

Village of Morton Municipal Code Book

Instruction Sheet: Morton, Illinois
Supplement 248 - August 2018
Includes Ordinances: 19-01, 19-02, 19-03, 19-04, 19-07, 19-08, 19-09

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PREFACE

This volume of the Village Code of the Village of Morton, as supplemented, contains ordinances up to and including ordinances:

19-01, May 7, 2018
19-02, May 7, 2018
19-03, June 4, 2018
19-04, June 18, 2018
19-07, August 6, 2018
19-08, August 6, 2018
19-09, August 6, 2018

Ordinances of the Village adopted after said ordinances supersede the provisions of this Village Code to the extent that they are in conflict or inconsistent therewith. Consult the Village office in order to ascertain whether any particular provision of the Code has been amended, superseded, or repealed.

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3-8-6: **LIMITATION ON NUMBER:** In order that the health, safety, and welfare of the people of the Village be protected, and in order that minors shall be prevented from the purchase of alcoholic liquors, and in order that temperance in the consumption of liquors be fostered and promoted, there shall be a limit upon the number of liquor licenses issued and in effect, which is as follows:

Class A-1	Zero (0)
Class A-2	Four (4)
Class A-3	Zero (0)
Class A-4	Zero (0)
Class B-1	Three (3)
Class B-2	Eleven (11)
Class B-3	Four (4)
Class C	One (1)
Class D	Two (2)
Class E	Eight (8)
Class F	No specific limit
Class G	Zero (0)
Class H	No specific limit
Class I	Zero (0)

(Ord. 86-1, 5-5-86; amd. Ord. 86-14, 11-3-86; Ord. 87-11, 8-17-87; Ord. 88-14, 8-15-88; Ord. 89-10, 8-21-89; Ord. 95-1, 5-15-95; Ord. 97-14, 7-22-97; Ord. 97-38, 4-20-98; Ord. 98-30, 12-7-98; Ord. 98-49, 4-19-99; Ord. 99-12, 8-2-99; Ord. 99-17, 9-7-99; Ord. 99-38, 11-15-99; amd. Ord. 99-48, 2-21-00; amd. Ord. 00-02, 5-1-00; amd. Ord. 01-01, 5-7-01; amd. Ord. 02-10, 7-1-02; amd. Ord. 04-10, 6-21-04; amd. Ord. 04-21, 7-6-04; amd. Ord. 05-22, 10-17-05; amd. Ord. 05-47, 3-20-06; amd. Ord. 06-08, 6-5-06; amd. Ord. 08-10, 8-18-08; amd. Ord. 08-13, 9-15-08; amd. Ord. 08-15, 11-3-08, amd. Ord. 08-29, 12-1-08; amd. Ord. 08-47, 4-20-09; amd. Ord. 09-06, 5-18-09; amd. Ord. 09-09, 6-1-09; amd. Ord. 09-12, 7-6-09; amd. Ord. 09-23, 8-3-09; amd. Ord. 10-23, 11-15-10; amd. Ord. 10-34, 2-21-11; amd. Ord. 10-40, 4-4-11; amd. Ord. 11-02, 5-2-11; amd. Ord. 11-09, 6-20-11; amd. Ord. 11-16, 7-18-11; amd. Ord. 11-33, 3-19-12; amd. Ord. 10-35, 4-2-12; amd. Ord. 12-05, 6-18-12; amd. Ord. 12-22, 12-3-12; amd. Ord. 13-13, 9-3-13; amd. Ord. 13-19, 10-21-13; amd. Ord. 13-28, 2-3-14; amd. Ord. 13-35, 4-7-14; amd. Ord. 14-15, 7-21-14; amd. Ord. 14-35, 3-2-15; amd. Ord. 15-01, 5-18-15; amd. Ord. 15-09, 9-8-15; amd. Ord. 15-19, 3-7-16; amd. Ord. 16-04, 9-19-16; amd. Ord. 16-10, 11-21-16; amd. Ord. 16-15, 3-6-17; amd. Ord. 17-01, 5-15-17; amd. Ord. 17-07, 6-19-17; amd. Ord. 17-16, 8-7-17; amd. Ord. 17-18, 8-21-17; amd. Ord. 17-35, 2-5-18; amd. Ord. 19-01, 5-7-18)

3-8-7: **LICENSES, APPLICATION REQUIREMENTS:** All applications shall be on forms approved by the local Liquor Control Commission and shall be submitted in writing, executed under oath or affirmation by the applicant seeking a license, shall be accompanied by a bond in the penal sum of one thousand dollars (\$1000.00) with corporate surety authorized to do business in the State of Illinois, and shall set forth the following information and statements:

- (A) The applicant's name and mailing address.
- (B) The name and address of the applicant's business.
- (C) If applicable, the date of the filing of the "assumed name" of the business with the County Clerk.
- (D) In case of a co-partnership, the date of the formation of the partnership; in the case of an Illinois corporation, the date of its incorporation; or, in the case of a foreign corporation, the state where it was incorporated and the date of its becoming qualified under the Illinois Business Corporation Act¹ to transact business in the State of Illinois.
- (E) The name and address of the landlord if the premises are leased.

¹ S.H.A., Ch. 32, 1.01 et seq.

- (F) The date of the applicant's first request for a State liquor license and whether it was granted, denied, or withdrawn.
- (G) Whether the applicant has made an application for a liquor license which has been denied; and, if so, the reasons therefor.
- (H) Whether the applicant has ever had a previous liquor license suspended or revoked; and, if so, the reasons therefor.
- (I) Whether the applicant has ever been convicted of a gambling offense or felony; and, if so, the particulars thereof.
- (J) Whether the applicant possesses a current Federal Wagering or Gaming Device Stamp; and, if so, the particulars thereof.
- (K) Whether the applicant or any other person directly or indirectly in his place of business is a public official; and, if so, the particulars thereof.
- (L) Whether, in the case of an application for the renewal of a license, the applicant has made any political contributions within the past two (2) years; and, if so, the particulars thereof.
- (M) The applicant's name, sex, date of birth, Social Security number, position, and percentage of ownership in the business; and the name, sex, date of birth, Social Security number, position, and percentage of ownership in the business of every sole owner, partner, corporate officer, director, manager, and any person who owns five percent (5%) or more of the shares of the applicant business entity or parent corporations of the applicant business entity.
- (N) That he has not received or borrowed money or anything else of value and that he will not receive or borrow money or anything else of value (other than merchandising credit in the ordinary course of business for a period not to exceed ninety [90] days as herein expressly permitted under section 6-5 of the Liquor Control Act of 1934), directly or indirectly, from any manufacturer, importing distributor, or distributor; or from any representative of any such manufacturer, importing distributor, or distributor; nor be a part in any way, directly or indirectly, to any violation by a manufacturer, distributor, or importing distributor of Section 6-6 of the Liquor Control Act of 1934.
- (O) The length of time the applicant has resided in the Village prior to filing the application and all addresses at which the applicant has resided in the past five (5) years; if a corporation, the length of time the manager has resided in the Village prior to filing the application and all addresses at which the manager has resided in the past five (5) years.
- (P) The character of the business of the applicant; and, in the case of a corporation, the objects for which it was formed.
- (Q) The location and description of the premises or place of business which is to be operated under the license.
- (R) A statement whether applicant is an alcoholic or has received treatment for alcoholism or any drinking problem, or has been involved in any incident involving the police, including traffic, in which he was intoxicated, detailing the dates, locations, and results of any such treatment or incident.
- (S) A statement whether the applicant has received a local license to sell alcoholic liquors at retail from any state or political subdivision thereof.
- (T) A statement that the location where the applicant proposes to sell alcoholic liquors at retail is not within one hundred feet (100') of any church, school, hospital, home for aged, indigent persons, or veterans, undertaking establishment, or mortuary.

