes: \$1,095.85 per month

(Ord. 2017-3; 4/10/17)

**That the initial rates for sewer service in the Village shall, effective with usage of April 2019 and to be shown on utility bills processed in May 2019, be billed at a rate of \$28.00 per month per unit, except that sewer rates for the following customers shall be as follows:**

Laundromats: \$103.65 per month  
Public Schools: \$274.01 per month  
Car Washes \$215.64 per month  
Nursing Homes: \$1,203.24 per month

(Ord. 2019-4; 02/12/19)

**That the initial rates for sewer service in the Village shall, effective with usage of April 2020 and to be shown on utility bills processed in May 2020, be billed at a rate of \$30.50 per month per unit, except that sewer rates for the following customers shall be as follows:**

Laundromats: \$112.91 per month  
Public Schools: \$298.48 per month  
Car Washes \$234.90 per month  
Nursing Homes: \$1,310.69 per month

(Ord. 2019-4; 02/12/19)

That the initial rates for water service in the Village shall, effective with the usage of November 2017, to be shown on utility bills processed in December 2017:

0-3,000 gallons of usage per month per unit: \$31.00 per month plus \$2.50 per month Administrative Fee per customer, except that the Base Water Rates for the following customers shall be as follows:

Laundromats \$53.59 per month  
Public Schools: \$106.60 per month  
Car Washes: \$79.99 per month  
Nursing Homes: \$231.31 per month

(Ord. 2017-11; 9/11/17)

Any meter that registers over 3,000 gallons of usage in any month: Additional charge of \$.0035 per gallon of usage over 3,000 gallons per month per unit. (Res. 2015-1; 3/9/15)

That the initial rates for water service in the Village shall, effective with usage of April 2018, to be shown on utility bills processed in May 2018:

0-3,000 gallons of usage per month per unit: \$32.00 per month, plus \$2.50 per month Administrative Fee per customer, except the Base Water Rates for the following customers shall be as follows:

|                 |                   |
|-----------------|-------------------|
| Laundromats:    | \$55.31 per month |
| Public Schools: | \$110.01          |
| Car Washes      | \$82.55           |
| Nursing Homes:  | \$238.71          |

Any meter that registers over 3,000 gallons of usage per unit in any month: Additional charge of \$.0035 per gallon of usage over 3,000 gallons per month per unit.

That the initial rates for water service in the Village shall, effective with usage of April 2019, to be shown on utility bills processed in May 2019:

0-3000 gallons of usage per month per unit: \$33.00 per month, plus \$2.50 per month Administrative Fee per customer, except that the Base Water Rates for the following customers shall be as follows:

|                 |                   |
|-----------------|-------------------|
| Laundromats:    | \$57.02 per month |
| Public Schools: | \$113.42          |
| Car Washes:     | \$85.11           |
| Nursing Homes:  | \$246.11          |

Any meter that registers over 3,000 gallons of usage per unit in any month: Additional charge of \$.0035 per gallon of usage over 3,000 gallons per month per unit.

The Durand School District No. 322 building and the Medina Nursing Home building will each be considered one unit, with the above applicable rates.

Future rates may be adjusted or amended by ordinance of the Board of Trustees.

The term “unit” means a household, apartment or business or separate space being used as a household, apartment or business in a building intended for or capable of being used to house household(s), apartment(s) or business(es) or multiples or combinations thereof. (Ord.2017-11; 09/11/17)

#### EXAMPLES:

- a. A building serviced by one water meter consisting of 4 apartments is 4 units.
- b. A building serviced by one water meter consisting of 4 apartments and 1 business is five units.
- c. A single-family residence serviced by one water meter is 1 unit.
- d. A duplex serviced by one water meter consisting of 2 households is 2 units.
- e. A single-family residence serviced by one water meter approved for a business in the house is 1 unit.

- f. A building consisting of 2 occupied apartments, 2 unoccupied apartments and an unoccupied space intended for or capable of being occupied by one business is 5 units.
- g. A building consisting of 4 apartments with each apartment having its own water meter - each apartment/water meter is 1 unit. (Ord. 2013-1; 3/25/13)

**Sec. 18-51. When Bills are to be Rendered.**

- a. All water rates established under section 18-50 of this article shall be billed and collected pursuant to section 9-42 of the Municipal Code of the Village of Durand, Illinois, as a component of the municipal services fee.
- b. All other bills for charges or services rendered may be billed separately by the water department and collected under the procedures established under section 9-42 of the Municipal Code of the Village of Durand, Illinois.
- c. There is hereby imposed a fee of \$25.00 each time a payment, in any form, to the Village of Durand is returned to the Village of Durand due to insufficient funds or a closed account. This fee shall be added to the subsequent month's bill to cover the expense of processing the bill with the insufficient funds or closed account. (Ord. 2023-16; 11/27/23)
- d. Failure to receive notice of water rates, rents or services due will not be a valid excuse for failure to pay such water rates, rents or services when due.

**Sec. 18-52 (a). Termination of Services for Nonpayment of Charges; Reconnection Fee.**

Water services may be terminated and the water supply shut off for non-payment of the water component of the municipal services fee within the time provided in, and in accordance with section 9-43 of the Municipal Code of the Village of Durand, Illinois or for failure to arrange for or to allow the installation of a water meter within a reasonable time after dispatch of a notice to do so or for failure to allow authorized agents of the water department access to the premises for the purpose of inspecting, reading, testing, calibrating, removing or replacing any and all water meters or water department property. When shut off, water shall not be turned on again except upon payment in full of all amounts owed for municipal services fees pursuant to section 9-42 of the Municipal Code of the Village of Durand, Illinois and/or except upon completion of installation of the required water meter and upon payment in full of all turn-on and shut-off fees pursuant to section 18-29 of the Municipal Code of the Village of Durand, Illinois and upon payment of any and all fines that may have been assessed for violation of the provisions of section 18-20 of the Municipal Code of the Village of Durand, Illinois. (Ord. 2010-8; 8/23/10) (Ord. 2012-3; 3/26/12)

**Sec. 18-52 (b). Water Meter – Damage.**

If the water meter or reading device should become damaged or destroyed by reason of a negligent or intentional act, the owner of the property shall be responsible for the cost of repairs or replacement thereof, including, but not limited to the cost of labor and materials. (Ord. 2012-3; 3/26/12)

**Sec. 18-52 (c). Failure of Meter.**

1. If the meter fails to register or if the water department personnel cannot read the meter device for any reason during the first month of activation the charge for water usage during the period of non-registration shall be the average monthly water rate charged by the Village immediately prior to the Village's conversion to the use of water meters to determine water usage and charges. (Ord. 2012-3; 3/26/12)
2. If the meter fails to register or if the water department personnel cannot read the meter device for any reason during the second or any month to any part of the twelfth month of activation the charge for water usage during the period of non-registration shall be the average of the previous months meter read charges. (Ord. 2012-3; 3/26/12)
3. If the meter fails to register or if the water department personnel cannot read the meter device for any reason after twelve (12) full months of activation the charge for water usage during the period of non-registration shall be the average of the previous twelve (12) months meter read charges. (Ord. 2012-3; 3/26/12)

#### **Sec. 18-53. Termination of Sewer Services.**

Sewer services may be terminated and the sewer service disconnected for non-payment of the water/sewer component of the municipal services fee within the time provided in, and in accordance with section 9-43 of the Municipal Code of the Village of Durand, Illinois. When disconnected, sewer services will not be reconnected except upon payment in full of all amounts owed for municipal services fees pursuant to section 9-42 of the Municipal Code of the Village of Durand, Illinois and upon payment in full of all disconnect and reconnect fees pursuant to Section 18-29 of the Municipal Code of the Village of Durand, Illinois. (Ord. 2010-8; 8/23/10)

#### **Sec. 18-54. Continuing Lien Declared.**

The Village shall have a continuing lien upon the premises and real estate upon or for which water and/or sewer services are used or supplied for all municipal services fees, water fees, sewer fees, charges or benefits that may accrue by reason of the provisions of this chapter. (Ord. 2010-8; 8/23/10)

#### **Sec. 18-55. Statement of Lien Claim.**

Whenever a bill or fee for any component of the municipal services fee remains unpaid thirty (30) or more days after the service has been rendered or is due as otherwise herein provided, the water superintendent shall be authorized to file with the recorder of deeds of the County of Winnebago, State of Illinois, a statement of lien claim verified by the affidavit of himself or other officer of the Village having actual knowledge of the facts. The statement shall contain a sufficiently correct description of the lot, lots or tracts of land to identify the same, the balance due after allowing all credits, and the date when such amount became delinquent, and a notice that the Village claims a lien for this amount, as well as for all charges for services supplied subsequent to the period covered by the bill and for turn-off/turn-on fees and/or disconnection/reconnection fees. (Ord. 2010-8; 8/23/10)

#### **Sec. 18-56. Effect of Error in Amount; Water Use by Tenants.**

No water lien shall be defeated due to the improper amount thereof because of an error or overcharge on the part of the Village, nor shall such lien be defeated upon proof that such water was used by a tenant of the premises or occupant thereof other than the owner.

**Sec. 18-57. Effect of Failure to Give Notice.**

The failure of the Water Superintendent to mail such notice or the failure of the owner of such premises to receive such notice shall not affect the right to foreclose the lien for unpaid water bills.

**Sec. 18-58. Foreclosure; Enforcement.**

- a. If a statement of lien claim has been filed as provided for in Section 18-55 of the Municipal Code of the Village of Durand, Illinois and said lien claim remains unpaid, the Village may file or cause to be filed a complaint in the Circuit Court of Winnebago County for a foreclosure of such lien or, upon becoming a defendant in any pending suit affecting the premises or real estate, by answer to the complaint in the nature of an intervening petition or cross complaint, the Village may proceed in its corporate name to foreclose such lien in like manner and with like effect as provided by the statutes of the State of Illinois in foreclosure of mortgages on real estate. Any decree rendered in the court may be enforced and collected as other decrees or judgments in the same court.
- b. The remedy provided in this section shall not be construed to abridge or in any manner interfere with the right and power of the Village to enforce collection of any money owed on any delinquent bills for municipal services fees by any other means or as otherwise provided in this chapter, but the remedy herein provided shall be taken and held as an additional means to enforce payment of such delinquent municipal services fees, charges or benefits. (Ord. 2010-8; 8/23/10)

**Sec. 18-59. Purchasers, Persons Interested in Property Required to Notify Water Department.**

It shall be the duty of any person about to purchase any premises within the Village of Durand, Illinois, or of any mortgagee, trustee or lien claimant holding any mortgage, trust deed or lien against any premises within the Village to first ascertain from the water superintendent of the Village as to any delinquent water bill, tax, rate, rent or service that may have accrued or be against the premises, before purchasing the premises or instituting proceedings foreclosing the mortgage, trust deed or lien and to notify the water superintendent in writing as to his, their or its intention of purchasing the property or foreclosing the mortgage, trust deed, or lien, and twenty-four (24) hours' notice shall be deemed sufficient notice under this section.

**CROSS-CONNECTIONS**

**Definitions.** For the purpose of this Chapter the following definitions shall apply:

1. **Backflow** shall mean water of questionable quality, wastes or other contaminants entering a public water system due to a reversal of flow. "Back siphonage" is one type of "backflow."
2. **Cross-Connection** shall mean a connection or arrangement of piping or appurtenance which a backflow could occur.
3. **Safe Air Gap** shall mean the minimum distance of a water inlet or opening above the maximum high-water level or overflow rim in a fixture, device or container to which public water is furnished which shall be at least two times the inside diameter of the water inlet pipe; but shall not be less than one inch and need not be more than 12 inches.

4. **Secondary Water Supply** shall mean a water supply system maintained in addition to a public water supply, including but not limited to water systems from ground or surface sources or water from a public water supply which in any way has been treated, processed or exposed to any possible contaminant or stored in other than an approved storage facility.
5. **Submerged Inlet** shall mean a water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant and which is unprotected against backflow.
6. **Water Utility** shall mean the Village Water Department.

Section 2. **Compliance With Existing Laws.** A connection with a public water supply system shall comply with the existing laws and rules, The Illinois State Plumbing Code, and the provision of the Code of the Village of Durand, Illinois.

Section 3. **Cross-Connections Prohibited.** Cross-connections of the public water supply system and any other water supply system or source including but not limited to the following are prohibited:

1. Between a public water supply system and a secondary water supply.
2. By submerged inlet.
3. Between a lawn sprinkling system and the public water supply system.
4. Between a public water supply and piping which may contain sanitary waste or a chemical contaminant.
5. Between a public water supply system and piping immersed in a tank or vessel which may contain a contaminant.

Section 4. **Local Cross-Connection Control Program.** The Village shall develop a comprehensive control program for the elimination and prevention of all cross-connections, and removal of all existing cross-connections and prevention of all future cross-connections.

Section 5. **Corrections and Protective Devices.** Any user of the water supply system shall obtain written approval from the Water Department of any proposed corrective action or protective device before using or installing it. The total time allowed for completion of the necessary corrections shall be contingent upon the degree of hazard involved and include the time required to obtain and install equipment. If the cross-connection has not been removed within the time as hereinafter specified, the Village shall physically separate the water supply system from the on-site piping system in such manner that the two systems cannot be connected by any unauthorized person.

Section 6. **Piping Identification.** When a secondary water source is used in addition to the public water supply, the public water supply and secondary water piping shall be identified by distinguishing colors or tags and so maintained that each pipe may be traced readily in its entirety, it will be necessary to protect the water supply system at the service connection in a manner acceptable to the Water Department.

Section 7. **Private Water Storage Tanks.** A private water storage tank supplied from the water supply

system shall be deemed a secondary water supply unless it is designed and approved for potable water usage.

Section 8. **Elimination of Existing Cross Connections.** Within one year from the effective date of this Section all existing cross-connections to the water supply system shall be eliminated. The expenses of such elimination shall be that of the owner of the property on which such cross-connection exists.

Section 9. **Inspection.** The Water Department or any representative thereof shall have the authority to inspect any premises to determine the presence of an existing cross-connection and to order the elimination of such cross-connection.

Section 10. **Discontinuance of Water Service.** The Water Department is hereby authorized to discontinue water service after a reasonable notice to any person owning any property where a cross-connection in violation of this Code exists. The Water Department may take such other precautionary measures as necessary to eliminate any danger of the contamination of the water supply system. Water service to such property shall not be restored until such cross-connection has been eliminated.

Section 11. **Penalty.** The Village may issue a monetary penalty for non-compliance with the provision of the Municipal Code for the Village of Durand, Illinois.

<sup>1</sup>*Cross Reference - Obstructing drains in public streets and alleys, 15-7*

<sup>2</sup>*State law reference - Municipal water systems generally, Ill. Rev. Stat., Ch. 24, 11-124-1 et seq.*

<sup>3</sup>*Cross reference - Sewer connection charge, 18-4.*

#### **Sec. 18-60. Wastewater Service Charges. (User Charge Ordinance)**

- A. **Basis for Wastewater Service Charges:** The wastewater service charge for the use of and for service supplied by the wastewater facilities of the Village of Durand shall consist of a basic user charge, a debt service charge, and applicable surcharges.
- B. The **Basic User Charge** is levied on all users to recover the operation, maintenance plus replacement (O&M) costs and shall be based on estimated average sewage discharge for each class of user or usage as recorded by water meters or sewage meters for those users having such meters with the following normal domestic concentrations:
  - a. A five-day, 20-degree centigrade biochemical oxygen demand (BOD) of 200 mg/l.
  - b. A suspended solids content of 240 mg/l.

The basic user charge shall be computed as follows:

- a. Estimate the annual wastewater volume, pounds of BOD and pounds of SS to be treated.
- b. Estimate the projected annual revenue required to operate and maintain the wastewater facilities for the year, for all works categories.
- c. Proportion the estimated O&M costs to each user class by volume, BOD and SS.

- d. Proportion the estimated O&M costs to wastewater facility categories by volume, BOD and SS.
  - e. Compute costs per 1,000 gallons for normal domestic strength sewage.
  - f. Compute charges for each class of user based on estimated sewage volume.
  - g. Compute surcharge costs per pound for BOD and SS concentrations in excess of normal domestic strengths.
- C. The **Debt Service Charge** is computed by apportioning the annual debt service as a fixed charge per billing period.
- D. A **Surcharge** will be levied to all users whose water exceed the normal domestic concentrations of BOD (200 mg/l) and SS (240 mg/l). The surcharge will be based on water usage as recorded by water meters or sewage meters for all wastes which exceed these concentrations for those users having such meters.
- The concentration of wastes used for computing surcharges shall be established by waste sampling. Waste sampling shall be performed as often as may be deemed necessary by the Village of Durand and shall be binding as a basis for surcharges.
- E. The adequacy of the wastewater service charge shall be reviewed, not less often than annually, by Certified Public Accountants for the Village of Durand in their annual audit report. The wastewater service charge shall be revised periodically to reflect a change in local capital costs or O&M costs.
- F. The users of the wastewater treatment services will be notified annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to the wastewater operation and maintenance.
- G. **Measurement of Flow:** The volume of flow used for computing basic user charges and surcharges shall be the estimated sewage volume discharged for each class of user.
- a. Devices for measuring the volume of waste discharged may be required by the Village of Durand if these volumes cannot reasonably be estimated.
  - b. Metering devices for determining the volume of waste, (*where required*), shall be installed, owned, and maintained by the user. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the Village of Durand
- H. **Basic User Charge:** There shall be and there is hereby established a basic user charge of \$1.78 per 1,000 gallons of estimated sewer volume to be applied to all users to recover O&M costs.
- I. **Debt Service Charge:** There shall be and there is hereby established a debt service charge of \$2.42 per 1,000 gallons of estimated sewage volume, to each user of the wastewater facility.
- J. Estimated usage for each class will be charged at a rate of \$4.20 per 1,000 gallons. This rate consists



of \$1.78 for O&M costs, and \$2.42 debt service costs.

- K. All non-metered users of the wastewater facilities shall pay a flat monthly rate accounting to the following schedule for each class of user:

| Rate No./User Class |                 | Monthly Charges |
|---------------------|-----------------|-----------------|
| Rate 1              | Residential     | \$23.50         |
| Rate 2              | School          | \$709.73        |
| Rate 3              | Laundromat      | \$ 90.15        |
| Rate 4              | Nursing Home    | \$624.93        |
| Rate 1              | Clinic (Church) | \$23.50         |
| Rate 1              | Apartments      | \$23.50         |
| Rate 1              | Business        | \$23.50         |

- L. **Surcharge Rates:** The rates of surcharges for BOD and SS shall be as follows:

|                 |            |
|-----------------|------------|
| Per lb. of BOD: | \$0.93/lb. |
| Per lb. of SS:  | \$0.50/lb. |

**Calculation of Surcharges:**

*BOD*

$$C_{BOD} = B(Y - B_C) \times 8.34 \times Q$$

Where:  $C_{BOD}$  = Surcharge for BOD,

B = Surcharge Rate, 0.93/lb

Y = Monthly Ave. Effluent BOD  
Concentration, mg/l

$B_C$  = Ave. Domestic BOD  
Concentration, 200 mg/l

Q = Total Monthly Usage, MG

*SS*

$$C_{SS} = S(ZY - S_C) \times 8.34 \times Q$$

Where:  $C_{SS}$  = Surcharge for TSS,

S = Surcharge Rate, 0.50/lb

Z = Monthly Ave. Effluent TSS  
Concentration, mg/l

$S_C$  = Ave. Domestic SS  
Concentration, 240 mg/l

Q = Total Monthly Usage, MG

- M. **Computation of Wastewater Service Charge:** The wastewater service charge shall be computed by the following formula:

$$CW = Vu (CM + CD) + CS$$

Where: CW = Amount of wastewater service charge (\$) per billing period.

Vu = Wastewater Volume, average estimated for each user class for the billing period.

CM = Costs for Operation and Maintenance (*subsection H*).

CD = Debt Service Charge (*subsection I*).

CS = Surcharges, if applicable (*subsection L*).

- N. **Access to Records:** The IEPA or its authorized representative shall have access to any books, documents, papers and records of the Village of Durand which are applicable to the Village system of user charges for the purpose of making audit, examination, excerpts and transcriptions thereof to ensure compliance with the terms of the Special and General Conditions to any State Grant Loan Agreement and Rules of any State Loan.
- O. The rates and service charges established for user charges in Section 18-60 shall be effective as of November 1, 1997.
- P. That if any section, paragraph, clause or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. **(Ord. 1997-19, 12/22/97)**

#### **Sec. 18-61. Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows.

##### **A. Federal Government**

**Federal Act** means the Federal Clean Water Act (33 U.S.C. 466 et seq) as amended, (Pub. L. 95-217).

**Administrator** means the Administrator of the U.S. Environmental Protection Agency.

**Federal Grant** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

##### **B. State Government**

**State Act** means the Illinois Anti-Pollution Bond Act of 1970”

**Director** means the Director of the Illinois Environmental Protection Agency.

**State Grant** shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of the State of Illinois.

C. **Local Government**

**Ordinance** means this ordinance.

**Village means** the Village of Durand.

**Approving Authority** means the Board of Trustees of the Village of Durand.

D. **Person** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal, or private corporation, association, society, institution, enterprise, governmental agency or other entity.

E. **NPDES Permit** means any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

F. Clarification of word usage: **Shall** is mandatory; **May** is permissible.

G. **Wastewater and Its Characteristics**

**Wastewater** shall mean the spent water of a community. From this standpoint of course, it may be combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

**Sewage** is used interchangeable with wastewater.

**Effluent Criteria** are defined in any applicable NPDES Permit.

**Water Quality Standards** are defined in the Water Pollution Regulations of Illinois.

**Unpolluted Water** is water quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

**Ppm** shall mean parts per million by weight.

**Milligrams per Liter** shall mean a unit of the concentration of water or wastewater constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.

**Suspended Solids (SS)** shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the IEPA Division of Laboratories Manual of Laboratory Methods and the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

**Biochemical Oxygen Demand (BOD)** shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° C, expressed in milligrams per liter. Quantitative determination of BOD shall be made in accordance with procedures set forth in the latest edition of *Standard methods for the Examination of Water and Wastewater*.

**PH** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the *IEPA Division of Laboratories Manual of Laboratory Methods*.

**Garbage** shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of food.

**Properly Shredded Garbage** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch (1.27 centimeters) in any dimension.

**Floatable Oil** is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

**Population Equivalent** is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

**Slug** shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

**Industrial Waste** shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

Major Contributing Industry shall mean an industrial user of the publicly owned treatment works that:

- a. Has a flow of 50,000 gallons or more per average work day; or
- b. Has a flow greater than 10 percent of the flow carried by the municipal system receiving the waste; or
- c. Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or

- d. Is found by the permit issuant authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

#### H. **Sewer Types, and Appurtenances**

**Sewer** shall mean a pipe or conduit for conveying sewage or any other waste liquids, including storm, surface, and groundwater drainage.

**Public Sewer** shall mean a sewer provided by or subject to the jurisdiction of the Village. It shall also include sewers within or outside the Village boundaries that serve one or more persons and ultimately discharge into the Village sanitary (or combined sewer system), even though those sewers may not have been constructed with Village funds.

**Sanitary Sewer** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface, and groundwaters or polluted industrial wastes are not intentionally admitted.

**Storm Sewer** shall mean a sewer that carries storm, surface and groundwater drainage but excludes sewage and industrial wastes other than unpolluted cooling water.

**Combined Sewer** shall mean a sewer which is designed and intended to receive wastewater, storm, surface, and groundwater drainage.

**Building Sewer** shall mean the extension from the building drain to the public sewer or other place of disposal.

**Building Drain** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

**Stormwater Runoff** shall mean that portion of the precipitation that is drained into the sewers.

**Sewerage** shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage.

**Easement** shall mean an acquired legal right for the specific use of land owned by others.

#### I. **Treatment**

**Pretreatment** shall mean the treatment of wastewaters from sources before introduction into the wastewater treatment works.

**Wastewater Treatment Works** shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with *Waste Treatment Plant* or *Wastewater Treatment Plant* or *Pollution Control Plant*.

- J. **Wastewater Facilities** shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

K. **Watercourse and Connections**

**Watercourse** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

**Natural Outlet** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

L. **User Types**

**User Class** shall mean the type of user *residential, institutional/governmental, commercial, or industrial* as defined herein.

**Residential User** shall mean all dwelling units such as houses, mobile homes, apartments, permanent multi-family dwellings.

**Commercial User** shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandises, or rendering services.

**Institutional/Governmental User** shall include schools, churches, penal institutions, and users associated with Federal, State and local governments.

**Industrial Users** shall include establishments engaged in manufacturing activities involved in the mechanical or chemical transformation of materials of substances into products.

**Control Manhole** shall mean a structure located on a site from which industrial wastes are discharged. Where feasible the manhole shall have an interior drop. The purpose of a *control manhole* is to provide access for the Village representative to sample and/or measure discharges.

M. **Types of Charges**

**Wastewater Service Charge** shall be the charge per quarter or month levied on all users of the Wastewater Facilities. The service charge shall be computed as outlined in Section 18-60 and shall consist of the total or the Basic User Charge, the Local Capital Cost and a Surcharge, if applicable.

**User Charge** shall mean a charge levied on users of treatment works for the cost of operation, maintenance and replacement.

**Basic User Charge** shall mean the basic assessment levied on all users of the public sewer system.

**Debt Service Charge** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.

**Capital Improvement Charge** shall mean a charge levied on users to improve, extend or

reconstruct the sewage treatment works.

**Local Capital Cost Charge** shall mean charges for costs other than the Operation, Maintenance and Replacement costs, i.e., debt service and capital improvement costs.

**Surcharge** shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than the concentration values established in Section 18-60.

**Replacement** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term *Operation and Maintenance* includes replacement.

**Useful Life** shall mean the estimated period during which the collection system and/or treatment works will be operated.

**Sewerage Fund** is the principal accounting designation for all revenues received in the operation of the sewerage system. (Ord. 1997-19; 12/22/97)

## CHAPTER 19

### RULES AND REGULATIONS FOR THE CONTROL AND OFFERING OF CABLEVISION SERVICES

#### Sec. 19-1. Purpose - Short Title.

- a. That pursuant to the provisions of Chapter 19 of the Municipal Code of the Village of Durand, Illinois regarding rules and regulations for the control and offering of cablevision services, the Village of Durand does hereby approve and consent to the transfer of all cable systems and to the transfer of the cable franchise with the Village of Durand, Illinois by Triax Cablevision.
- b. That in conformity with and to implement to provisions of Section 1 of this ordinance the following sections of Chapter 19 of the Municipal Code of Durand, Illinois are hereby amended:

#### Sec. 19-2. Definitions.

For the purpose of this chapter, the following terms, phrases, words, and derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. **Company** means Triax Cablevision, 1102 North Fourth Street; P.O. Box 334; Chillicothe, IL. 61523-0334, the grantee of rights under the regulatory ordinance codified in this chapter. Any other firm granted a cable television franchise in the Village of Durand would also be governed by this chapter.
- b. **Federal Communications Commission** or **FCC** means that federal agency constituted by the Communications Act of 1934 as amended.
- c. **Gross Subscriber Revenues** means only those revenues derived from the monthly service charges paid by subscribers for basic service and premium service, located within the Village for regular cable television reception services, which service includes only the transmission of broadcast signals and the programming presented on the required access and originations channels, if any. Gross subscriber revenues shall not include any revenues received as installation charges and fees for reconnections, inspection, repairs or modifications of any installments. At such time in the future as company may add charged-for services, company shall first secure consent of Village; the inclusion of such additional charged-for services within the definition of "Gross subscriber revenues" as defined by this paragraph shall be subject to negotiation by the parties.
- d. **Person** means any person, firm, partnership, association, corporation, company, or organization of any kind.
- e. **System** means the lines, fixtures, equipment, attachments and all appurtenances thereto which are used in the construction, operation and maintenance of the community antenna television system authorized by this chapter.



**Sec. 19-3. Findings - Granting of Franchise.**

The regulatory ordinance codified in this chapter which grants to Triax Cablevision the nonexclusive right to construct, operate, and maintain a cable television system in the Village, was passed and adopted by the President and Board of Trustees after a full, open and public proceeding. Said proceeding was held after public notice was given and afforded all interested parties the opportunity to comment upon the legal, character, financial, technical, and other qualifications of the company. Having received at said proceeding all comments regarding the qualifications of the company, the Village finds that the company possesses the necessary legal, technical, character, financial and other qualifications and that the company's construction arrangements are adequate and feasible. Therefore the Village grants to the company a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above and over and under the highways, streets, alleys, and sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the Village, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purpose set forth in this chapter.

**Sec. 19-4. Compliance - Required Generally.**

The company shall, at all times during the life of the regulatory ordinance codified in this chapter, be subject to all lawful exercise of the policy power by the Village and to such reasonable regulation as the Village shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the company shall be in full compliance with such portions of the National Electric Safety Code as may be applicable and as the same may be amended and revised from time to time, and in full compliance with all other applicable rules and regulations now in effect or hereinafter adopted by the Federal Communications Commission, the Village, or any other agency of the state or the United States, which may hereafter acquire jurisdiction of the operations of the company authorized in this chapter. The company will provide a 35-channel capacity system, with a minimum of 18 channels active at outset through a block converter approach.

**Sec. 19-5. Compliance - National Electrical Safety Code.**

All facilities and equipment of the company shall be constructed and maintained in accordance with the requirements and specifications of the National Electrical Safety Code and such applicable ordinances and regulations set forth by the Village and-or any local, state or federal agencies.

**Sec. 19-6. Compliance - FCC Rules and Regulations.**

The company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC, specifically those set out in section 76.31 of the FCC Rules and Regulations. This shall include adherence by the company to FCC rules regarding technical and engineering specifications involved in the construction of the CATV system and signal carriage therein.

**Sec. 19-7. Modification of FCC Rules.**

Consistent with the requirements of Rule 76.31 (a) (6) of the FCC, any modification of Rule 76.31 resulting

from amendment thereto by the FCC and shall be incorporated in this chapter by specific amendments thereto by the lawful action of the Village Board within one year from the effective date of notice by grantee of the FCC's amendment, or at the time of renewal of the ordinance codified in this chapter, whichever occurs first.

**Sec. 19-8. Transfer.**

The company shall not sell or transfer its system to another, nor transfer any rights under this chapter to another without written approval by the Village; provided, that such approval shall not be unreasonably withheld if the vendee, assignee or lessee has filed with the appropriate official of the Village an instrument duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of this chapter and agreeing to perform all conditions thereof, together with proof of capability of performance.