CHAPTER 1

BUILDING CODE AND BUILDING PERMITS

SECTION:

- 4-1-1: Adoption Of Building Code
- 4-1-2: Permits
- 4-1-3: Fees
- 4-1-4: Issuance Of A Building Permit
- 4-1-5: Revocation
- 4-1-6: Completion Of Work
- 4-1-7: Extension Of Time To Complete Work
- 4-1-8: Contractor Or Third Party Responsibility

4-1-1: **ADOPTION OF BUILDING CODE:**

- (A) The 2015 Edition of the International Building Code, and any subsequent editions or amendments therefore, copyrighted by the International Code Council, Inc., a copy of which is on file in the office of the Village Clerk, is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, and location and maintenance of buildings and structures.
- (B) The 2015 Edition of the International Fire Code and any subsequent editions or amendments thereto is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, use and occupancy, and maintenance of buildings and structures.
- (C) The 2015 Edition of the International Energy Conservation Code, and any subsequent additions or amendments therefor copywrited by the International Code Council, Inc., a copy of which is on file in the office of the Village Clerk, is hereby adopted for the purpose of establishing rules and regulations for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical lighting and power systems as therein provided. The following additions, changes and/or deletions shall apply to the International Energy Conservation Code as adopted by the Village of Morton:
 1. In Section (C)-101.1 "Village of Morton" is inserted in place of [Name of Jurisdiction]; and
 2. In Section (R)-101.1 "Village of Morton" is inserted in place of [Name of Jurisdiction].
- (D) The 2015 Edition of the International Residential Code for One (1) and Two (2) Family Dwellings, and any subsequent additions or amendments therefore, copywrited by the International Code Council, Inc. a copy of which is on file in the office of the Village Clerk, is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of attached one (1) and two (2) family dwellings and multiple single family dwellings (townhouses) not more than three (3) stories in height. The following additions, changes and/or deletions shall apply to the International Residential Code as adopted by the Village of Morton:
 1. In Section (R)-101.1 "Village of Morton" is inserted in place of [Name of Jurisdiction]; and
 2. In Section (R)-301.2(1) [appropriate design criteria] shall be as specified in the charts and tables contained in that section, and

3. Chapter 25 is not adopted and shall not apply to residential structures within the Village of Morton.
4. Appendix Chapters A, B, C, E and G are hereby adopted as a part of the International Residential Code.
5. Any and all automatic fire sprinkler provisions set forth in the International Residential Code are not adopted and shall not apply to residential structures within the Village of Morton.

(E) The 2015 Edition of the International Existing Building Code, and any subsequent additions or amendments thereof copyrighted by the International Code Council, Inc., a copy of which is on file of the office of the Village Clerk, is hereby adopted for the purpose of establishing rules and regulations governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, within the Village of Morton. The following additions, changes, and/or deletions shall apply to the International Existing Building Code as adopted by the Village of Morton:

1. In Section 101.1 "Village of Morton" is inserted in place of [Name of Jurisdiction]; and
2. In Section 1401.2 "January 1, 2017" is inserted [Date in one location].
3. Appendix Chapters A6 and Resource A are hereby adopted as a part of the International Existing Building Code of the Village of Morton.

(F) The Codes are incorporated fully as if set out at length herein, and the provisions thereof shall be controlling in the construction, alteration, use and occupancy, and maintenance of all buildings and structures. All amendments and new or revised editions shall be effective sixty (60) days after the Village publishes a notice indicating that such amendments or new or revised editions have been placed on file at the office of the Village Clerk. Until such date, the prior editions shall remain in effect. (Ord. 90-37, 4-15-91; amd. Ord. 94-24, 11-21-94; amd. Ord. 00-42, 12-4-00; amd. Ord. 14-12, 7-7-14; amd. Ord. 16-11, 11-21-16)

4-1-2: **PERMITS:** It shall be unlawful to establish any use of a structure or land, including drives, walks, parking/loading areas, or any surfaced area, either by itself or in addition to another use; or to erect a new building or structure, or any part thereof; or to rebuild, structurally alter, add to, or relocate any building or structure, or any part thereof; or to establish a special use, without obtaining a permit from the Zoning Enforcing Officer in accordance with the following regulations.

Internal rearrangement of a building does not require a permit, unless the rearrangement does not conform with the district regulations.

(A) **Building Permits:** Applications for building permits shall be filed in written form with the Zoning Office of the Village and shall contain such information as required by the Zoning Enforcing Officer.

(B) **Certificate Of Occupancy:**

1. No land shall be occupied or used and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy shall have been issued by unanimous action of the Zoning Enforcing Officer, Superintendent of Public Works and Flood Plain Administrator.
2. All certificates of occupancy shall be applied for coincident with the application for a building permit, and said certificate shall be issued within three (3) days after the construction or alteration shall have been approved.
3. The Zoning Enforcing Officer shall maintain a record of all certificates.

4. If a building is occupied before a certificate of occupancy is issued, the owner of the building shall be subject to a minimum fine of two hundred fifty dollars (\$250.00) up to a maximum fine of seven hundred fifty dollars (\$750.00) for each and every day the building is occupied without a certificate of occupancy.

For residential properties, occupancy shall mean that any person is occupying the premises as his or her usual place of abode or that the premises is habitable and fit for occupancy.

For commercial properties, occupancy shall mean that any person is conducting any type of business activity on the premises at any time, or is suitable for the conducting of business.

In addition to any other penalties that might apply, utility service to the premises may be terminated upon notice by the Village. Notice may be mailed by first class mail, postage prepaid, to the owner as shown on the building permit, and shall be deemed effective at 5:00 p.m. of the second day after mailing. As an alternative, the Village may use personal delivery of the notice, and it shall be deemed effective upon delivery.