**Sec. 19-9. Company Rules and Regulations.**

The company shall have the authority to promulgate such rules, regulations terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this chapter, and to assure an uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of federal and state laws.

**Sec. 19-10. Franchise - Term.**

The franchise granted the company in this chapter shall terminate fifteen years from date of grant, subject to renewal for periods of reasonable duration, on the same, such different or additional terms and conditions as may be lawfully specified by the Village Board and as are consistent with the requirements of Rule 76.31 of the FCC.

**Sec. 19-11. Franchise - Renewal.**

No renewal of the ordinance codified in this chapter shall be effective except pursuant to a public proceeding and any other proceedings in which its rights, privileges or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations.

**Sec. 19-12. System Construction Maintenance and Procedures.**

- a. Upon grant of the ordinance codified in this chapter to construct and maintain a cable television system in the Village, and in furtherance of the company's execution of contracts with public utility companies or any other owner or lessee of any poles located within or without the Village to whatever extent such contract or contracts may be expedient and of advantage of the company for use of poles and posts necessary for proper installation of the system, the company may obtain right-of-way permits from appropriate state, county, and federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a Village, City, County, State or federal agency may require. The company shall construct its cable system using material of good and durable quality, and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough, and reliable manner. Any municipal property

damaged or destroyed shall be promptly repaired or replaced by the company and restored to at least as good condition as before the damage or destruction.

- b. The company's system, poles, wires, and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons, or interfere with any improvements the Village may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.
- c. However, in the event that the Village annexes further territory as authorized by law, the company shall extend energized trunk cable to the remaining portions of the Village so annexed within one year thereafter, unless additional time is granted by the Village Board upon request of the company for good cause shown.
- d. All transmission and distribution structures, lines and equipment erected by the company within the Village shall be so located as to cause minimum interference with the property use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys, or other public ways and places. In the event electrical and phone lines are buried to the subscriber's residence, the company shall be required to also bury the cable.
- e. In case of any disturbance of pavement, sidewalk, driveway, grass or other surfacing, the company shall, at its own cost and expense and in a manner approved by the Village, replace and restore all paving, sidewalk, driveway, grass or surface of any street or alley or other public or private property in as good condition as before said work was commenced.
- f. In the event that at any time during the period of the ordinance codified in this chapter the Village lawfully elects to alter, or change the grade of any street, alley or other public way, the company, upon reasonable notice by the Village, shall remove, relay, or relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
- g. The company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main, and all such poles, or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb lines, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such manner as not to interfere with the usual travel on said streets, alleys and public ways.
- h. The company shall, on the request of any person holding a building moving permit issued by the Village, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the company shall have the authority to require such payment in advance. The company shall be given not less than forty-eight hours advance notice to arrange for such temporary wire changes.
- i. The company shall have the authority to trim trees upon the overhanging streets, alleys, sidewalks, and public places of the Village so as to prevent the branches of such trees from coming in contact with the wires and cables at the direction of the Village and at the expense of the company, all trimming to be done under the supervision and direction of the Village and at the expense of the company.
- j. The company shall provide, upon request and without charge, service to any municipal buildings

owned and operated by the Village and to any public or parochial elementary or secondary school. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

**Sec. 19-13. Construction Schedule.**

The company shall complete construction within one year after passage of this ordinance, and shall thereafter make cable service available to all residents of the Village

**Sec. 19-14. Line Extensions.**

- a. It shall be the obligation of the company to serve all residents of the Village. Service shall be provided to any territory annexed by the Village at normal installation charges and monthly rate when there is an average of forty (40) homes per each linear mile of new cable construction.
- b. In the event the requirements of subsection A are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

**Sec. 19-15. Village Rights.**

- A. **VILLAGE RULES.** The right is reserved to the Village to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this chapter, and shall not be in conflict with the applicable laws of the state or the United States.
- B. **USE OF THE SYSTEM BY VILLAGE.** The Village shall have the right, during the life of the ordinance codified in this chapter, of maintaining upon the poles or in the underground conduits of the company within the Village limits wire and fixtures necessary for a traffic signal control system and-or a police and fire alarm system. Such wires and fixtures shall be installed and maintained at the sole expense of the Village and shall at all times comply with all reasonable rules and regulations of the company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the company and wires and fixtures used by the Village.
- C. **EMERGENCY OR DISASTER.** In the case of any emergency or disaster, the company, shall upon request of the Village make available its facilities to the Village for emergency or disaster.
- D. **LIABILITY.** The Village shall not be liable for any damage occurring to the property of the company caused by employees of the Village in the performance of their duties, except for damage caused to the company's facilities by the negligence of the Village employees. The Village shall not be liable for the interruption of service by actions of Village employees in the performance of their duties, nor shall the Village be held liable for the failure of the company to be able to perform normal services due to the acts of God or other factors beyond the control of the Village.
- E. **NO PROPERTY RIGHT.** Nothing in this chapter shall grant to the company any right of property in the Village-owned property, nor shall the Village be compelled to maintain any of its property any longer than, or in any fashion other than in the Village's judgment its own business or needs may require.

F. **CONSTRUCTION APPROVAL BY VILLAGE.** Except for individual service drops, the company shall not erect any pole, install any underground lines or conduits, run any line, make any attachment, nor shall any construction of any kind be commenced without the prior approval of the director of engineering or appropriate department of the Village, which approval shall not be unreasonably withheld, and the Village shall have and maintain the right to inspect the construction, operation and maintenance of the system by the company to insure the proper performance of the terms of the regulatory ordinance codified in this chapter. Upon completion of construction, grantee shall provide accurate maps of all existing installations.

G. **CORRECTION OF DEFECTS.** In the event the company should violate any of the terms of the regulatory ordinance codified in this chapter, or any of the rules and regulations as may be from time to time lawfully adopted, the Village shall immediately give to the company thirty days' written notice to correct such violation, and in the event the company does not make such written notice, the Village may make such correction itself and charge the cost of the same to the company, and the company shall pay such charges within thirty days after the receipt of a statement for such charge from the Village.

**Sec. 19-16. Publication and Legal Costs.**

The company shall assure the costs of the publication of the ordinance codified in this chapter as such publication is required by law, and legal costs connected with granting of franchise. A bill for publication and legal costs shall be presented to the company by the appropriate Village officials upon the company's filing of its acceptance of the ordinance codified in this chapter and the said publication and legal costs shall be paid at that time by the company.

**Sec. 19-17. Payment to the Village.**

- a. The company shall at the date of the first service, and during each year of operation under this chapter, pay to the Village five (5) percent of the annual gross subscriber revenues as defined in Section 2(c), rendered to customers located within the Village. At the time of this payment, the company shall furnish the Village with an operating report showing the company's annual gross subscriber revenues during the preceding year and such other information as the Village shall reasonably require with respect to properties and expense related to the company's services within the Village for such period.
- b. All payments as required by the company to the Village shall be made semi-annually and shall be due forty-five days after the close of the six-month period.

**Sec. 19-18. Services, Rates and Charges - Designated.**

A. Minimum initial service shall be provided as follows:

**"Basic" Service:**

| Program/Service                       | Location                     | Affiliation                             |
|---------------------------------------|------------------------------|---|
| All regularly viewed off-air stations | Rockford, Madison, Davenport | ABC, CBS, NBC, Independent Educational. |

|   |                   |   |
|---|-------------------|---|
| WGN-TV (24 Hrs.)  | Chicago           | Independent   |
| WTBS-TV (24 Hrs.)   | Atla              | Independent   |
| ESPN (24 Hrs.)  | Bristol,<br>Conn. | Entertainment &<br>Sports<br>Programming<br>Network |
| USA Network<br>(includes "Calliope"<br>Children's Service;<br>"C-SPAN" House of<br>Representatives<br>Coverage; "English<br>Channel" Madison<br>Square Garden Sports;<br>Thursday Night<br>Baseball;<br>Latest Health and<br>Women's News.) | New York,<br>N.Y. | UA/Columbia,<br>Time, Inc.                          |
| Cable News Network<br>(CNN) (24 Hrs.)   | Atlanta           | Turner<br>Broadcasting                              |
| Christian Broadcasting<br>Network (CBN) (24-<br>Hr)<br>Cable Health News<br>MTV   | Va. Beach,<br>VA  | CBN   |
| Nickelodeon/"A.R.T.S."<br>Children's/Fine Arts<br>Channel   | New York,<br>NY   | Warner-Amex   |
| "The Weather Channel"<br>(24 Hr)  | Atlanta           | Landmark<br>Communications                          |
| "The Music Channel<br>(24-Hr)   | New York          | Warner-Amex   |

**"Premium" Service: 2 Channels**

| <b>Program/Service</b>           | <b>Location</b> | <b>Affiliation</b>                      |
|----------------------------------|-----------------|---|
| Home Box Office<br>(HBO) (24-Hr) | New York,<br>NY | Time, Inc                               |
| Cinemax (24-Hr)                  | New York,<br>NY | Time, Inc                               |
| Showtime (24-Hr)                 | New York,<br>NY | Showtime-<br>The Movie<br>Channel, Inc. |

No channels or other services may be deleted without prior approval from the Durand Village Board.

"Dowden Communications agrees to provide WOR, New York City, or a comparable station to Village of

Durand at no additional cost when a satellite containing such stations is placed into service within four degrees (4 degrees) of SATCOM-F3, which is currently servicing Durand. Dowden further agrees to provide such service within 45 days after it becomes available."

- B. The System, in addition to meeting the standards herein set forth, shall be improved from time to time in recognition of changes in the state of the art in the field of Cable Television and shall continue to be designed, redesigned, installed, operated and equipment replaced and maintained.
- C. Except as otherwise provided in this chapter, the grantee shall have the right, privilege, and authority to charge the rates and charges fixed in this section to its subscribers for its services.
- D. A system turn on single-user rates and charges shall be as follows:

**Description:**  
**Service Charges:**

**1. Installation Charges:**

- a. **Basic** \$20.00, one-time. Free, if done within first 30 days service is available to subscriber.
- b. **Premium** \$10.00. Free, if done same time as Basic service. Also waived during first 30 days.

**2.**

- a. **Basic Service** \$8.75 a month
- b. **Premium Service** HBO & Cinemax, \$9.00 a month, each service

- 3. Additional Sets \$3.00 month, each set
- 4. Re-Connect; change in service \$10.00
- 5. Converters \$20.00 deposit, returnable to subscriber upon return of converter to company.
- 6. Disconnect Charge No charge
- 7. Parental Lock-Out No charge
- 8. Multi-Unit Dwellings Charges are same as for individual subscribers, after permission is granted by owner to wire building.
- 9. Hospitals, Private Negotiable, reasonable
- Health Care Rates based on number Institutions of subscriber units, not to exceed individual subscriber rates.

10. Commercial Negotiable, not to Establishments exceed individual subscriber rates.

11. Subscribers paying annually in full in advance will receive one month's free service.

**Sec. 19-19. Rates and Charges - Change.**

- a. For the purpose of this section only those items in 18D. Shall be included.
- b. Grantee may increase or decrease the rates for cable television service, provided any increase does not exceed the increase in the Consumer Price Index for the previous twelve months as determined by the Bureau of Labor Statistics. The use of the consumer Price Index for the purpose of this paragraph may be replaced by mutual agreement of the parties at any time by replacing the Index with such other formula as may be mutually agreed upon. Should grantee wish to increase rates approval shall rest with the Village Board. Such approval shall not be unreasonably withheld.
- c. Before approval of such increase, the Village shall hold public hearing thereon, and shall cause to be published for two consecutive weeks in a newspaper of general circulation in the Village a public notice setting forth the proposed rates and charges and the date, time and place of the public hearing. At such public hearing, any interested party shall have the right to give testimony and present evidence on the rates and charges proposed.
- d. Before instituting any increase grantee will furnish to the Village Board a copy of the new rates and charges, as well as information regarding Bureau of Labor Statistics figures on the Consumer Price Index. Such notification shall precede any increase by not less than thirty days and not more than sixty days.
- e. In no event shall rates be increased for a period of two years following award of franchise, no more frequently than 18-month intervals thereafter.
- f. The grantee shall pay all costs and expenses incurred by the Village in connection with said application and said hearing.

**Sec. 19-20. Record Keeping.**

The company shall keep full, true, accurate and current books of account, which books and records, and all other pertinent books, records, maps, plans, financial statements and other like materials, shall be made available for inspection and copying by the Village upon reasonable notice and during normal business hours.

**Sec. 19-21. Service Procedures.**

- a. During the term of the ordinance codified in this chapter, and any renewal thereof, the company shall maintain within the Village a local business office or agent for the purpose of receiving and resolving all questions regarding the quality of service, equipment, malfunctions and similar matters. The provisions of this section shall be complied with if company maintains a local business headquarters office within three miles of the principal coordinates of the Village, which office may be reached by local, toll-free telephone call, and provides the Village Clerk's office with the name, address and phone



number of a person who will act as the company's agent to receive complaints regarding quality of service, equipment malfunctions and similar matters. The local office shall be open to receive inquiries or complaints from subscribers during normal business hours, and in no event less than nine a.m. to five p.m., Monday through Friday. Any complaints from subscribers shall be investigated and acted upon, at no charge to the subscriber, as soon as possible, but at least within two business days of their receipt. The company shall keep a maintenance service log which will indicate the nature of each service complaint, and date and time it was received, and disposition of said complaint and the time and date thereof. This log shall be made available for periodic inspection by the Village.

- b. The company shall appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and-or complaints, including the name, address and telephone numbers of the employee or employees or agent to whom such inquiries or complaints are to be addressed.

#### **Sec. 19-22. Protection or Privacy.**

- a. Grantee shall not permit the transmission of any signal, aural, visual or digital, including "polling" the channel selection, from any subscriber's premises without first obtaining written permission of the subscriber. This provision is not intended to prohibit the use of transmission of signals useful only for the control or measurement of system performance.
- b. Grantee shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual, or digital signals without first obtaining written permission from the subscriber.

#### **Sec. 19-23. Program Content Restrictions.**

In addition to providing basic cable television service consisting of broadcasting, locally originated access, and automatic signals, the company may offer subscribers optional services on a per-program or per-channel basis. However, the company, shall not display x-rated motion pictures either as part of its basic cable or pay cable service.

#### **Sec. 19-24. Employment - Discrimination Prohibited.**

The grantee shall not refuse to hire, nor discharge from employment, nor discriminate against any person regarding compensation, terms conditions, or privileges of employment because of sex, race, color, creed, or national origin. The grantee shall take affirmative action to insure that employees are treated, during employment, without regard to their sex, race, color, creed, or national origin.

#### **Sec. 19-25. Liability, Indemnification and Insurance.**

1. **HOLD HARMLESS AGREEMENT.** Grantee shall indemnify and hold harmless the Village, its officers, Boards, commissioners, agents and employees, against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages (including costs or liabilities of the Village with respect to its employees) of every kind and nature whatsoever, including but not limited to damages for injury or death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against any loss, costs, and expense resulting or arising out of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, court costs,

per diem expense, traveling and transportation expense, or other costs or expense for any damages resulting from the operation, construction or maintenance of the system.