The utility service may be terminated on or after the effective day of the notice.
(Ord. 06-35, 12-4-06)

5. A temporary certificate of occupancy shall not be issued unless the applicant demonstrates by clear and convincing evidence (a) construction is substantially completed; (b) the structure is safe for occupancy; and (c) by no fault of the builder or the applicant, despite reasonable and diligent efforts, it is impossible to achieve final completion of construction. The award of a temporary certificate of occupancy shall be at the sole and exclusive discretion of the Zoning Enforcement Officer, Superintendent of Public Works, and Flood Plain Administrator. The unanimous approval of the Zoning Enforcement Officer, Superintendent of Public Works, and Flood Plain Administrator shall be required for a temporary certificate of occupancy to issue. At the time the temporary certificate of occupancy is issued, the Zoning Enforcement Officer shall issue to the applicant a list of conditions that must be satisfied for a certificate of occupancy to issue upon the expiration of the temporary certificate of occupancy. Reasonable conditions may be imposed upon the issuance or effectiveness of the temporary certificate of occupancy. If any condition of the temporary certificate of occupancy is violated prior to the expiration of the temporary certificate of occupancy, the Zoning Enforcement Officer may revoke the temporary certificate of occupancy.

In order to obtain a temporary Certificate of Occupancy, the owner or builder must make a deposit in the Zoning Office. The required deposit is five thousand dollars (\$5,000.00) for residential (R-1 and R-2) and ten thousand dollars (\$10,000.00) for a multi-family (R-3 and R-4) project, or for a commercial or industrial project. If the required conditions are not satisfied by the expiration of the temporary certificate of occupancy, the deposit will be forfeited, and a notice of violation will be issued for a violation of the provisions of paragraph 4 of this section. (Ord. 06-35, 12-4-06; amd. Ord. 08-34, 3-16-09; amd. Ord. 19-08, 8-6-18)

- (C) Bona Fide Agricultural Uses: A building permit shall be obtained prior to the construction, alteration, or moving of buildings or structures. (Ord. 90-37, 4-15-91; amd. Ord. 06-35, 12-4-06; amd. Ord. 06-37, 1-2-07)

4-1-3: **FEES:**

(A) Fees for building permits shall be based upon the following schedule:

<u>Valuation</u>	<u>Permit Fee</u>
Up to \$1,000.00	\$15.00
\$1,000.01 to \$5,000.00	\$30.00
\$5,000.01 to \$50,000.00	\$30.00 plus \$3.50 per \$1,000.00 over \$5,000.00
\$50,000.01 to \$100,000.00	\$187.50 plus \$2.50 per \$1,000.00 over \$50,000.00
\$100,000.01 to \$500,000.00	\$312.50 plus \$2.00 per \$1,000.00 over \$100,000.00
Over \$500,000.01	\$1,112.50 plus \$1.50 per \$1,000.00 over \$500,000.00
Zoning Permit (amd. Ord. 03-02, 7-7-03)	\$20.00

(B) If a person commences construction before obtaining a building permit, then such person shall pay, in addition to the building permit fee set forth above, the greater of twenty five dollars (\$25.00) or the amount of the fee as set forth above. Said additional fee plus the original fee shall be due within one day of notification by the Zoning Office of the Village.

For purposes of this Section, construction shall include excavation, site work, or any other work wherein a building permit is required by this Code. The provisions of this Section shall be in addition to the penalties set forth in Section 4-5-1 of this Title.

It shall not be a defense to the provisions of this Chapter that a person was unaware of the necessity of obtaining a permit or that a person had delegated such responsibility to a contractor.

In addition to the additional permit fee, any person commencing construction before obtaining a building permit shall be subject to a minimum fine of two hundred fifty dollars (\$250.00) up to a maximum fine of seven hundred fifty dollars (\$750.00) for each and every day that construction occurs without a building permit.

In addition to any other penalties that might apply, utility service to the premises may be terminated upon notice by the Village. Notice may be mailed by first class mail, postage prepaid, to the owner as shown on the building permit, and shall be deemed effective at 5:00 p.m. of the second day after mailing. As an alternative, the Village may use personal delivery of the notice, and it shall be deemed effective upon delivery.

The utility service may be terminated on or after the effective day of the notice. (Ord. 90-37, 4-15-91; amd. Ord. 06-35, 12-4-06)

(C) In addition to the fees listed in Section A, applicants for certain permits issued for the construction of a building, as required under Section 4-1-2, shall pay an additional fee, as part of the building permit fee, for the purpose of fire and life safety evaluation and code enforcement.

Said fee shall be as follows:

1. Two hundred fifty dollars (\$250) for life safety and fire prevention code plan review, inspection and enforcement.
2. Two hundred seventy-five dollars (\$275) for sprinkler system/stand pipe plan review, inspection and code enforcement for systems with between one (1) and one hundred ninety-nine (199) sprinkler heads, or four hundred dollars (\$400) for systems with two hundred (200) or greater heads or systems that require a fire pump, when such a system is required by code or is otherwise to be installed.

3. Two hundred seventy-five dollars (\$275) for fire detection and alarm systems plan review, inspection and code enforcement, when such a system is required by code or is otherwise to be installed.
4. Three hundred dollars (\$300) for site plan review. (amd. Ord. 08-02, 5-5-08)

The following building types shall be exempt from the above provision:

1. One (1) and two (2) family dwellings, residential garages and storage buildings.
 2. Accessory buildings as defined by Village ordinance.
 3. School buildings.
 4. Buildings that are regulated by State Law and are inspected by the Office of the State Fire Marshall, which may include, but is not limited to day care facilities.
 5. Buildings used exclusively for agriculture or farm storage use.
 6. Buildings that are not designed to be and are rarely occupied by people, as may be determined by the Director of Fire and Emergency Services. It should be made clear that the intent of this exemption is to exclude, but is not limited to, buildings such as those that are erected only for the purpose of housing or protecting mechanical, electrical, or pump equipment and the like, and are only occupied during maintenance of such equipment. (Ord. 04-07, 06-21-04)
- (D) In addition to the above fees, plans that require more than two (2) reviews shall be billed at a reasonable hourly charge as may be established by, and paid directly to the party the Village has contracted with to perform such review. (Ord. 04-07, 06-21-04)
- (E) In addition to the above fees, there shall be due and owing to the Village of Morton a building inspection fee for building code inspections conducted by the Village of Morton or its agent or authorized representative. The building inspection fee for single family residential construction shall be calculated at a rate of \$0.25 per finished square foot, excluding garage or basement area. The building inspection fee for commercial, industrial or multi-family residential construction shall be calculated at a rate of \$2.00 per \$1,000.00 of construction costs for the first \$1,000,000.00 in construction costs and thereafter \$1.00 per \$1,000.00 of construction costs. The applicant for a building permit shall be required to produce to the Village of Morton verification deemed satisfactory to the Village of Morton of the construction costs, such as a copy of the bid documents or a copy of the general contractor's contract. (Ord. 16-11, 11-21-16; amd. Ord. 17-17, 8-7-17)

4-1-4: **ISSUANCE OF A BUILDING PERMIT:** The Zoning Enforcing Officer shall approve or deny issuance of a building permit within ten (10) business days of the date of filing the application, except when site plan review is required in accordance with Sec. 10-4-6 of this Code. A building permit shall not be issued until such time that all applicable fees have been paid. (Ord. 04-16, 6-21-04)

4-1-5: **REVOCATION:** A permit shall be revoked by the Zoning Enforcing Officer when it shall be found from personal inspection or from competent evidence that the rules or regulations under which it has been issued are being violated.