2. **DEFENSE OF LITIGATION.** Grantee shall at the sole risk and expense of Grantee, upon demand of the Village, made by and through the Village Attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the Village, its officers, Boards, commissions, agents, or employees, and arising out of or pertaining to the exercise or the enjoyment of such franchise or the granting thereof by the Village; provided, however, that Grantee shall not be responsible for the consequences of acts or omissions on the part of the Village relating thereto.
3. **PAYMENT OF CLAIMS.** Grantee shall pay and satisfy and shall cause to be paid and satisfied any judgment, degree, order, directive, or demand rendered, made or issued against Grantee, the Village, its officers, Boards, commissions, agents, or employees in any of these premises; provided, however, that Grantee shall not be responsible for the consequences of acts or omissions on the part of the Village, relating thereto; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy or insurance, deposit, undertaking or other assurance required hereunder, provided that neither Grantee nor Village shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit or other proceeding, without first obtaining the written consent of the other.
4. **INSURANCE REQUIRED.** The Grantee shall file with the Village Clerk and shall, during the entire term of this franchise, maintain in full force and effect at its own cost and expense each of the following policies of insurance.
  - a. General Comprehensive Liability Insurance in the amount of \$1,000,000 together with personal injury liability insurance in an amount of not less than \$250,000 for injuries including accidental death, to any one person, and subject to the same limit for each person in an amount not less than \$500,000 on account of any one occurrence, and property damage liability insurance in an amount not less than \$250,000 resulting from any one occurrence, and workmen's compensation insurance, provided, however, as follows:
    - i. The Village shall be named as an additional insured in any of said insurance policies; and
    - ii. Where such insurance is provided by a policy which also covers Grantee or any other entity or person, it shall contain the standard cross-liability endorsement;
    - iii. All insurance (including performance bonds) must be issued by companies authorized to do business in the State of Illinois, and having capital and-or surplus of not less than three million dollars;
    - iv. All insurance required by this agreement shall be and remain in full force and effect for the entire life of this agreement. Said policy or policies of insurance or a certified copy of copies thereof shall be approved by the Village Attorney and deposited with and kept on file by the Village Clerk.

5. Company, shall, within thirty days subsequent to the effective date of the ordinance codified in this chapter, post a performance bond with the Village, written by an approved corporation surety in the amount of Twenty-five Thousand (\$25,000.00) Dollars and in a form satisfactory to the Village guaranteeing company's continued operation of the cable television system within the Village, and company shall well and truly observe, fulfill, and perform each term and condition of the bond; provided, however, that if the company has posted a bond pursuant to the requirements of the chapter heretofore granted and said bond is in effect when the term of the ordinance codified in this chapter begins and is in a form and amount satisfactory to the Village, such bond shall constitute full compliance with the requirements of this section. All damages which may be directly occasioned by the failure of the company to perform under this chapter, up to the principal amount of the bond, shall be recoverable from the principals and sureties of said bond by the Village. The performance bond hereinabove referred to may be reduced to the sum of Ten Thousand Dollars (\$10,000.00) upon the completion of the construction satisfactory to Village.
6. If company should commit a minor breach of this chapter and not remedy such breach within sixty days after having received written notice from the Village to so do, then the Village at its discretion, may declare a portion of the bond equivalent to the amount of damage sustained by the municipality which are directly attributable to such breach forfeited and company shall thereupon be required:
  - a. To remedy the breach within reasonable dispatch; and
  - b. Within sixty days of such forfeiture replace the forfeited portion of the bond. Notwithstanding the foregoing, nothing contained in this subsection shall serve to absolve company of any of its obligations under this chapter or the rules and regulations of the Federal Communications Commission.
7. The company shall pay all premiums chargeable for the bond and shall keep same in full force and effect at all times throughout the term of the Ordinance codified in this chapter and during the removal of all poles, wires, cables, underground conduits, manholes and other conductors, convertors, equipment, and fixtures subsequent to the termination of the ordinance codified in this chapter.

The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to sixty days after written notice to that effect is given to the Clerk or similar official of the Village.

8. Within sixty days after the effective date of the ordinance codified in this chapter, the company shall file with the Federal Communications Commission such request, petition, or other application as is then proper to secure from said Federal Communications Commission any and all necessary permits, licenses, waivers, or the like as may be necessary to be secured from said Federal Communications Commission to fully comply with the terms of this chapter. The company shall thereafter diligently pursue such application with the Federal Communications Commission and shall do all reasonable things necessary and proper to secure any such permit, license, waiver, approval or the like from it. The company shall keep the Village advised, from time to time, of the progress of such application.

#### **Sec. 19-26. Village May Adopt Additional Regulations.**

The Village reserves the right to adopt, in addition to the provisions contained in this chapter, such additional regulations as it shall find necessary in the exercise of its police power; provided, however, that such regulations are reasonable and not materially in conflict with the privileges granted in this chapter.

**Sec. 19-27. Activities Prohibited.**

- A. The company, any and all of its officers, agents, employees, are specifically prohibited from engaging in the sale, service, rental, or leasing of television receivers, radio receivers, or television or radio receiver related parts and accessories with any person anywhere in the Village whether for a fee or charge or not. The company shall prohibit any of its officers, agents, and employees from violating the terms of this section at all times, whether in the performance of duties of the company or otherwise.
- B. The company shall not allow its cable or other operations to interfere with television reception of persons not served by the company, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the Village.
- C. The company shall not, as to rate, charges, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage; provided, that nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

**Sec. 19-28. Violation - Penalty.**

- A. Should the company, its successors or assigns, violate any of the provisions of this chapter or any reasonable rules and regulations established by the Village pursuant hereto, and should such violation continue for more than thirty days after the Village has given the company written notice of such violation, failure or default, the same shall be cause for the forfeiture or revocation of the ordinance codified in this chapter and the termination of all rights hereunder; provided, however, any delay in correcting such violation which is caused by factors beyond the control of the company shall not be included in computing the length of the continuance of such violation.
- B. In the event of the bankruptcy or receivership of the company, all rights herein given to the company shall, at the option of the Village, be forfeited and terminated.

**Sec. 19-29. Repealer.**

That all ordinance in conflict herewith are hereby repeated. They are: NONE

**Sec. 19-30. Severability Clause.**

If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Sec. 19-31. When Effective.**

This ordinance shall be in effect after its final passage, approval and publication as provided by law.

## **CHAPTER 20**

### **FLOOD PLAIN**

#### **Sec. 20-1. Purpose.**

This ordinance is enacted pursuant to the police powers granted to this Village by the Illinois Municipal Code (65 IL. Compiled Statutes 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2) in order to accomplish the following purposes:

1. To prevent unwise developments from increasing flood or drainage hazards to others;
2. To protect new buildings and major improvements to buildings from flood damage;
3. To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, as well as flood rescue and relief operations;
4. To maintain property values and a stable tax base by minimizing the potential for creating blight areas;
5. To make federally subsidized flood insurance available, and
6. To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

#### **Sec. 20-2. Definitions.**

For the purposes of this ordinance, the following definitions are adopted:

**Base Flood.** The flood having a one-percent (1%) probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in Section 3 of this ordinance.

**Base Flood Elevation (BFE).** The elevation in relation to mean sea level of the crest of the base flood.

**Basement.** That portion of a building having its floor sub-grade (below ground level) on all sides.

**Building.** A walled and roofed structure, including gas or liquid storage tank, that is principally above ground, including manufactured homes, prefabricated buildings and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than one hundred eighty (180) days per year.

**Critical Facility.** Any facility which is critical to the health and welfare of the population and, if flooded,

would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk.

Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals, retirement home and senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers), and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances).

**Development.** Any man-made change to real estate including, but not necessarily limited to:

1. Demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building;
2. Substantial improvement of an existing building;
3. Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than one hundred eighty (180) days per year;
4. Installation of utilities, construction of roads, bridges, culverts or similar projects;
5. Construction or erection of levees, dams, walls, or fences;
6. Drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
7. Storage of materials including the placement of gas and liquid storage tanks; and
8. Channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

“**Development**” does not include routine maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

**Existing Manufactured Home Park or Subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA.** Federal Emergency Management Agency

**Flood.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**Flood Fringe.** That portion of the floodplain outside of the regulatory floodway.

**Flood Insurance Rate Map.** A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community. This map includes insurance rate zones and may or may not depict floodways and show base flood elevations.

**Flood Insurance Study.** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Floodplain and Special Flood Hazard Area (SFHA).** These two terms are synonymous. Those lands within the jurisdiction of the Village of Durand, the extraterritorial jurisdiction of the Village of Durand, or that may be annexed into the Village of Durand that are subject to inundation by the base flood. The floodplains of the Village of Durand are generally identified as such on panel number(s) 0079D, 0083D and 0087D of the countywide Flood Insurance Rate Map of Winnebago County prepared by the Federal Emergency Management Agency and dated September 6, 2006. Floodplain also includes those areas of known flooding as identified by the community.

The floodplains of those parts of unincorporated Winnebago County that are within the extraterritorial jurisdiction of the Village of Durand or that may be annexed into the Village of Durand are generally identified as such on the Flood Insurance Rate map prepared for Winnebago County by the Federal Emergency Management Agency and dated September 6, 2006.

**Floodproofing.** Any combination of structural or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

**Floodproofing Certificate.** A form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

**Flood Protection Elevation (FPE).** The elevation of the base flood plus one foot of freeboard at any given location in the floodplain.

**Floodway.** That portion of the floodplain required to store and convey the base flood. The floodway for the floodplains of Otter Creek shall be as delineated on the countywide Flood Insurance Rate Map of Winnebago County prepared by FEMA and dated September 6, 2006. The floodways for each of the remaining floodplains of the Village of Durand shall be according to the best data available from Federal, State, or other sources.

**Freeboard.** An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, future watershed development, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

**Historic Structure.** Any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National

- Register.
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
  3. Individually listed on the state inventory of historic places by the Illinois Historic Preservation Agency.
  4. Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

**IDNR/OWR.** Illinois Department of Natural Resources/Office of Water Resources.

**Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 7 of this ordinance

**Manufactured Home.** A structure transportable in one or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

**Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

**New Construction.** Structures for which the start of construction commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures.

**New Manufactured Home Park or Subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**NFIP.** National Flood Insurance Program.

**Recreational Vehicle or Travel Trailer.** A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less in size;
3. Designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.



**Repetitive Loss.** Flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

**SFHA.** See definition of floodplain.

**Start of Construction.** Includes substantial improvement and means the date the building permit was issued. This, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement, was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or placement of a manufactured home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

**Structure.** See “Building.”

**Substantial Damage.** Damage of any origin sustained by a structure whereby the cumulative percentage of damage during the life of the building equals or exceeds fifty percent (50%) of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes “Repetitive Loss Buildings” (see definition).

**Substantial Improvement.** Any reconstruction, rehabilitation, addition or improvement of a structure, taking place during the life of the building in which the cumulative percentage of improvements:

1. Equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started, or
2. Increases the floor area by more than twenty percent (20%).

“Substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
2. Any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

**Violation.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the required federal, state and/or local permits and elevation certification is presumed to be in violation until such time as the documentation is provided.

#### **Sec. 20-3. Base Flood Elevation.**

This ordinance's protection standard is the base flood. The best available base flood data are listed below. Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace the existing data with better data and submit it to the FEMA and IDNR/OWR for approval prior to any development of the site:

1. The base flood elevation for the floodplains of Otter Creek shall be as delineated on the 100-year flood profiles in the countywide Flood Insurance Study of Winnebago County prepared by the Federal Emergency Management Agency and dated September 6, 2006.
2. The base flood elevation for each floodplain delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the countywide Flood Insurance Rate Map of Winnebago County.
3. The base flood elevation for each of the remaining floodplains delineated as an "A Zone" on the countywide Flood Insurance Rate Map of Winnebago County shall be according to the best data available from federal, state or other sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations.
4. The base flood elevation for the floodplains of those parts of unincorporated Winnebago County that are within the extraterritorial jurisdiction of the Village of Durand, or that may be annexed into the Village of Durand, shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Winnebago County prepared by the Federal Emergency Management Agency and dated September 6, 2006.

#### **Sec. 20-4. Duties of the Superintendent of Public Works.**

The Superintendent of Public Works shall be responsible for the general administration of this ordinance and ensure that all development activities within the floodplains under the jurisdiction of the Village of Durand meet the requirements of this ordinance. Specifically, the Superintendent of Public Works shall:

- A. Process development permits in accordance with Section 5;
- B. Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of Section 6;
- C. Ensure that the building protection requirements for all buildings subject to Section 7 are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or floodproof certificate;
- D. Assure that all subdivisions and annexations meet the requirements of Section 8;

- E. Ensure that water supply and waste disposal systems meet the Public Health standards of Section 9;
- F. If a variance is requested, ensure that the requirements of Section 11 are met and maintain documentation of any variances granted;
- G. Inspect all development projects and take any and all penalty actions outlined in Section 13 as necessary to ensure compliance with this ordinance;
- H. Assure that applicants are aware of and obtain any and all other required local, state, and federal permits;
- I. Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;
- J. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- K. Cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this ordinance;
- L. Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this ordinance;
- M. Perform site inspections to ensure compliance with this ordinance and make substantial damage determinations for structures within the floodplain, and
- N. Maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within six (6) months whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map.

**Sec. 20-5. Development Permit.**

No person, firm, corporation, or governmental body not exempted by law shall commence any development in the floodplain without first obtaining a development permit from the Superintendent of Public Works. The Superintendent of Public Works shall not issue a development permit if the proposed development does not meet the requirements of this ordinance.

- A. The application for a development permit shall be accompanied by:
  - 1. Drawings of the site, drawn to scale showing property line dimensions;
  - 2. Existing grade elevations and all changes in grade resulting from excavation or filling;
  - 3. The location and dimensions of all buildings and additions to buildings;
  - 4. The elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Section 7 of this ordinance, and

5. Cost of project or improvements as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.
- B. Upon receipt of an application for a development permit, the Superintendent of Public Works shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to have been higher than the current base flood elevation and which has not been filled after the date of the site's first Flood Insurance Rate Map is not in the floodplain and therefore not subject to the requirements of this ordinance. Conversely, any development located on land shown to be below the base flood elevation and hydraulically connected, but not shown on the current Flood Insurance Rate Map, is subject to the provisions of this ordinance.

The Superintendent of Public Works shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.

The Superintendent of Public Works shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The Superintendent of Public Works shall not issue a permit unless all other federal, state, and local permits have been obtained.

#### **Sec. 20-6. Preventing Increased Flood Heights and Resulting Damages.**

Within any floodway identified on the countywide Flood Insurance Rate Map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

- A. Except as provided in Section 20-6. (B) of this ordinance, no development shall be allowed which, acting in combination with existing and anticipated development will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:
  - a. Bridge and culvert crossings of streams in rural areas meeting the following conditions of the Illinois Department of Natural Resources, Office of Water Resources Statewide Permit Number 2:
    - i. The crossing will not result in an increase in water surface profile elevation in excess of 1.0 feet, and
    - ii. The crossing will not result in an increase in water surface profile elevation in excess of one half (0.5) feet at a point one thousand (1,000) feet upstream of the proposed structure.
    - iii. There are no buildings in the area impacted by the increases in water surface profile.
    - iv. The proposed bridge or culvert crossing will not involve straightening, enlarging, or relocating the existing channel.
    - v. The design must be certified by a registered professional engineer in the State of Illinois and the designs must meet the conditions of an IDNR/OWR permit.