If a permit has been revoked and construction continues, any person continuing such construction shall be subject to a minimum fine of two hundred fifty dollars (\$250.00) up to a maximum fine of seven hundred fifty dollars (\$750.00) for each and every day that construction continues after the permit has been revoked.

Notice of revocation of the permit shall be mailed by first class mail, postage prepaid, to the applicants on the permit as stated on the application, and shall be deemed effective at 5:00 p.m. on the second day after mailing. As an alternative, the Village may use personal delivery of the notice, and then the revocation shall be effective upon receipt by any applicant.

In addition to any other penalties that might apply, utility service to the property may be terminated, if so stated in the notice of revocation, with termination to occur the next day after the effective day of receipt of the notice. In addition to any fines, or other remedies applicable to the Village, the owner shall be responsible for all fees as provided by ordinance to re-institute utility service. If a permit is revoked, construction shall immediately cease until the permit is reinstated.

In addition to any penalties that might apply, the owner of the property where the construction was taking place shall pay a fee of two hundred fifty dollars (\$250.00) for reinstatement of the building permit. (Ord. 90-37, 4-15-91; amd. Ord. 06-35, 12-4-06)

4-1-6: COMPLETION OF WORK:

- (A) Work or change in use authorized by the zoning permit, but not started within ninety (90) days, shall require a new permit.
- (B) Permits issued for new building construction or expansion shall require the completion of the exterior of the building(s) and all other exterior improvements specified in the building permit and approved drawing as follows:
 1. If the cost of the project is under one million dollars (\$1,000,000), three hundred sixty (360) days from the permit issue date.
 2. If the cost of the project is one million dollars (\$1,000,000) or more, but less than five million dollars (\$5,000,000), five hundred forty (540) days from the permit issue date.
 3. If the cost of the project is five million dollars (\$5,000,000) or more, seven hundred twenty (720) days from the permit issue date.
- (C) A permit shall be revoked and a notice of violation issued when it shall be found from personal inspection or competent evidence that the rules or regulations under which it has been issued are being violated. (Ord. 90-37, 4-15-91; amd. Ord. 07-28, 8-20-07)

4-1-7: EXTENSION OF TIME TO COMPLETE WORK: In the event that the exterior improvements as specified in the building permit will not be completed within three hundred sixty (360) days of the date it was issued, then an extended permit may be issued if all of the following criteria are met:

- (A) Application to extend the permit is made at least seven (7) days prior to the original expiration date. (amd. Ord. 04-58, 4-4-05)
The Zoning Office shall have ten (10) days to review the extension request.
- (B) The permit applicant or its agents or lessees are not occupying a building or structure which has not been completed per the building permit.
- (C) The permit applicant or its agents or lessees are not using any portion of the property which has not been improved as required by the building permit.
- (D) If the applicant desires to renew the permit for a period of less than six (6) months, the zoning office may issue same and in such case the permit fee shall be based on the value of the work to be completed, based on the schedule set forth in Title 4, Chapter 1, Section 3(A). (amd. Ord. 04-58, 4-4-05)

- (E) If the work cannot be completed within six (6) months, then such application shall be made to the President and Board of Trustees who shall review same and determine whether there is just cause to allow a period greater than six (6) months and, if so, the length of time the permit will be extended. The renewal fee shall be based on the value of the work to be completed based on the schedule set forth in Title 4, Chapter 1, Section 3(A). (amd. Ord. 04-58, 4-4-05)
- (F) An applicant may request the extension of a permit one time only, and the maximum extension shall be a period of three hundred sixty (360) days. (Ord. 96-30, 10-21-96)

4-1-8: **CONTRACTOR OR THIRD PARTY RESPONSIBILITY:** It is the intent of all regulations in this chapter that they apply to the owner of the property and any contractor or third party performing any construction work on property pursuant to a permit or in a situation where a permit is required.

The Village has discretion to determine in each case whether an ordinance violation shall be filed in the Circuit Court of Tazewell County, Illinois, against either or all of the following: the owner or owners of the property, the contractor, or a third party performing construction work. (Ord. 06-35, 12-04-06)

4-1-9: **CERTIFICATION OF COMPLETION OF CONSTRUCTION:** The general contractor on each building permit shall, prior to the issuance of a certificate of occupancy, certify to the Zoning Enforcing Officer that the building(s) has been constructed in full and strict compliance with the building permit, site plan, and all Village Ordinances. (Ord. 09-33, 12-7-09)

4-1-10: **VIOLATION OF BUILDING PERMIT, SITE PLAN, OR ORDINANCE:** Any person who constructs any portion of a building that is not in conformity with the building permit or site plan, or which is in violation of any Ordinance of the Village, shall be subject to a fine of fifty dollars (\$50) to seven hundred fifty dollars (\$750) per day. Each and every day that a violation exists shall be deemed a separate offense.

The issuance of a certificate of occupancy for a building shall not be a bar to prosecuting a person under this section. (Ord. 09-33, 12-7-09)

CHAPTER 4
ELECTRICAL CODE

SECTION:

- 4-4-1: Adoption Of National Electrical Code
- 4-4-2: Permit Required
- 4-4-3: Permits
- 4-4-4: Scheduling Inspections
- 4-4-5: Re-Inspection Fee
- 4-4-6: Certifications
- 4-4-7: Failure To Obtain A Permit

4-4-1: **ADOPTION OF NATIONAL ELECTRICAL CODE:** The 2014 National Electrical Code, and any subsequent editions or amendments thereto, copyrighted by the National Fire Protection Association, a copy of which is on file in the office of the Village Clerk, is hereby adopted for the purpose of establishing rules and regulations for the installation of all electrical wiring, installation of electrical fixtures, apparatus, or electrical appliances for furnishing light, heat, or power, or other electrical work introduced into or placed in or upon, or in any way connected to, any building or structure within the Village. The same is hereby incorporated as fully as if set out at length herein. All amendments and new or revised editions shall be effective sixty (60) days after the Village publishes a notice indicating that such amendments or new or revised editions have been placed on file at the office of the Village Clerk. Until such date, the prior editions shall remain in effect. (Ord. 90-37, 4-15-91; amd. Ord. 94-24, 11-21-94; amd. Ord. 08-26, 12-1-08; amd. Ord. 14-05, 5-19-14)

4-4-2: **PERMIT REQUIRED:** Any electrical job in excess of one thousand dollars (\$1,000.00), or any increase in the electrical service, will require a permit and appropriate inspections. (Ord. 08-26, 12-1-08; amd. Ord. 08-40, 3-16-09)

4-4-3: **PERMITS:**

(A)	Residential Permits:	<u>Fee</u>
	Single Family Home:	\$400
	Duplex:	\$800
	Multi-family (more than 2 units):	\$800, plus \$50 per unit over two units
	Additions; Remodel Projects:	\$200
	Service Panel Change Out/Generator:	\$100
	Lighting Retro Fit	\$100
	Solar/Renewable Energy System	\$100

(B) Commercial/Industrial Permits:

Based on Cost of Electrical for New Construction & Remodel Valuation	<u>Fee</u>
\$1,001 - \$2,500	\$100
\$2,501 - \$10,000	\$250
\$10,001 - \$15,000	\$350
\$15,001 - \$20,000	\$500
Over \$20,000	\$500 plus \$2 per \$1,000 over \$20,000 (rounded to nearest \$1,000)
Signs	\$100
Service Panel Change Out	\$100
Generator	\$100
Lighting Retro Fit	\$100
Solar/Renewable Energy System	\$100

In the event any work is started prior to the time a permit is obtained, the permit fee shall be doubled. All electrical permits will be in effect for no more than 18 months or until a final inspection has been completed. Electrical permits shall be non-assignable. (Ord. 08-26, 12-1-08; amd. Ord. 08-40, 3-16-09; amd. Ord. 09-39, 1-4-10; amd. Ord. 10-02, 5-17-10; amd. Ord. 11-04, 5-2-11; amd. Ord. 13-02, 6-3-13; amd. Ord. 19-04, 6-18-18)

4-4-4: **SCHEDULING INSPECTIONS:** If a scheduled inspection is to be cancelled, the owner of the property or the contractor must contact the zoning department at least two (2) hours prior to the scheduled inspection time. All inspections not cancelled at least two (2) hours before the scheduled time shall be charged a re-inspection fee.

It is the responsibility of the owner or his contractor to request all inspections. Inspections shall be requested by notifying the zoning department during normal business hours and notification must be a minimum of twenty four (24) hours in advance of the needed inspection except for the final inspection which requires a forty eight (48) hours advanced notice. (Ord. 08-26, 12-1-08)

4-4-5: **RE-INSPECTION FEE:** In the event any re-inspections are needed the following fees shall apply:

1st re-inspection	\$50
2nd re-inspection	\$75
3rd re-inspection	\$100
4th re-inspection	\$125

(Ord. 08-26, 12-1-08)

4-4-6: **CERTIFICATIONS:** No electrician shall install any electrical equipment, systems, components, or materials without first having obtained a certificate of registration to do so from the Village of Morton, Tazewell County, Illinois.

A certificate of registration is not required for residential work provided the work is being done solely by the owner of the subject property. All electrical equipment must be installed in compliance with the National Electrical Code.

In order to obtain a certificate of registration to install electrical equipment as provided above, an electrician shall submit evidence of the following to the Zoning and Enforcing Officer:

1. A current license issued by any of the following communities:
 - a. Peoria, IL
 - b. Bloomington, IL
 - c. Springfield, IL
 - d. Decatur, IL
 - e. Peoria, IL
 - f. Ottawa, IL
 - g. Joliet, IL
 - h. any other Illinois testing community upon verification by the Zoning and Enforcing Officer; or
2. Evidence of successful completion of a test administered by any of the communities listed in subdivision (1) of this paragraph, or a national fire protection association test pertaining to the National Electrical Code and knowledge thereof.

Upon presentation by an electrician of satisfactory evidence of either of the items listed in (1) or paragraph (2) above, the Zoning and Enforcing Officer shall issue an electrical certification of registration to such an electrician. The electrical certification shall cost one hundred dollars (\$100) per year and shall be issued on a calendar year basis. No electrical work may be done without an electrical certification. (Ord. 08-26, 12-1-08, amd. Ord. 09-31, 11-16-09)

4-4-7: **FAILURE TO OBTAIN A PERMIT:** If a person commences electrical work without obtaining a permit when required, such person shall pay twice the fee required to obtain the electrical permit. (Ord. 17-25, 11-6-17)

TITLE 8
PUBLIC WAYS AND PROPERTY

Subject	Chapter
Rights Of Way, Streets, Alleys, Sidewalks, And Driveways	1
Gas Distribution Department	2
Wastewater Treatment And Collection System	3
Waterworks And Water Distribution System	4
Storm Water Utility	5
Weeds	6
Storm Drains	7
Maintenance Of Private Property	8
Street Names (Rep. by Ord. 96-22, 10-7-96)	9
Discharging Of Sump Pumps And Perimeter Tiles Into Sanitary Sewers	10
Underground Electric Service	11
Utility Equipment	12
Basic Annexation Fees and Development Fees	13
Deferred Annexation Fees	14
Utility Billing And Collection Policies And Procedures .	15
Dedication of Land for Bike Path	16
Memorial Plaza Use	17
Small Wireless Facilities	18

8-4-14: FIRE SPRINKLER SYSTEMS:

- (A) All existing and future fire sprinkler systems, directly or indirectly connected to the Village's water system, must comply with the regulations of the Illinois EPA and the Illinois State Plumbing Code, with respect to backflow prevention.
- (B) No hazardous chemicals (antifreeze, potassium permanganate, formaldehyde, etc.) are allowed in systems directly or indirectly connected to the Village water system.
- (C) All future systems, only as applicable to Title 8, Chapter 4, must be approved by the SPW before issuing a building permit (for new construction) or before installing such a system only (for existing structures). (amd. Ord. 04-09, 6-21-04)
- (D) All systems using a pump must be equipped with low-pressure cut-off switch set at twenty (20) psi at the Village main. The owner of the premises must maintain said cut-off switch, test it, and certify to its accuracy at least once a year. Said certification must be made, in writing, by a qualified party acceptable to the SPW. (Ord. 96-6, 6-17-96)

8-4-15: CROSS-CONNECTIONS:

- (A) If, in accordance with the Illinois State Plumbing Code or EPA regulations, or in the judgment of the SPW, an approved backflow prevention device is necessary for the safety of the public water supply system, the SPW shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois State Plumbing Code and all applicable local regulations, and shall have inspections and tests made of such approved devices as required by the Illinois State Plumbing Code and local regulations. Any customer whose inspection report has not been received in the Village offices by the date specified in the annual notice shall be subject to a penalty of fifty dollars (\$50.00) per device. (amd. Ord. 00-36, 11-6-00)
- (B) No person, firm, or corporation shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary, or emergency water supply other than the regular public water supply of the Village enters the supply or distribution system of said Municipality, unless such private, auxiliary, or emergency water supply and the method of connection and use of such supply shall have been approved by the SPW and the Illinois EPA.
- (C) It shall be the duty of the SPW to cause surveys and investigations to be made of commercial, industrial, and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the SPW shall deem necessary. Records of such surveys shall be maintained and available for a review for a period of at least five (5) years.
- (D) The Village or its agents shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the Village for the purpose of verifying the presence or absence of cross-connections, for the purpose of verifying information submitted by the customer regarding cross-connection control inspection, and for the purpose of inspecting and observing any appurtenances and/or metering devices connected with the Village water system. On demand, the owner, lessees, or occupants of any property so served shall furnish to the SPW any information which he may request regarding the piping system or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the SPW, be deemed evidence of the presence of improper connections as provided in this Section.
- (E) The SPW has on file regulations governing the installation and maintenance of cross-connection control devices which must be adhered to.