- vi. The design must be certified by a second registered professional engineer.
- b. Barge fleeting facilities meeting the conditions of IDNR/OWR Statewide Permit No. 3;
  - i. The permit is only applicable when deadmen, pier cells, or other similar anchorage devices have been permitted by the U.S. Army Corps of Engineers.
- c. Aerial utility crossings meeting the following conditions of IDNR/OWR Statewide Permit No. 4;
  - i. The utility line must be constructed above the existing 100-year flood elevation or attached to an existing bridge.
  - ii. A utility line attached to an existing bridge shall be constructed above the low cord elevation of the bridge.
  - iii. No supporting towers or poles shall be located in a river, lake or stream.
  - iv. Supporting towers including foundation and poles shall be designed and located so as to not cause an obstruction of flood flows by trapping debris.
  - v. All disturbed areas shall be returned to pre-construction grades and re-vegetated.
  - vi. All Illinois Commerce Commission, National Electrical Safety Code, and federal requirements must be met.
- d. Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit No. 5
  - i. The boat dock must not extend more than fifty (50) feet into a waterway and no more than one quarter (1/4) of the width of the waterway and shall not extend beyond the navigational limited established by the IDNR and Corps of Engineers.
  - ii. The width of the boat dock shall not be more than ten (10) feet.
  - iii. For L-shaped or T-shaped docks, the length of that portion parallel to the shoreline must not exceed fifty percent (50%) of the landowner's shoreline frontage nor fifty (50) feet.
  - iv. Docks must be aligned so as not to cross the projection of property lines into the waterway or come within ten (10) feet of the projected property line.
  - v. Dock posts must be marked by reflective devices.
  - vi. The boat dock must be securely anchored to prevent detachment during times of high wind or water.
  - vii. Metal drums or containers may not be used as buoyancy units unless they are filled with floatation foam. Containers which previously stored pesticides, herbicides, or

any other toxic chemicals are not permissible.

- viii. This permit does not authorize any other related construction activity such as shore protection or fill.
  - ix. Non-floating boat docks must be constructed in a manner which will minimize obstruction to flow.
  - x. At any future date, the permittee must agree to make necessary modifications to the dock as determined by the IDNR or Corps of Engineers.
- e. Minor, non-obstructive activities meeting the conditions of IDNR/OWR Statewide Permit No. 6:
- i. The following activities (not involving fill or positive change in grade) are covered by this permit:
    - 1. The construction of underground utility lines, wells, or septic tanks not crossing a lake or stream.
    - 2. The construction of light poles, sign posts, and similar structures.
    - 3. The construction of sidewalks, driveways, athletic fields (excluding fences), patios, and similar structures.
    - 4. The construction of properly anchored, unwallied, open structures such as playground equipment, pavilions, and carports.
    - 5. The placement of properly anchored buildings not exceeding seventy (70) square feet in size, nor ten (10) square feet in any dimension. Only one such building on a property is authorized by this statewide permit.
    - 6. The raising of existing buildings provided no changes are made to the outside dimensions of the building and the placement of fill is not involved.
- f. Outfall Structures and drainage ditch outlets meeting the following condition of IDNR/OWR Statewide Permit Number 7:
- i. Any outfall structure, including any headwall or end section, shall not extend riverward or lakeward of the existing adjacent natural bank slope or adjacent bank protection.
  - ii. The velocity of the discharge shall not exceed the scour velocity of the channel soil, unless channel erosion would be prevented by the use of riprap or other design measures.
  - iii. Outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation.

1. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
- g. Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 8:
- i. In all cases, the crossing shall be placed beneath the bed of the river, lake or stream and, unless the crossing is encased in concrete or entrenched in bedrock, a minimum of three (3) feet of cover shall be provided. The river, lake or stream bed shall be returned to its original condition.
  - ii. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
  - iii. Any utility crossing carrying material which may cause water pollution, as defined by the Environmental Protection Act (415 ILCS 5), shall be provided with shut-off valves on each side of the body of water to be crossed.
  - iv. If blasting is to be utilized in the construction of the crossing, the permittee shall notify the IDNR/OWR at least ten (10) days prior to the blasting date to allow monitoring of any related fish kills.
- h. Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit Number 9:
- i. Only the following materials may be utilized in urban areas: stone and concrete riprap, steel sheet piling, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, natural vegetation and treated timber. Urban areas are defined as: areas of the State where residential, commercial, or industrial development currently exists or, based on land use plans or controls, is expected to occur within ten (10) years. (The Department should be consulted if there is a question of whether or not an area is considered urban.)
  - ii. In addition to the materials listed in Section 20-6 (8)(a), other materials (e.g., tire revetments) may be utilized in rural areas provided all other conditions of this permit are met.
  - iii. The following materials shall **not** be used in any case: auto bodies, garbage or debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous materials, or any material which would cause water pollution as defined by the Environmental Protections Act (415 ILCS 5).

- iv. The affected length of shoreline, stream bank or channel to be protected shall not exceed, either singularly or cumulatively, one thousand (1000) feet.
- v. All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action.
- vi. Materials shall be placed in a way which would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.
- vii. Materials shall not be placed higher than the existing top of the bank.
- viii. Materials shall be placed so that the modified bank full-width and cross-sectional area of the channel will conform to or be no more restrictive than that of the natural channel upstream and downstream of the site. For projects involving continuous placement of riprap along the bank, toe of the bank or other similar applications, in no case shall the cross-sectional area of the natural channel be reduced by more than ten percent (10%) nor the volume of material placed exceed two (2) cubic yards per lineal foot of the stream bank or shoreline. The bank may be graded to obtain a flatter slope and to lessen the quantity of material required.
- ix. If broken concrete is used, all protruding materials such as reinforcing rods shall be cut flush with the surface of the concrete and removed from the construction area.
- x. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of construction.
- xi. In the case of seawalls and gabion structures on lakes, the structure shall be constructed at or landward of the water line as determined by the normal pool elevation, unless:
  - 1. It is constructed in alignment with an existing seawall(s) or gabion structure(s), and
  - 2. The volume of material placed, including the structure, would not exceed two (2) cubic yards per lineal foot.
    - a. Excess material excavated during the construction of the bank or shoreline protection shall be placed in accordance with local, state, and federal laws and rules, shall not be placed in a floodway.
- i. Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit Number 10:
  - i. The accessory structure or building addition must comply with the requirements of the local floodplain ordinance.
  - ii. The principal structure to which the project is being added must have been in



existence on the effective date of this permit (July 25, 1988).

- iii. The accessory structure or addition must not exceed five hundred (500) square feet in size and must not deflect floodwaters onto another property, and
  - iv. Must not involve the placement of any fill material.
  - v. **No** construction shall be undertaken in, or within fifty (50) feet of the bank of the stream channel.
  - vi. The accessory structure or addition must be properly anchored to prevent its movement during flood conditions.
  - vii. Only one accessory structure or addition to an existing structure shall be authorized by this permit; plans for any subsequent addition must be submitted to IDNR/OWR for review.
  - viii. Disturbances of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas shall be seeded or otherwise stabilized upon completion of construction.
- j. Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit Number 11:
- i. The affected length of the stream shall not either singularly or cumulatively exceed one thousand (1000) feet.
  - ii. The project shall not include the construction of any new channel; all work must be confined to the existing channel or to reestablishing flows in the natural stream channel, and
  - iii. The cross-sectional area of the dredged channel shall conform to that of the natural channel upstream and downstream of the site.
  - iv. Dredged or spoil material shall not be disposed of in a wetland and shall be either:
    - 1. Removed from the floodway;
    - 2. Used to stabilize an existing bank provided no materials would be placed higher than the existing top of bank and provided the cross-sectional area of the natural channel would not be reduced by more than ten percent (10%), nor the volume of material placed exceed two (2) cubic yards per lineal foot of stream bank;
    - 3. Used to fill an existing washed out or scoured floodplain area such that the average natural floodplain elevation is not increased;
    - 4. Used to stabilize an existing levee provided the height of the levee would not

be increased nor its alignment changed;

5. Placed in a disposal site previously approved by the Department in accordance with the conditions of the approval, or
  6. Used for beach nourishment, provided the material meets all applicable water quality standards.
- v. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be seeded or otherwise stabilized upon completion of construction.
- k. Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR Statewide Permit Number 12:
- i. A registered professional engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
    1. No buildings or structures have been impacted by the backwater induced by the existing structure, and
    2. There is no record of complaints of flood damages associated with the existing structure.
  - ii. A registered professional engineer shall determine that the new structure will provide the same or greater effective waterway opening as the existing structure. For bridge widening projects the existing piers and the proposed pier extensions must be in line with the direction of the approaching flow upstream of the bridge.
  - iii. The project shall not include any appreciable raising of the approach roads. (This condition does not apply if all points on the approaches exist at an elevation equal to or higher than the 100-year frequency flood headwater elevation as determined by a FEMA flood insurance study completed or approved by IDNR/OWR).
  - iv. The project shall not involve the straightening, enlargement or relocation of the existing channel of the river or stream except as permitted by the Department's Statewide Permit Number 9 (Minor Shoreline, Channel and Streambank Protection Activities) or Statewide Permit Number 11 (Minor Maintenance Dredging Activities).
  - v. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above conditions.
- l. Temporary construction activities meeting the following conditions of IDNR/OWR Statewide Permit Number 13:

- i. No temporary construction activity shall be commenced until the individual permittee determines that the permanent structure (if any) for which the work is being performed has received all required federal, state and local authorizations.
  - ii. The term “temporary” shall mean not more than one construction season. All temporary construction materials must be removed from the stream and floodway within one year of their placement and the area returned to the conditions existing prior to the beginning of construction. Any desired subsequent or repetitive material placement shall not occur without the review and approval of the IDNR/OWR.
  - iii. The temporary project shall be constructed such that it will not cause erosion or damage due to increases in water surface profiles to adjacent properties. For locations where there are structures in the upstream floodplain, the temporary project shall be constructed such that all water surface profile increases, due to the temporary project, are contained within the channel banks.
  - iv. This permit does not authorize the placement or construction of any solid embankment or wall such as a dam, roadway, levee, or dike across any channel or floodway.
  - v. No temporary structure shall be placed within any river or stream channel until a registered professional engineer determines and documents that the temporary structure will meet the requirements of Special Condition Number 3 of this statewide permit. Such documentation shall include, at a minimum, confirmation that no buildings or structures will be impacted by the backwater induced by the temporary structure.
  - vi. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above condition.
  - vii. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of the removal of the temporary construction.
  - viii. Materials used for the project shall not cause water pollution as defined by the Environmental Protection Act (415 ILCS 5).
  - m. Any Development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from State Floodway permit requirements.
- B. Other development activities not listed in Section 20-6 (A) may be permitted only if:
- a. Permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required), or
  - b. Sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation.

**Sec. 20-7. Protecting Buildings.**

- A. In addition to the damage prevention requirements of Section 6 of this ordinance, all buildings located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:
- a. Construction or placement of a new building or alteration or addition to an existing building valued at more than \$1,000 or seventy (70) square feet.;
  - b. Substantial improvements or structural alterations made to an existing building that increase the floor area by more than twenty percent (20%) or equal or exceed the market value by fifty percent (50%). Alteration shall be figured cumulatively during the life of the building. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.
  - c. Repairs made to a substantially damaged building. These repairs shall be figured cumulatively during the life of the building. If substantially damaged the entire structure must meet the flood protection standards of this section.
  - d. Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.)
  - e. Installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days per year.
  - f. Repetitive loss to an existing building as defined in Section 2.
- B. Residential or non-residential buildings can meet the building protection requirements by one of the following methods:
- a. The building may be constructed on permanent land fill in accordance with the following:
    - i. The lowest floor (including basement) shall be at or above the flood protection elevation.
    - ii. The fill shall be placed in layers no greater than six (6) inches before compaction and should extend at least ten (10) feet beyond the foundation before sloping below the flood protection elevation.
    - iii. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure.
    - iv. The fill shall be composed of rock or soil and not incorporate debris or refuse materials; and
    - v. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary, storm water management techniques

such as swales or basins shall be incorporated.

- b. The building may be elevated in accordance with the following:
  - i. The building or improvements shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to flood waters.
  - ii. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation.
  - iii. If walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a registered professional engineer or by having a minimum of one (1) permanent opening on each wall no more than one (1) foot above grade with a minimum of two (2) openings. The openings shall provide a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the base flood elevation, and
  - iv. The foundation and supporting members shall be anchored, designed and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice and floating debris.
    - 1. All structural components below the flood protection elevation shall be constructed of materials resistant to flood damage.
    - 2. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
    - 3. The area below the flood protection elevation shall be used solely for parking or building access and not later modified or occupied as habitable space, or
    - 4. In lieu of the above criteria, the design methods to comply with these requirements may be certified by a registered professional engineer or architect.
- c. The building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:
  - i. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - ii. Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not

less than one (1) square inch per one (1) square foot of enclosed area. The openings shall be no more than one (1) foot above grade.

- iii. The interior grade of the crawlspace below the flood protection elevation must not be more than two (2) feet below the lowest adjacent exterior grade.
- iv. The interior height of the crawlspace measured from the interior grade of the crawl space to the top of the foundations wall must not exceed four (4) feet at any point.
- v. An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event.
- vi. Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage, and
- vii. Utility systems within the crawlspace must be elevated above the flood protection elevation.

C. Non-residential buildings may be structurally dry floodproofed (in lieu of elevation) provided a registered professional engineer or architect certifies that:

- a. Below the flood protection elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood.
- b. The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy and the impact from debris and ice.
- c. Floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.
- d. Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

D. Manufactured homes or travel trailers to be permanently installed on site shall be:

- a. Elevated to or above the flood protection elevation in accordance with Section 7(B), and
- b. Anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code § 870.

E. Travel trailers and recreational vehicles on site for more than one hundred eighty (180) days per year shall meet the elevation requirements of Section 7(D) unless the following conditions are met:

- a. The vehicle must be either self-propelled or towable by a light duty truck.
- b. The hitch must remain on the vehicle at all times.

- c. The vehicle must not be attached to external structures such as decks and porches.
  - d. The vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.
  - e. The vehicle's largest horizontal projections must be no larger than four hundred (400) square feet.
  - f. The vehicle's wheels must remain on axles and inflated.
  - g. Air conditioning units must be attached to the frame so as to be safe for movement off the floodplain.
  - h. Propane tanks as well as electrical and sewage connections must be quick-disconnect and above the 100-year flood elevation.
  - i. The vehicle must be licensed and titled as a recreational vehicle or park model, and
  - j. Must either:
    - i. Entirely be supported by jacks, or
    - ii. Has a hitch jack permanently mounted, have the tires touching the ground and be supported by block in a manner that will allow the block to be easily removed by use of the hitch jack.
- F. Garages, sheds or other minor accessory structures constructed ancillary to an existing residential use may be permitted provided the following conditions are met:
- a. The garage or shed must be non-habitable.
  - b. The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another usage.
  - c. The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits.
  - d. The garage or shed must be on a single-family lot and be accessory to an existing principal structure on the same lot.
  - e. Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage.
  - f. All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation.
  - g. The garage or shed must have at least one permanent opening on each wall not more than one (1) foot above grade with one (1) square inch of opening for every one (1) square foot of floor

area.