- (F) The SPW of the Village is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Section is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Section, and until a reconnection fee equal to the actual time and material charges to reconnect is paid to the Village. Immediate disconnection with verbal notice can be effected when the SPW is convinced that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection.
- (G) The consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained, or repaired device, or a device which has been bypassed, shall bear the cost of cleanup of the potable water supply system. (Ord. 96-6, 6-17-96)

8-4-16: **WATER LEAKAGE:**

- (A) Effective November 1, 2008, the Village shall adopt a policy of forgiveness for internal water leaks (see definition below) at a water service location with the following rules:
1. Internal water leaks shall consist of plumbing failures within the heated interior portion of a structure. This would not include outdoor plumbing, such as exterior faucets, irrigation systems, pools, or any other plumbing outside the structure, or plumbing contained in an area of the structure which is not heated.
 2. The forgiveness shall be applied only to a claimant once in a five (5) year period, commencing with the first forgiveness. The five year period shall apply to all properties owned by the claimant, whether personal residence, business property, or rental property.
 3. Forgiveness will be considered only if the usage billed is greater than two (2) times the average monthly usage over the previous 12 months.
 4. The owner of the service account (bill to individual) must request the forgiveness by completing the "Water Forgiveness Request Form" and submitting it to the Morton Village Office, 120 N. Main Street, Morton, Illinois, 61550. The form must be completed and returned within 30 days of billing date for the bill for which forgiveness is sought.
 5. The request must be based upon an internal plumbing failure within the service locations water system, the nature of which is to be specified when requesting the forgiveness. Documentation will be required in the form of detailed receipts from certified plumbers; or in the event those repairs were made by the individual, receipts for any plumbing hardware or supplies purchased to make the repair. Photographs of the leak prior to and following repair may be requested.
 6. Water system failures must be repaired in a timely fashion, not to exceed ten (10) days from discovery and prior to submission of the Water Forgiveness Request Form.
 7. Forgiveness will be for the water usage in excess of two (2) times the previous 12 months average usage in cubic feet, as calculated by the Village staff. The Village will calculate the forgiveness amount on the usage of the bill in question along with the bill for the period following the bill in question, in order to consider the excess usage for the subsequent billing period prior to repairs being made. The forgiveness amount will include both the water and sewer charges for the total calculated excess usage.

8. Bill adjustments will not exceed \$500.

9. Forgiveness is allowed only for plumbing system failures and is applied equally to water and sewer charges. There shall be no forgiveness for only water or only sewer when the excess usage is the result of any other cause.
(Ord. 08-20, 10-6-08; amd. Ord. 19-09, 8-6-18)

(B) In the event there exists a water leak on the owner's piping between the water meter and the curb stop, it shall be the responsibility of the owner of the property on which said leak is located to repair said leak within ten (10) days after receiving written notice from the Village by first class mail, advising the property owner of the leak. If said leak is not repaired within the ten (10) day period, the Village shall discontinue water service to the property without further notice. The Village may estimate the amount of water lost and bill the property owner for same. The property owner may request forgiveness (8-4-16, Section A) in lieu of payment for the water lost. (Ord. 96-6, 6-17-96; amd. Ord. 08-20, 10-6-08)

8-4-17: **ILLEGAL USE OF WATER:** In the event the usage of unmetered water is detected, water service to the property shall be terminated immediately, without notice, and the owner of the property on which the violation exists shall be subject to the penalties provided in this Chapter, in addition to the cost of water consumed. (Ord. 96-6, 6-17-96)

8-4-18: **RESALE:** No water shall be resold or distributed by the recipient thereof from the Village supply to any premises other than that for which application has been made and the water installed, except in the case of emergency. (Ord. 96-6, 6-17-96)

8-4-19: **TAMPERING:** It shall be unlawful for any person not authorized by the Village to tamper with, alter, operate, or injure any part of the Village waterworks or supply system, or any meter, remote meter reading device valve, curb stop, or fire hydrant of said system. (Ord. 96-6, 6-17-96)

8-4-20: **PROHIBITION OF WATERING OF LAWNS AND GARDENS, WASHING OF AUTOMOBILES, AND FILLING OF SWIMMING POOLS:**

(A) The President of the Board of Trustees, the SPW, or the Superintendents of Water Treatment or Distribution are hereby empowered and authorized to prohibit the use of water from the Village water system for the watering of lawns and gardens, the washing of automobiles, and the filling of swimming pools during periods of water shortage or low water pressure in the water system.

(B) Any party who so uses such water during the period of such prohibition shall be in violation of this Section, and upon conviction thereof, shall be subject to the penalties provided in this Chapter. Any party who persists in the continued use of such water during the period of such prohibition shall be subject to immediate termination of water service by order of any of the officials named in subsection (A) above. (Ord. 96-6, 6-17-96)

8-4-21: **SERVICE DISCONTINUED AND RENEWAL THEREOF:** The Village reserves the right to discontinue water service to any premises where the owner or tenant of such premises is guilty of a violation of any of the provisions of this Chapter or where a dangerous condition is found to exist. When such service is discontinued and the water is shut off, whether by the Village or at the request of the property owner, the water shall not again be turned on or supplied to such premises until all delinquent charges due the Village have been paid and there is no existing default or violation of any of the provisions of the several sections of this Chapter or the dangerous condition has been eliminated. A written application shall be filed with the proper Village officials for the renewal of such water service, which application shall be accompanied by a fee of fifty dollars (\$50.00) to pay for the shutting off and turning on of the water supply. No customer, plumber, or any other person shall be permitted to use the curb stop of the service connection for shutting off water while making extensions, additions, or repairs to the pipe or equipment on the premises. Such shutoff or discontinuance or interruption of service shall be made only by the Village or its properly authorized employees. There is no charge to shut off or turn on a service if scheduled and performed during normal working hours. At all other times, the fifty dollar (\$50.00) fee is applicable.

Discontinuance of service by the Village for violation shall not be made except on written notice of at least three (3) days, mailed to such customer at his address, as shown upon the records of the Village, or personally delivered to him or a member of his household, advising the customer what particular rule has been violated for which service will be discontinued if the violation is permitted to continue; provided, however, that where the fraudulent use of water is detected, where the Village regulating or measuring equipment has been tampered with, where cross-connection regulations have been violated, or where a dangerous condition is found to exist on the customer’s premises, service may be shut off without notice in advance. (Ord. 96-6, 6-17-96; amd. Ord. 01-14, 8-6-01)

8-4-22: **MINIMUM / MAXIMUM SETBACK ZONE PROVISIONS FOR GROUNDWATER PROTECTION:**

(A) Pursuant to the authority conferred by 65 ILCS 5/11-125-4 (1994) and 415 ILCS 5/14.2 and 5/14.3 (1994); and in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of the Municipality’s groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply, the provisions of this Section shall apply to all properties located within the minimum setback zone established under section 14.2 of the Environmental Protection Act (“Act” - 415 ILCS 5/14.2 [1994]) and this Section, and the maximum setback zone established under section 14.3 of the Act (415 ILCS 5/14.3 [1994]) and this Section.

(B) Except as stated in this subsection, and unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Section shall be the same as those used in the Act and the Illinois Groundwater Protection Act (415 ILCS 55/1 [1994]):

ACT: The Environmental Protection Act (415 ILCS 5/1, et seq. [1994]).

AGENCY: The Illinois Environmental Protection Agency.

BOARD: The Illinois Pollution Control Board.

MAXIMUM SETBACK ZONE: The area around a community water supply well established under section 14.3 of the Act and this Section, a map of which is kept on file in the office of the Superintendent of Water Treatment.

MINIMUM SETBACK ZONE: The area around a community water supply well established under section 14.2 of the Act and this Section, a map of which is kept on file in the office of the Superintendent of Water Treatment.

(C) Prohibitions:

1. Except as provided in subsections (D) and (E) of this Section, no person shall place a new potential primary source, new potential secondary source, or new potential route within the minimum setback zone.
2. Except as provided otherwise in subsection (D) below, no person shall place a new potential primary source within the maximum setback zone.

(D) Waivers, Exceptions, And Certifications Of Minimal Hazard:

1. If, pursuant to section 14.2(b) of the Act, the owner of a new potential primary source, new potential secondary source, or new potential route is granted a waiver by the Agency, such owner shall be deemed to have a waiver to the same extent from subsection (C)1 above.
2. If, pursuant to section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating), new potential secondary source, or new potential route is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from subsection (C)1 above.
3. If, pursuant to section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating) is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from subsection (C)2 above.
4. If, pursuant to section 14.5 of the Act, the owner of a new potential primary source, new secondary source, or new potential route is issued a certificate of minimal hazard by the Agency, such owner shall not be subject to subsection (C)1 above to the same extent that such owner is not subject to section 14.2(d) of the Act.

(E) Subsection (C)1 above shall not apply to new common sources of sanitary pollution as specified pursuant to Section 17 of the Act and the regulations adopted thereunder by the Agency; however, no such common sources may be located within the applicable minimum distance from a community water supply well specified by such regulations. (Ord. 96-6, 6-17-96)

8-4-23: **DEPOSIT OF RECEIPTS:** The Village Treasurer shall receive all of the revenues derived from the Village water system and all other moneys and funds incidental to the operation of said system, and shall deposit same in a separate bank account for such funds, separately from all other funds of the Village. He shall administer the Water and Wastewater Fund in every respect in manner and form as provided by law, in accordance with the provisions heretofore adopted by the President and Board of Trustees pertaining to the construction, maintenance, and operation of said Village water system, and he shall establish a proper system of accounts separate and apart from all other records and accounts he may be required to keep as such Treasurer. (Ord. 96-6, 6-17-96)

8-4-24: **SEVERABILITY CLAUSE:** If any section, subsection, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency, or circumstance, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the Village Board of Trustees that this Chapter would have been adopted had such unconstitutional or invalid section, subsection, paragraph, sentence, clause, or phrase, or any part thereof, not then been included. (Ord. 96-6, 6-17-96)

CHAPTER 15

**UTILITY BILLING AND COLLECTION POLICIES
AND PROCEDURES**

SECTION:

- 8-15-1: Definition Of Utility
- 8-15-2: Liability For Payment Of All Charges
- 8-15-3: Deposits For Utility Service By Tenants
- 8-15-4: Due Date Of Bills For Discount; Loss Of Discount
- 8-15-5: Credits and Rebates
- 8-15-6: Dishonor Of Check
- 8-15-7: Level Payment Plan
- 8-15-8: Delinquent Bills
- 8-15-9: Reserved for Future Use
- 8-15-10: Reconnections
- 8-15-11: Dispute Resolution Procedure
- 8-15-12: Collection Actions
- 8-15-13: Liens
- 8-15-14: Severability

8-15-1: **DEFINITION OF UTILITY:** As used in this Chapter, "utility" refers to the Village's gas system, storm water system, wastewater system, and water system, as well as any other utility which may hereafter be acquired or developed by the Village of Morton. (amd. Ord. 05-37, 12-19-05)

8-15-2: **LIABILITY FOR PAYMENT OF ALL CHARGES:** The services of each Village utility system shall be deemed to be furnished to the owner of the premises and to the occupant thereof and to the user of the services, and the owner of the premises and the occupant thereof and the user of the services shall be jointly and severally liable for the payment of all charges for such services. Such services are furnished to the premises by the Village only upon the condition that the owner of the premises and the occupant thereof and the user of the services are jointly and severally liable therefor to the Village.

8-15-3: **DEPOSITS FOR UTILITY SERVICE BY TENANTS:**

(A) Before gas service is provided to any tenant occupying rental property and who has requested gas service, said tenant shall deposit the sum of one hundred dollars (\$100.00), which shall be held by the Village until the service is permanently discontinued to such tenant. Said deposit shall be applied first to any unpaid gas service charge, and any balance remaining, without interest, remitted to the party paying the same.

(B) Before water service is provided to any tenant occupying rental property and who has requested water service, said tenant shall deposit the sum of fifty dollars (\$50.00), which shall be held by the Village until the service is permanently discontinued to such tenant. Said deposit shall be applied first to any unpaid water service charge, and any balance remaining, without interest, remitted to the party paying the same.

- (C) In the event that payment is insufficient to pay the total of all portions of the utility bill, the payment will be applied to the storm water service charges first. After the storm water service charges are satisfied, the remaining portion of the payment will be applied to the wastewater service charges. After the storm water, wastewater, and gas service charges are satisfied, the remaining portion of the payment will be applied to the water service charges. (Ord. 05-37, 12-19-05)

8-15-4: DUE DATE OF BILLS FOR DISCOUNT; LOSS OF DISCOUNT:

- (A) Bills for utility service shall be rendered on the eighteenth day of each month at a rate of ninety-five percent (95%) of the actual amount of utility service rendered and said amount shall be due in full on the twenty-seventh day of the month. If the twenty-seventh day of the month falls on a Saturday, Sunday, or holiday observed by the Village, then said amount shall be due in full on the next following business day.
- (B) If payment in full is not received by the Village at its utility office or in the utility drop boxes at or before five o'clock (5:00) P.M. on the aforesaid due date, then five percent (5%) of the actual amount of utility service rendered shall be added to the next month's bill and shall be due and payable in full on the twenty-seventh day of the month next following the due date of the bill for such utility service.
- (C) Failure to receive a utility bill shall not excuse a customer from his or her obligation to pay within the time period specified. (amd. Ord. 19-09, 8-6-18)

8-15-5: CREDIT AND REBATES: Whenever the Village or a customer discovers that there has been an error in billing and an overpayment has been made by the customer, the Village shall credit the amount overpaid by the customer against the next following utility bill. The Village shall issue a cash rebate only if the utility service has been discontinued at the time of the discovery of such error. No credit or rebate shall be issued by the Village for errors occurring over six (6) months prior to the date of the discovery of such error.