- h. The garage or shed must be less than ten thousand dollars (\$10,000) in market value or replacement cost whichever is greater or less than five hundred (500) square feet.
- i. The structure shall be anchored to resist floatation and overturning.
- j. All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation.
- k. The lowest floor elevation should be documented, and the owner advised of the flood insurance implications.

#### **Sec. 20-8. Subdivision Requirements.**

The Village of Durand Board of Trustees shall take into account hazards, to the extent that they are known, in all official actions related to land management, use and development.

- A. New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protections standards of Sections 20-6 and 20-7 of this ordinance. Any proposal for such development shall include the following data:
  - a. The base flood elevation and the boundary of the floodplain, (where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation);
  - b. The boundary of the floodway when applicable, and
  - c. A signed statement by a Registered Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (765 ILCS 205/2).

Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible, the floodplains shall be included within parks or other public grounds.

#### **Sec. 20-9. Public Health and Other Standards.**

- A. Public health standards must be met for all floodplain development. In addition to the requirements of Sections 20-6 and 20-7 of this ordinance, the following standards apply:
  - a. No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or in a floodproofed building constructed according to the requirements of Section 20-7 of this ordinance.



- b. Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.
- c. Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- d. New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight.
- e. Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry proofed to the 500-year flood frequency elevation or three feet above the level of the 100-year flood frequency elevation whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.
- f. All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

**Sec. 20-10. Carrying Capacity and Notification.**

For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained.

In addition, the Village of Durand shall notify adjacent communities in writing thirty (30) days prior to the issuance of a permit for the alteration or relocation of the watercourse.

**Sec. 20-11. Variances.**

Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the Village of Durand Zoning Board of Appeals for a variance. The Village of Durand Zoning Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the Village of Durand Board of Trustees. The Village of Durand Board of Trustees may attach such conditions to granting of a variance as it deems necessary to further the intent of this ordinance.

- A. No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:
  - a. The development activity cannot be located outside the floodplain.
  - b. An exceptional hardship would result if the variance was not granted.

- c. The relief requested is the minimum necessary.
  - d. There will be no additional threat to public health, safety or creation of a nuisance.
  - e. There will be no additional public expense for flood protection, rescue or relief operations policing, or repairs to roads, utilities, or other public facilities.
  - f. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP, and
  - g. All other state and federal permits have been obtained.
- B. The Village of Durand Zoning Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protections standards of Section 20-7 that would lessen the degree of protection to a building will:
- a. Result in increased premium rates for flood insurance up to twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage;
  - b. Increase the risk to life and property, and
  - c. Require that the applicant proceed with knowledge of these risks and the applicant acknowledge in writing the assumption of the risk and liability.
- C. Variances to the building protection requirements of Section 20-7 of this ordinance which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in "Historic Structures", may be granted using criteria more permissive than the requirements of Sections 20-6 and 20-7 of this ordinance subject to the conditions that:
- a. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.
  - b. The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

#### **Sec. 20-12. Disclaimer of Liability.**

The degree of protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This ordinance does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This ordinance does not create liability on the part of the Village of Durand or any officer or employee thereof for any flood damage that results from proper reliance on this ordinance or any administrative decision made lawfully thereunder.

#### **Sec. 20-13. Penalty.**

Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a

permit or a variance shall be deemed to be a violation of this ordinance. Upon due investigation, the Superintendent of Public Works may determine that a violation of the minimum standards of this ordinance exists. The Superintendent of Public Works shall notify the owner in writing of such violation.

A. If such owner fails after ten (10) days' notice to correct the violation:

- a. The Village of Durand shall make application to the circuit court for an injunction requiring conformance with this ordinance or make such other order as the court deems necessary to secure compliance with the ordinance.
- b. Any person who violates this ordinance shall upon conviction thereof be fined not less than fifty dollars (\$50) or more than seven hundred fifty (\$750) for each offense.
- c. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues, and
- d. The Village of Durand shall record a notice of violation on the title of the property.

B. The Superintendent of Public Works shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

The Superintendent of Public Works is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

No site development permit shall be permanently suspended or revoked until a hearing is held by the Village of Durand Zoning Board of Appeals. Written notice of such hearing shall be served on the permittee and shall state:

1. The grounds for the complaint, reasons for suspension or revocation, and
2. The time and place of the hearing.

At such hearing the permittee shall be given an opportunity to present evidence on their behalf. At the conclusion of the hearing, the Village of Durand Zoning Board of Appeals shall determine whether the permit shall be suspended or revoked.

C. Nothing herein shall prevent the Village of Durand from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

#### **Sec. 20-14. Abrogation and Greater Restrictions.**

This ordinance repeals and replaces other ordinances adopted by the Village of Durand to fulfill the requirements of the National Flood Insurance Program including the Flood Plain ordinance, Ordinance No.: 1999-6 adopted and passed on May 24, 1999.

However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Sec. 20-15. Separability.**

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

**Sec. 20-16. Effective Date.**

This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law. **(Ord. No. 2006-8; 8/14/06)**

## **CHAPTER 21**

### **ANNEXATION**

#### **Sec. 21-1. Purpose.**

The purpose of this Section is to create certain provisions and procedures required of a petitioner to reimburse the Village for all expenses incurred by the Village's retained personnel in reviewing, evaluating, inspecting and accepting and approving of final plan and agreement of annexation. (Ord. No. 1999-9; 08/99).

#### **Sec. 21-2. Reimbursement Procedure.**

(Repealed by Ord. No. 2011-2; 04/11/11). See Section 22-2. *Recovery of Village Costs.*

#### **Sec. 21-3. Inspection of Public Land Improvements and Reimbursement for Expenses.**

All public land improvements proposed to be made under the provisions of this Section shall be inspected during the course of construction by the Village Engineer, duly designated deputy or other retained personnel, and all reasonable fees and costs in connection with any such inspections, and in reviewing the plans and specifications for such improvements, shall be withdrawn from the specified account. (Ord. No. 1999-9; 08/99).

## **CHAPTER 22**

### **RECOVERY OF VILLAGE COSTS**

#### **Sec. 22-1. Scope.**

Every petition filed and to be processed that requires the village to incur professional fees and expenses shall be subject to the requirements set forth in this chapter. The recovery of professional fees and expenses shall be in addition to any and all other filing fees and other charges established by the village. No petition subject to this chapter shall be placed on the agenda for any board or committee until the petitioner has complied with this section. Notwithstanding the foregoing, the village board may consider a request for a reduction or waiver of the escrow required under this section prior to the creation of the escrow account.

#### **Sec. 21-2. Definitions.**

**PETITION:** Includes and refers to any and all requests, applications or petitions filed or processed pursuant to the subdivision ordinance of this code or filed requesting annexation, rezoning, building permits or other land related permits or permissions which:

1. Require the review of any proposed plans to verify compliance with the applicable codes and regulations of the village or;
2. Require negotiation or discussion with the professional staff of the village, including, but not limited to the village attorney, village engineer or village planners or;
3. Require the creation of a special service area under the current or future provisions of any applicable village, county or state ordinance, statute, regulation or law or;
4. Involve connection to the storm water, sanitary sewer, water or other public utility maintained by the village or;
5. Involve the proposed construction of permanent or semi-permanent fixed structures including buildings, parking lots, roadways or driveways or other similar structures or;
6. The ongoing administration of any project that results from any of the above listed items to the full completion of the project.

#### **PROFESSIONAL FEES AND EXPENSES:**

Includes and refers to any and all fees, costs, expenses or other charges incurred by the village in the process of reviewing any petition, including, without limitation, the costs associated with professional review, discussion and/or negotiation of the petition and related permits, plans and other documents by the village attorney, engineer, planner and/or other professional and including all costs or expenses otherwise incurred by the village in association therewith, including, but not limited to, administrative expenses of the village. Costs of inspection will include village's cost for any equipment and material involved, including staffing and administrative expenses associated with distributing materials related to the petition, copying or preparing such materials, administering escrow accounts or otherwise related to the petition. Fees for village employees shall be based on hourly rates reflecting the actual time spent on the project by the village employees, with hourly rates for the same to be fixed from time to time by separate resolution of the village board of trustees.

Professional fees and expenses may also include, as appropriate, the costs of court reporters, copy reproduction, document recordation, mailing costs, title searches and such other costs as shall be incurred by the village due to the filing of the petition or of the activity proposed by the petition. Professional fees and expenses shall also include the cost of inspection or supervision of any public improvements or other structures constructed by virtue of, or arising out of a petition. All such fees, costs, and expenses are also herein referred to as Recoverable Costs.

**Sec. 22-3. Responsibility for Payment of Recoverable Costs; Lien.**

The owner(s) of the property that is the subject of the petition and, if different, the petitioner(s), shall be jointly and severally liable for the payment of recoverable costs. By signing the petition, the owner(s) or petitioner(s) shall be deemed to have agreed to pay, and to have consented to all of the provisions of this chapter including the right of the village to file a lien against the subject property for all amounts unpaid pursuant to this chapter and for the village to have a right to foreclose that lien in the manner provided for mortgages or mechanics' liens under Illinois law.

**Sec. 22-4. Provisions are a Condition of all Petitions, Approvals and Permits.**

No petition filed pursuant to this chapter shall be considered complete unless and until all filing fees and deposits due pursuant to this chapter have been paid. Every approval granted and every permit issued pursuant to this chapter shall, whether or not expressly so conditioned, be deemed to be conditioned upon payment of recoverable costs as required by this chapter. The village may, in its sole discretion, issue stop work orders and otherwise revoke permits or permissions previously granted should a petitioner cease compliance with this chapter during the pendency of a filed or approved petition. Any person who files a petition covered under this chapter shall be obligated to execute and complete a separate reimbursement agreement which shall be provided by the village.

**Sec. 22-5. Failure to Pay Recoverable Costs.**

The failure to pay in full when due any recoverable cost or deposit required under this chapter shall be grounds for refusing to process a petition and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid recoverable cost or deposit relates.

**Sec. 22-6. Escrow Account to be Established.**

At the time of filing a petition, and prior to the village's review of the same, the petitioner shall be required to establish an escrow account in compliance with this chapter, and shall be required to execute an escrow agreement in the form provided by the village. The petitioner shall be obligated to make all payments necessary to maintain such account at the level prescribed by the village. If the petitioner fails to make a payment requested by the village within thirty (30) days of such request, the village may unilaterally choose to implement any or all of the following remedies until such point in time as the petitioner has paid all amounts due and has made all payments necessary to restore petitioner's escrow accounts to the level prescribed by the village:

1. Issuance of a stop work order on any portion of the work proposed by the petition.
2. Refusal to issue further permits for building, occupancy, water hookup or other petition related work.

3. Cessation of any utility service provided by the village to any property owned or maintained by petitioner or their successors or assigns.
4. Institution of appropriate legal action to recover any and all amounts due, in which case the village will be entitled to reasonable attorney fees, costs of court and other collection costs plus statutory interest.
5. Cessation of any or all work on or pertaining to the petition by village staff, employees, consultants and agents.
6. Filing a lien against the subject property for all amounts unpaid pursuant to this chapter and to foreclose that lien in the manner provided for mortgages or mechanics' liens or as otherwise provided for under Illinois law.

Any portion of the escrow account which remains unused upon the termination of the petition or the completion of any improvement contemplated by the petition shall be refunded to the petitioner within thirty (30) days of the village's receipt of the last invoice for professional fees and costs that are or to be reimbursed out of the petitioner's escrow account.

The escrow deposit required pursuant to Section 22-6 of the Municipal Code of the Village of Durand, Illinois regarding annexation petitions under Chapter 21 Municipal Code of the Village of Durand, Illinois shall be, effective immediately, as follows:

|                             |   |
|-----------------------------|---|
| Up to one acre:             | \$250.00  |
| Over one acre up to 5 acres | \$200.00 per acre or fraction of an acre, but not less than \$500.00                                  |
| Over 5 acres up to 10 acres | \$150.00 per acre or fraction of an acre, but not less than \$500.00                                  |
| Over 10 acres               | \$100.00 per acre or fraction of an acre, but not less than \$1,800.00, but not more than \$10,000.00 |

An acre, for the purpose of this resolution shall be defined as that measurement of land that is the dimensions of an acre notwithstanding any roads or other physical structures or obstacles located on, within or adjacent to said measurement. (Updated 2/19/19 using resolution passed on 4/11/11)

#### **Sec. 22-7. Termination of Obligation.**

Notwithstanding any contrary provision of this chapter, the petitioner's obligation to reimburse the village for professional fees and costs, and the accompanying obligation to maintain an escrow account, shall continue until the petitioner fully satisfies all obligations to reimburse the village, and shall in no event terminate earlier than ninety (90) days after the last to occur of the following:

1. The petitioner's voluntary termination of the petition and all work, projects and developments associated therewith.



2. The satisfactory completion of the work proposed by the petition and all work arising there- from (including, in the case of petitions for annexations, all subsequent plats and the completion of construction of any structures on the annexed property and the completion of all obligations of the underlying annexation agreement).
3. The village's rejection of the petition in its entirety, and the failure of the petitioner to indicate, within ninety (90) days of such rejection, the petitioner's desire to continue working with the village towards the approval of the same or a modified petition.

After the last to occur of the foregoing conditions the village shall finalize all invoices for professional fees and costs, shall seek reimbursement from the petitioner for all such professional fees and costs, and shall, after settling all such invoices, refund any excess monies back to the petitioner.

That Section 509 of the Subdivision Regulations of the Village of Durand Illinois, *Fees*, is hereby repealed.

That Section 21-2 of the Municipal Code of the Village of Durand Illinois, *Annexation—Reimbursement Procedure*, is hereby repealed. (Ord. No. 2011-2; 04/11/11).

## **CHAPTER 23**

### **Nuisances**

#### **ARTICLE I. NUISANCES GENERALLY**

##### **Sec. 23-1. Nuisances Generally.**

- a. Prohibited. It shall be unlawful for any person to permit or maintain the existence of any nuisance on any property under his, her, or its control. A nuisance is hereby defined as a highly obnoxious or annoying thing; something offensive or annoying to individuals or to the community to the prejudice of their legal rights.
- b. Abatement. The Chief of Police and the designated code enforcement officer of the Village are each hereby authorized to abate any nuisance existing in the Village, whether such nuisances are specifically recognized by ordinance or not.

#### **ARTICLE II. VACANT BUILDINGS.**

##### **Sec. 23-2. Declaration of Policy.**

The purpose of this Article is to protect the public health, safety, and welfare by enactment of this Article that:

1. Establishes a program for identification, registration, and regulation of building which are or become vacant on or after the effective date of this Article;
2. Determines the responsibilities of owners of vacant buildings;
3. Provides for administration, enforcement, including abatement of public nuisances, and imposition of penalties.

This Article will be construed liberally to affect its purposes.

##### **Sec. 23-3. Other Ordinances.**

This Article will not be construed to prevent the enforcement of other applicable ordinances, codes, legislation, and regulations which prescribe standards other than are provided herein, and, in the event of conflict, the most restrictive will apply.

##### **Sec. 23-4. Definitions.**

Unless otherwise expressly stated or clearly indicated by the context, the following terms will, for the

purpose of this Article, have the meanings indicated in this Section:

*Boarded Building:* A building which has had, in a manner intended to be temporary or permanent, any or all openings, which openings are windows or doors which were present for the purpose of light, ventilation or egress, some material whether opaque, solid or transparent, affixed to such openings, from the interior or exterior of the building, for the purpose of securing or preventing access or damage to the building or its components.

*Building:* Any structure occupied or intended for supporting or sheltering any occupancy.

*Trustee:* A designated Village of Durand Trustee, as determined from time to time by a majority vote of the corporate authorities of the Village of Durand.

*Dangerous Building:* A building defined as a “dangerous building” in the Village building code, as it may be amended. Such buildings are public nuisances.

*Owner:* Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

*Person:* Includes a corporation, a partnership, or other entity, as well as an individual.

*Premises:* A lot, plot, or parcel of land including any structure thereon.

*Public Nuisance:* Includes the following:

1. The physical condition, or uses of any building regarded as a public nuisance at common law, under the Illinois Compiled Statutes, or under this Article;
2. Any physical condition, use or occupancy or any building or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned well, shafts, basements, excavations, and unsafe fences or structures;
3. Any building which has unsanitary sewerage or plumbing facilities;
4. Any building designated by the Village of Durand Trustee as unsafe for human habitation or use;
5. Any building which is manifestly capable of being a fire hazard or manifestly unsafe or insecure as to endanger life, limb, or property;
6. Any building which is unsanitary, or which is littered with rubbish or garbage, or which has an uncontrolled growth of weeds;
7. Any building that is dangerous, in a state of dilapidation, deterioration or decay, faulty construction, open or vacant and the doors, windows, or other openings are boarded up or secured, by any means other than conventional methods used in the design of the building or permitted for new construction of similar type; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises; or

8. Any building defined as a “dangerous building” by this Article, as it may be amended.

*Unoccupied Building:* A building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by the Village of Durand pursuant to authority granted to it by this Article.

In determining whether a building is “unoccupied”, the Village of Durand Trustee may consider these factors, among others:

1. A building at which substantially all lawful residential or business activity has ceased;
2. The percentage of the overall square footage of unoccupied to occupied space or the overall number of occupied and unoccupied units shall be considered;
3. The building is substantially devoid of contents. The condition and value of fixtures or personal property in the building are relevant to this determination;
4. The building lacks utility services, i.e., water, sewer, electric or natural gas;
5. The building is the subject of a foreclosure action;
6. The building is not actively for sale as part of a contractual agreement to sell the building, the building lacks “for sale”, “for rent” or similar signage;
7. The presence or recurrence of uncorrected code violations.

*Vacant Building:* A building or portion of a building which is:

1. Unoccupied and unsecured;
2. Unoccupied and secured by boarding or other similar means;
3. Unoccupied and a dangerous structure;
4. Unoccupied and condemned by the Village of Durand Trustee pursuant to applicable provisions of this Article;
5. Unoccupied and has multiple code violations;
6. Unoccupied and the building or its premises has been the site of unlawful activity within the previous six (6) months;
7. Condemned by the Village of Durand Trustee and unlawfully occupied;
8. Unoccupied for over 180 days and during which time the Village of Durand Trustee has issued an order to correct public nuisance conditions and the same have not been corrected in a code compliant manner;

9. Unoccupied for over two (2) years;
10. An “abandoned residential property”, as defined in 65 ILCS 5/11-20-15.1 as a residential dwelling unit that has been unoccupied by any lawful occupant or occupants for a least 90 days, and for which after such 90 day period the Village has made good faith efforts to contact the legal owner or owners of the property or, if known, the agent of the owner, and no contact has been made.

But not including:

Unoccupied buildings which are undergoing construction, renovation, or rehabilitation and which are in compliance with all applicable ordinances, codes, legislation and regulations, and for which construction, renovation or rehabilitation is proceeding diligently to completion.

#### **Sec. 23-5. Determination.**

Within sixty (60) days after the effective date of this Article, the Village of Durand Trustee shall evaluate all buildings in the Village he or she believes to be unoccupied on the effective date of this Article and make a determination for each as to whether the building is a “vacant building” within the meaning of Section 23-4 of this Article. The Village of Durand Trustee may determine that a building which meets any of the criteria set forth in this Section is not to be regulated under this Article for a stated period, if upon consideration of reliable, substantiated and sufficient evidence, he or she determines that regulation of the building under this Article would not serve the public health, welfare, and safety and makes written findings in support of his or her decision. The determination shall be in writing and shall state the factual basis for the determination. For buildings the Village of Durand Trustee determines to be “vacant buildings”, notice of the determination will be sent to the last taxpayer of record listed on the most recent Winnebago County tax roll. The notice of determination shall be sent first class United States mail. Failure of delivery shall not excuse a person and/or owner from complying with this Article. The Village of Durand Trustee may personally serve or cause personal service of the notice of determination. Any person making such service shall execute an affidavit attesting to the facts of service. The Village of Durand Trustee shall maintain a record of such mailing for each notice of determination sent.

The notice shall specify a date and time on which the owner shall allow for a code compliance inspection of the interior of the vacant building to determine the extent of compliance with village property, building codes, health, fire, water, and sewer codes. The owner shall pay the \$500.00 inspection fee to the Village within thirty (30) days of the inspection. An unpaid fee shall be a lien upon the premises.

The notice shall contain a statement of the obligations of the owner of a building determined to be a vacant building, a copy of the registration form the owner is required to file pursuant to Section 23-7 of this Article, and a notice of the owner’s right to appeal the Village of Durand Trustee’s determination.

#### **Section 23-6. Appeal of Determination.**

An owner of a building determined by the Village of Durand Trustee to be a vacant building as provided for in this Article may appeal that determination to the Village Board of Trustees. Such appeal must be in writing and must be filed with the Village of Durand Trustee within fifteen (15) days of the date of mailing of the notice of determination. The filing of an appeal stays the owner’s obligation to register his or her building as required by Section 23-7 if this Article. The appeal must contain a complete statement of the reasons the owner disputes the Village of Durand Trustee’s determination, must set forth specific facts in support thereof,

and must include all evidence the owner relies upon to support the appeal. The Village Board of Trustees will decide the appeal on the basis of facts presented by the owner in his or her written appeal and the Village of Durand Trustee's written determination.

1. The burden is upon the owner to present sufficient evidence to persuade the Board of Trustees that had the evidence been known to the Village of Durand Trustee at the time the Village of Durand Trustee made the determination, the Village of Durand Trustee would more likely than not have determined that the subject building was not a "vacant building" within the meaning of this Article.
2. The Board of Trustees will send written notice of its decision to the owner within twenty-one (21) days of the Board of Trustees' receipt of the appeal. The Board of Trustees may, but is not required to, seek additional information from the owner. The Board of Trustees may, upon written notice thereof to the owner, take no more than ten (10) additional days to decide the appeal if it determines that such additional time is required for consideration of the appeal.
3. An owner who wishes to challenge applicability of this Article to his or her building without the Village of Durand Trustee's determination having been made, must set forth specific facts to support non-applicability in a writing to the Village of Durand Trustee. In the event the Village of Durand Trustee determines that the subject building is a "vacant building", the owner will have the right to appeal the Village of Durand Trustee's determination to the Board of Trustees as provided for herein.

#### **Sec. 23-7. Obligation to Register.**

The owner of a building who knows, or from all the facts and circumstances should know, that his or her building is or has become a "vacant building" within the meaning of this Article after the effective date of this Article or the owner of a building, which the Village of Durand Trustee determines at any time to be a "vacant building", or the owner of a building whose appeal from the Village of Durand Trustee's determination has been denied by the Village Board of Trustees must take the actions provided for in this Section within thirty (30) days after either the date of the Village of Durand Trustee's notice of determination or occurrence of the facts that would cause a reasonable person to believe that the building was a "vacant building", or denial of the appeal, whichever is applicable. Registration does not exonerate the owner from compliance with all applicable codes and ordinances, including this Article, nor does it preclude any of the actions the Village is authorized to take pursuant to this Article or elsewhere in this Chapter.

1. *Registration Requirements.*
  - a. Register the building with the Village of Durand Trustee, on a form provided by the Village of Durand Trustee and pay the annual \$200.00 annual non-prorated vacant building registration fee. The form will include, at a minimum, the name, street address, and telephone number of the owner, the case name and number of any litigation pending concerning or affecting the building, including bankruptcy cases, and the name, street address, and telephone number of all persons with any legal interest in the building or the premises. The form will require the owner to identify a natural person 21 years of age or older who maintains a permanent address in Winnebago County, Illinois, to accept service on behalf of the owner with respect to any notices the Village of Durand Trustee sends pursuant to this Article or service of process in any proceeding commenced to enforce any provision of this Article, and file with the Village of Durand Trustee on the registration form, the name, address, and telephone number of said person. A street address is required. A post office box

is not an acceptable address.

- b. Renew the vacant building registration each year on the anniversary date of the first filing for the time the building remains vacant and pay the required \$200.00 annual fee; and
  - c. File an amended registration within fifteen (15) days of any change in the information contained in the annual registration. A new registration is required for any change in ownership whatsoever.
2. *Notice; Inspection.* The form will require the owner to indicate his or her “acceptance of notice by posting” consenting to service of notices sent or required to be sent, pursuant to this Article, by posting on the building if the owner fails to renew the registration if required, or maintain as current with the Village of Durand Trustee the information required regarding the person designated to accept notice and service of process.

The owner will allow for a code compliance inspection of the interior of the vacant building and must pay the \$500.00 fee therefore within 30 days of the inspection. Such inspection will determine the extent of compliance with Village property, building codes, health, fire, water, and sewer codes. The Village will send the inspection report to the owner within thirty (30) days.

3. *Insurance.* Obtain liability insurance and maintain such insurance for as long as the building is vacant, and file evidence of such insurance with a Village of Trustees as follows:

\$500,000.00 for a vacant residential building of one to three units;  
\$750,000.00 for a vacant residential building of four to eleven units;  
\$1,000,000.00 for a vacant residential building of twenty-three to forty-eight units;  
\$2,000,000.00 for a vacant residential building of more than 48 units; and  
\$2,000,000.00 for a vacant manufacturing, industrial, storage, or nonresidential commercial building

4. *Vacant Building Plan.* At the time a building is registered as required in this Article, the owner must submit a written vacant building plan. The Village of Durand Trustee may prescribe a form for the plan. If the owner fails to submit the plan as provided for by this article, the Village of Durand may determine an appropriate plan for the vacant building. The plan will contain the following as a minimum:

- a. A plan of action to repair any doors, windows, or other openings which are boarded up or otherwise secured by any means other than conventional methods used in the design of the building or permitted for new construction or similar type.
- b. For buildings and premises thereof which are determined by the Village of Durand Trustee as being or containing public nuisances, as defined in Section 23-4 of this Article, then the vacant building plan will contain a plan of action to remedy such public nuisance(s).
- c. A time schedule identifying a date of commencement of repair and date of completion of repair for each improperly secured opening and nuisance identified by the Village of Durand Trustee.

- d. When the owner proposes to demolish the vacant building, then the owner must submit a plan and time schedule for such demolition.
  - e. A plan of action to maintain the building and premises thereof in conformance with this Article.
  - f. A plan of action, with a time schedule, identifying the date the building will be habitable and occupied or offered for occupancy or sale. The time schedule must include date(s) of commencement and completion of all actions required to achieve habitability. No plan which provides for compliance with this Article or, which will not, as determined by the Village of Durand Trustee, achieve such compliance, within one year, in the case of a vacant boarded building, and two years, in the case of a vacant, unboarded, and code compliant building will be approved.
  - g. All premises upon which unoccupied or vacant buildings are located and the exteriors must at all times be maintained in compliance with this Article.
  - h. Exterior lighting according to standards established by the Village of Durand Trustee.
5. *Signage.* Affixed to any building which is boarded, no smaller than two feet by two feet and compliant with the Village's sign regulations and providing the following information: the name, address, and telephone number of the owner, and in addition, for buildings that re the subject of a foreclosure action, the name, address, and telephone number of the plaintiff and the plaintiff's attorney, if any, in the foreclosure action. The sign must be placed so that its message is legible from the public right-of-way.
6. *Approval of plan.*
- a. *Review building plan.* The Village of Durand Trustee will review the proposed vacant building plan in accordance with the standards below. The Village of Durand Trustee will send notice to the owner of the vacant building of his or her determination.
  - b. *Standards for plan approval.* In considering the appropriateness of a vacant building plan, the Village of Durand Trustee will include the following in his or her consideration and will make written findings as to each:
    - i. The purposes of this Article and intent of the Village Board of Trustees to minimize the time a building is boarded or otherwise vacant.
    - ii. The effect of the building and the proposed plan on adjoining property.
    - iii. The length of time the building has been vacant.
    - iv. The presence of any public nuisances on the property.
    - v. The likelihood that the plan or portion(s) thereof will prevent or ameliorate the condition it is designed to address.



7. *Authority to modify plan, right of appeal.* The Village of Durand Trustee will, upon notice to the vacant building owner, have the right to modify the vacant building plan by modifyin the dates of performance, the proposed methods of action, or by imposing additional requirements consistent with this article he or she deems necessary to protect the public health, safety, or welfare.
8. *Failure to comply with plan.* Failure to have an approved plan within 30 days of filing the registration from or failure to comply with the approved plan will constitute a violation of this Article subjecting the owner of the building to penalties as provided in this Article and to any remedies the Village may avail itself of as provided for herein and elsewhere in this Article, including, but limited to, an action to compel correction of property maintenance violations.

#### **Sec. 23-8. Other Enforcement.**

The registration of a vacant building will not preclude action by the Village to demolish or to take other action against the building pursuant to other provisions of this Article, this Chapter, or other applicable legislation, including the activities authorized by Section 23-9.

#### **Sec. 23-9. Property Maintenance.**

- A. *Nuisance Abatement.* The Village is authorized to perform or provide for property maintenance activities to abate a nuisance caused by a vacant building, including the following:
  - a. Cutting and removal of neglected weeds, grass, tree, and bushes as authorized by Section 11-20-7 of the Illinois Municipal Code, 65 ILCS 5/11-20-7, and applicable Village ordinances and codes;
  - b. Pest control activities, as authorized by Section 11-20-8 of the Illinois Municipal Code, 65 ILCS 5/11-20-8, and applicable Village ordinances and codes;
  - c. Removal of infected trees as authorized by Section 11-20-23 of the Illinois Municipal Code, 65 ILCS 5/11-20-23, and applicable Village ordinances and codes;
  - d. Removal, securing, and enclosing abandoned residential properties, as authorized by section 26-217 of this article and Section 11-31-1.01 of the Illinois Municipal Code, 65 ILCS 5/11-31-1.01.
- B. *Charges for Nuisance Abatement.* The Village will have the authority to collect from the property owner the costs incurred in performing the property maintenance activities to abate the nuisances described in this Section 23-9. The Village will send a bill for the cost to the property owner, his or her agent, legal representative, or occupant in legal possession or control of the premises.
- C. *Traditional Lien Procedure.* If a bill sent pursuant to Subsection 23-9(B) of this Article is not paid in full within 30 days of the date of the bill, the Village will have the authority to file and record a lien against the property, pursuant to Section 11-20-15 of the Illinois Municipal Code, 65 ILCS 5/11-20-15. If, for any one property, the Village may combine any or all of the costs of those activities into a single notice of lien. The lien must be filed in accordance with the lien procedure established by the specific provision of which the property is alleged to be in violation or, if no such procedure exists, then the following procedure shall apply.

- a. *Notice of lien.* The Village or the person performing the service by authority of the Village, in its, his or her own name, may file a notice of lien in the office of the Winnebago County Recorder. The notice of lien will be filed within two years after the cost and expense is incurred. If, for any one property, the Village engaged in any nuisance abatement activity described in Subsection 23-9(B) of this Article on more than one occasion during the course of one year, then the village may combine any or all of the costs of those activities into a single notice of lien.

The notice of lien will consist of a sworn statement setting forth:

- i. A description of the real estate that sufficiently describes the parcel;
- ii. The amount of the cost and expense incurred or payable for the activities; and
- iii. The date or dates when such cost and expense was incurred by the Village or someone working on behalf of the Village.

After recording, the notice of lien will be sent by certified mail to the property owner, his or her agent or legal representative, or occupant in legal possession or control of the premises, and if different, to the person who received the tax bill for the preceding year.

- b. *Release of lien.* Upon payment of the cost after the notice of lien has been filed as provided herein, the lien will be released by the Village or person in whose name the lien has been filed, and the release will be recorded in the same manner as recording the notice of lien.
- c. *Foreclosure of lien.* Subsequent to the filing of the above-described lien, the Village may cause to be filed a complaint for foreclosure of such lien, or upon becoming a defendant in a pending lawsuit affecting the premises or real estate, by answer to the complaint or in the nature of an intervening petition or cross-complaint the Village may proceed in its corporate name to foreclose such lien. An action to foreclose a lien under this Article must be commenced within two years after the date of filing notice of lien. The property subject to a lien arising under this article will be sold for nonpayment, and the proceeds of the sale will be applied to pay the monies owing the Village.

- D. *Priority Lien Procedure.* The priority lien procedure described in this Subsection 23-9 (D) will apply only to costs incurred for activities performed on abandoned residential properties, as defined in Section 23-4 of this Article and is an alternative to the traditional lien authorized by Subsection 23-9 (C) of this Article. If a bill sent pursuant to subsection 23-9 (B) of this Article is not paid in full within 60 days of the date of the bill, the Village will have authority to file and record a priority lien against the property, pursuant to Section 11-20-15.1 of the Illinois Municipal Code, 65 ILCS 5/11-20-15.1, in the following manner:

- a. *Notice of lien.* The Village or the person performing the service by authority of the Village, in its, his or her own name, may file a notice of a priority lien in the office of the Winnebago County Recorder of Deeds. The notice of lien will be filed within two years after the cost and expense is incurred. If, for any one property, the Village engaged in any nuisance abatement activity described in Subsection 23-9 (B) of this Article on more than one occasion during the course of one year, then the Village may combine any or all of the costs of those activities

into a single notice of lien.

The notice of lien will consist of a sworn statement setting forth:

- i. A description of the abandoned residential property that sufficiently describes the parcel;
- ii. The amount of the cost incurred or payable for the activities; and
- iii. The date or dates when such cost was incurred by the village or someone working on behalf of the village; and
- iv. A statement that the lien has been filed pursuant to one or more of the property maintenance activities described in Subsection 23-9 (B) of this Article and authorized by 65 ILCS 5/11-20-7 (D), 65 ILCS 5/11-20-8 (D), 65 ILCS 5/11-20-23 (D), 65 ILCS 5/11-20-13 (E), 65 ILCS 5/11-31-1.01, as applicable.

After recording, the notice of lien will be sent by certified mail to the property owner, his or her agent or legal representative or occupant in legal possession or control of the premises and, if different, to the person who received the tax bill for the preceding year.

The Village may not file a lien if the lender has provided notice to the Village that the lender has performed, or will perform, remedial actions; provided, however, that the remedial actions must be performed or initiated in good faith within 30 days of the lender's notice to the Village.

- b. *Recordkeeping.* To enforce a lien pursuant to this Subsection 23-9 (D), the Village must maintain contemporaneous records that include, at a minimum:
  - i. Dated statement of a finding by the Village that the property has become abandoned residential property;
  - ii. Date when the property was first observed to be unoccupied by any lawful occupant;
  - iii. Description of the actions taken by the Village to contact the legal owner of the property, or if known, any agent of the owner;
  - iv. Statement that no contacts were made with the legal owner or, if known, any agent of the owner;
  - v. Dated certification by a Village official of the necessity and specific nature of the work performed;
  - vi. Copy of the agreement with the person or company performing the work and the rates and estimated cost of the work, if applicable;
  - vii. Detailed invoices and payment vouchers for the work;

- viii. A statement whether the work was competitively bid, and if so, a copy of all proposals submitted by the bidders.
- c. *Release of lien.* Upon payment of the cost after the notice of lien has been filed as provided herein, the lien will be released by the Village or person in whose name the lien has been filed, and the release will be recorded in the same manner as recording the notice of lien.
- d. *Enforcement of lien.* A lien under this subsection 26-215 (D) is enforceable by the Village, or entity or person who performs work on behalf of the village, at the hearing for confirmation of the foreclosure sale of the abandoned residential property and is limited to a claim of interest in the proceeds of the sale. The priority lien is superior to all other liens and encumbrances, except tax liens.

#### **Sec. 23-10. Certification.**

A certification of code compliance for vacant buildings issued by the Village and payment in full of all fees imposed pursuant to this Article are required prior to any occupancy of a vacant building.

#### **Sec. 23-11. Boarding of Buildings.**

It is the policy of the Village that boarding is a temporary solution to prevent unauthorized entry into a vacant building and that boarded buildings are a public nuisance. A vacant building may not remain boarded longer than one year unless an extension of that time is part of a plan approved by the Village of Durand Trustee. A vacant building that is not boarded and code complaint and for which boarding is determined by the Village of Durand Trustee, on the basis of police reports, citizen complaints, and other information of other type considered reliable by reasonable persons, to not require boarding to prevent unauthorized entry may not remain vacant for more than two years without an approved plan for occupancy, sale, demolition, or other disposition of the building.

#### **Sec. 23-23. Enforcement and Penalties.**

- A. Any person found to have violated any provision of this Article will be subject to a minimum fine of \$100.00 per day per violation to a maximum of \$750.00 per day per violation, in addition to any other legal or equitable remedies available to the Village. Such other remedies include, without limitation, injunctive relief, application to a court of competent jurisdiction for a receiver, demolition, or condemnation, contracting for the repair or purchase of the premises, or foreclosure of any lien the Village may have thereon.
- B. A separate and distinct offense will be committed each day a person or persons violate the provisions of this Article.
- C. Nothing in this Article will prohibit the Village from immediately condemning as provided for in this Article a building or taking other immediate action upon a determination that the building is a public nuisance or poses an imminent danger to the occupants of the building, or the public, health, safety, and welfare.

#### **Sec. 23-13 – 23-100. Reserved.**

## ARTICLE III – ABATEMENT AND OTHER REMEDIES

### Sec. 23-101. Applicability.

This article provides the basic procedure for enforcement of the Village's nuisance regulations as set forth in this or any other chapter of this Code, or in any other ordinance of the Village, or as may be established by state law, and shall apply to all nuisance violations except where specific abatement procedures for particular nuisances are provided in this Chapter or elsewhere in this Code or are required by state law.

### Sec. 23-102. Notice of Violation; Correction of Violation or Request for Hearing Required.

- A. Whenever a violation of any nuisance provision in this Code comes to the attention of the Chief of Police or other authorized Village officer or employee, notice of the violation shall be given to the person in charge or control of the property upon which the nuisance is present, served upon such person by a police officer of the Village or by mailing such notice to the last known address of such person. The notice shall describe the violation and provide the time period within which the violation must be corrected or a hearing requested as provided in this article. The time period for correction of nuisance violations shall be reasonable and not less than:
  - a. *Dead and diseased trees*: Thirty (30) days from personal service, posting or mailing of notice of violation;
  - b. *Removal of accumulations of garbage, refuse, dead animals, offal and other offensive or hazardous accumulations*: Three (3) days from personal service, or five (5) days from posting or mailing of notice of violation;
  - c. *Nuisance greenery*: Three (3) days from personal service, or five (5) days from posting or mailing of notice of violation;
  - d. *Pests*: Three (3) days from personal service, or five (5) days from posting or mailing of notice of violation;
  - e. *Vacant property violations*: As specifically provided in Article III of this Chapter.
  - f. *All other nuisances*: Seven (7) days from personal service of notice or ten days from mailing or posting of notice of violations.
- B. The notice of violation under this Section shall be accompanied by a copy of the provisions of this Code which prohibited the nuisance and:
  - a. For violations concerning overgrown or noxious weeds and grass, a copy of 65 ILCS 5/11-20-7;
  - b. For violations concerning dead or diseased trees, a copy of 65 ILCS 5/11-20-23;

- c. For violations concerning accumulations of garbage or other refuse, a copy of 65 ILCS 5/11-20-13.

**Sec. 23-103. Request for Hearing.**

Any person affected by any notice issued pursuant to this Article may request, and shall be granted, a hearing on the matter before the designated Village official or employee, as determined from time to time by a majority vote of the corporate authorities of the Village. Any person seeking a hearing and setting forth a brief statement on the grounds thereof. The request for hearing shall be filed within the period established in Section 23-102 for remedying the nuisance violation.

**Sec. 23-104. Notice Becomes Order if no Hearing is Requested.**

Any notice of violation served pursuant to this Article shall automatically become an order if a written petition for a hearing is not filed within seven (7) days after such notice is received.

**Sec. 23-105. Scheduling of Hearing; Rights of Petitioner at Hearing.**

Upon receipt of a request for hearing, the designated Village official or employee shall set a time and place for hearing and shall give the Petitioner written notice thereof. At such hearing, the Petitioner shall be given an opportunity to be heard, and to why such notice should be modified or withdrawn.

**Sec. 23-106. Failure to Comply; Abatement by Village; Billing for Abatement Costs.**

If the property owner fails, refuses, or neglects to remedy or cause to be remedied a violation or fails or refuses to request a hearing within the time period required under this Article, the Village shall cause such condition to be remedied and recover the reasonable removal costs from the owner. The Village's removal costs shall be a lien on the property, as provided by 65 ILCS 5/11-20-15.

**Sec. 23-107. Administrative Fees.**

The costs of abatement under this Article shall include administrative fees in the amounts provided in the Village fee schedule, as fixed by the Village and updated from time to time.

**Sec. 23-108. Notice of Lien for Abatement Costs.**

- A. An employee or officer of the Village shall send a bill for administrative fees and the cost and expense of abatement to the property owner and his or her agent or legal representative and to the occupant in legal possession or control of the premises.
- B. If the bill is not paid in full within 30 days of the date of the bill, the Village shall cause to be recorded a notice of lien in the office of the recorder of deeds in the county in which the real estate is located, or the office of the registrar of titles of such county, if the real estate affected is registered under the Torrens System. The notice shall comply with the provisions of this article.
- C. The notice of lien shall consist of a sworn statement setting forth a description of the removal activity, a common description of the real estate sufficient for identification thereof, the amount of the cost and

expense incurred or payable by the village for abatement of the nuisance and the dates upon which the costs and expenses were incurred by the village. The notice of lien under this section shall be accompanied by a copy of the provisions of this Code which prohibited the nuisance, a copy of 65 ILCS 5/11-20-15, and:

- a. For violations concerning nuisance greenery, a copy of 65 ILCS 5/11-20-7;
  - b. For violations concerning pests, a copy of 65 ILCS 5/11-20-8;
  - c. For violations concerning dead or diseased trees, a copy of 65 ILCS 5/11-20-23;
  - d. For violations concerning accumulations of garbage or other refuse, a copy of 65 ILCS 5/11-20-13.
- D. The notice of lien required under this section shall be filed not later than two years after the cost and expense incurred by the Village. The Village Clerk or his or her agent shall provide a copy of the notice of lien to the property owner or his agent or legal representative and to the occupant in legal possession or control of the premises, by certified mail or hand delivery, or both. A copy of the notice of lien shall also be provided by certified mail to the person who received the tax bill for the preceding year, if different from the current property owner.
- E. Upon payment of the cost and expense of abatement, together with all costs associated with the recording and service of the notice of lien, the lien shall be released by the Village and the release may be filed of record by the owner at his or her sole expense as in the case of filing notice of lien.

#### **Sec. 23-109. Foreclosure of Lien.**

If the lien is not satisfied after filing, the Village may file a complaint for foreclosure of such lien, or upon becoming a defendant in a pending lawsuit affecting the premises or real estate, by answer to the complaint or, in the nature of an intervening petition or cross-complaint, the Village may proceed in its corporate name to foreclosure such lien. The property subject to a lien arising under this Article shall be sold for nonpayment of the Village's lien, and the proceeds of such sale shall be applied to pay the monies owing the Village in the manner required by state law.

#### **Sec. 23-110. Penalties.**

In addition to all other remedies provided in this Chapter and by state law for nuisance violations, and except as otherwise specifically provided herein in this Chapter, any person who shall violate or refuse to obey any provision of this Chapter or any other nuisance provision of this Code shall be guilty of a misdemeanor punishable as provided in Section 1-7 of the Code.

#### **Sec. 23-111 – 23-200. Reserved. (Ordinance 2023-3; 3/27/2023)**

*State law references - Authority of Village to define and abate nuisances, Ill. Rev. Stat. Ch. 24, 11-60-2; Nuisances generally, Ill. Rev. Stat. Ch. 100 1/2, 1, et seq.*

## **REIMBURSEMENT AGREEMENT**

Petitioner has filed a Petition (as defined in Chapter 22 of the Municipal Code of the Village of Durand, Illinois) with the Village of Durand, Illinois. That it is expected that the Village of Durand, Illinois will incur professional fees and expenses in considering the said Petition filed by Petitioner as aforesaid.

That Chapter 22 of the Municipal Code of the Village of Durand, Illinois requires all Petitioners to reimburse the Village of Durand, Illinois for all professional fees and expenses (as defined in the said Chapter 22) incurred in considering the Petitioner's Petition.

Petitioner, pursuant to Chapter 22 of the Municipal Code of the Village of Durand, Illinois, does hereby agree to reimburse the Village of Durand, Illinois for all professional fees and expenses (as defined in said Chapter 22) that are incurred by the Village of Durand, Illinois in considering the said Petition that has been filed by Petitioner.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

(Ord. No. 2011-2; 04/11/11).



## ESCROW AGREEMENT

This Agreement is entered into between the Village of Durand, Illinois (Escrowee) and \_\_\_\_\_ (Petitioner), pursuant to Section 22-6 of the Durand Municipal Code.

Petitioner has deposited the sum of \$\_\_\_\_\_ into escrow with Escrowee for the purpose of allowing the Escrowee to pay for “professional fees and expenses” incurred by the Escrowee as a result of a Petition or request filed by Petitioner requiring review by Escrowee as is required by Chapter 22 of the Durand Municipal Code.

Escrowee is authorized to disburse any and all funds herein escrowed to pay for or to reimburse the Village of Durand for the payment of expenses incurred by the Village of Durand in reviewing the petition filed by Petitioner as is authorized and provided for in said Chapter 22.

Any portion of the escrow account which remains unused upon the termination of the petition or the completion of any improvement contemplated by the petition shall be refunded Petitioner as provided for in said Chapter 22.

Dated: \_\_\_\_\_

Village of Durand, Illinois (Escrowee)

\_\_\_\_\_  
Petitioner

By: \_\_\_\_\_

(Ord. No. 2011-2; 04/11/11).

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