8-15-6: DISHONOR OF CHECK:

- (A) Whenever a check payable to the Village is tendered to the Village for payment of utility charges and is dishonored by the financial institution upon which it is drawn because of insufficient funds in the account against which it was drawn or for any other lawful reason, then the discount for early payment shall be forfeited or lost and a processing charge of twenty-five dollars (\$25.00) shall be imposed by the Village and added to the account and thereon be due and payable.
- (B) Utility customers who have made payment with a check dishonored by the financial institution upon which it is drawn because of insufficient funds in the account against which it was drawn, or for any other lawful reason three (3) times in a period of twelve (12) consecutive months, shall be required to remit payment of their utility bills by cash, certified check, or money order until an acceptable payment history has been established. For the purposes of this Section, an "acceptable payment history" is defined as having no delinquent utility bills in the previous twelve (12) consecutive months.

8-15-7: LEVEL PAYMENT PLAN:

- (A) Residential utility customers may request to be on the level payment plan provided the following criteria have been met:
1. The property where service is provided has a utility account history of at least twelve (12) months;

2. The residential utility customer requesting to be on the level payment plan has had no more than one (1) delinquent utility bill in the previous twelve (12) consecutive months; and
 3. The residential utility customer requesting to be on the level payment plan has presented no dishonored checks in the previous twelve (12) consecutive months.
- (B) The Village will keep level payment plan monthly billings at an average level. If, at the end of an 11-month period, the customer has accumulated a credit or debit, the Village will bill or credit the balance on the next following utility bill, to be termed the “settlement bill” or the “settlement month.”
- (C) The Village reserves the right to adjust, without prior notice, the level payment plan monthly billing amount of any level payment plan customer in order to avoid the accumulation of an excessive credit or debit on the level payment plan customer’s account.
- (D) Residential utility customers may request to be removed from the level payment plan at any time or the Village may remove a residential utility customer from the level payment plan with or without cause upon thirty (30) calendar days notice to the level payment plan customer. In such case, any outstanding charges shall be reflected and due and payable on the first bill issued under normal billing.
- (E) Level payment plan customers who have made payment after the twenty-seventh day of the month two (2) times in a period of twelve (12) consecutive months or who have made payment with a check dishonored by the financial institution upon which it is drawn because of insufficient funds in the account against which it was drawn or for any other lawful reason two (2) times in a period of twelve (12) consecutive months automatically forfeit the privilege of being on the level payment plan and shall be returned to normal billing and payment without prior notice. In such case, any outstanding charges shall be reflected and due and payable on the first bill issued under normal billing.
- (F) Residential utility customers who have been removed from the level payment plan by the Village pursuant to Section 8-15-7(E) above shall become eligible for the level payment plan the month after the establishment of an acceptable payment history. For the purposes of this Section, an “acceptable payment history” is defined as having no delinquent utility bills and having presented no dishonored checks in the previous twelve (12) consecutive months. (amd. Ord. 02-29, 1-6-03; amd. Ord. 19-09, 8-6-18)

8-15-8: **DELINQUENT BILLS:**

- (A) In the event payment in full, including the forfeited or lost discount, is not received by the Village at its utility office or in the utility drop boxes by five o’clock (5:00) P.M. on the twenty-seventh day of the month next following the due date of the bill for such utility service, such utility bill shall be deemed to be delinquent and the utility customer will be sent a notice of delinquency. The Village Administrator or his/her designee shall cause such utility customers to be notified in writing by first class mail that utility service is to be terminated. Said notice shall also specifically inform the utility customer of the following:
1. That the utility customer may contact the Village Administrator to request a hearing on the matter; and
 2. That said request must be made within five (5) business days of the date of said termination notice; and
 3. That if said request is made, a hearing will be held within ten (10) business days of the date of said termination notice; and

4. That utility service will be discontinued within ten (10) business days of the date of said termination notice if no request for a hearing is made.

Delinquent utility customers will have until the close of business on the tenth business day from the date of said termination notice to:

1. Pay the bill in full; or
2. Resolve the matter in accordance with the dispute resolution procedure set forth in Section 8-15-11 of this Chapter.

If the delinquent utility customer fails to perform one of these requirements by the deadline stated, a disconnect order will be issued by the Village utility office. (amd. Ord. 06-26, 10-2-06; amd. Ord. 11-31, 1-3-12; amd. Ord. 19-09, 8-6-18)

(B) Gas service to a utility customer shall not be disconnected for nonpayment of bills:

1. On any day from November 1st to March 31st when the National Weather Service forecasts a temperature of twenty degrees Fahrenheit (20° F) or below in the Village for the following twenty-four (24) hour period.
2. On any day preceding a holiday or weekend when the weather forecast indicates the temperature will be twenty degrees Fahrenheit (20° F) or below in the Village during the holiday or weekend.

8-15-9: **DISCLOSURE OF UTILITY RECORDS:** The utility record of any customer shall not be disclosed to anyone without the consent of the customer unless required by law or unless the account has been referred to collection or unless a lien has been filed on the property where the service was provided.

Persons who are permitted to know customer account information are the Village Administrator or any employee under her supervision, the owner or tenant of property, or the Zoning Officer.

In addition to the foregoing, the Village of Morton may disclose customer information to other persons if a written request is made and it is for a valid and lawful purpose. (Ord. 15-13, 11-16-15)

8-15-10: **RECONNECTIONS:** In the event utility service has been disconnected due to nonpayment of bills, then such utility service shall not be reconnected until all outstanding bills for utility service to the property, any forfeited or lost discounts, any costs incurred by the Village as a result of the discontinuance and reinstatement of said utility service, any and all indebtedness associated with the property that is owed to the Village, including, but not limited to, abatement liens, and a reconnection service charge of fifty dollars (\$50.00) each for gas and water service have been paid in full. The Village requires that someone be present in the dwelling, and signify their presence when requested, prior to service being reconnected. In the event there are delinquent charges or abatement liens to more than one property of a particular owner, then such utility service shall not be reconnected until all outstanding bills for utility service, any forfeited or lost discounts, any costs incurred by the Village as a result of the discontinuance and reinstatement of said utility service, any and all indebtedness that is owed to the Village, including, but not limited to, abatement liens and utility bills, associated with all properties owned by that owner are brought current. Reconstructions will be performed only during normal working hours, which are 7:30 a.m. to 4:00 p.m. Monday through Friday (excluding holidays). Reconstructions will be done only if sufficient Village personnel are available to perform the reconnection during normal working hours. If a customer desires reconnection after 4:00 p.m. and prior to 5:00 p.m., an additional charge of one hundred dollars (\$100.00) shall be assessed and must be paid in full prior to reconnection, in addition to the above stated regulations regarding reconnection. No reconstructions will occur after 5:00 p.m. (amd. Ord. 01-32, 11-19-01; amd. Ord. 17-24, 11-6-17; amd. Ord. 17-29, 12-4-17)

8-15-11: **DISPUTE RESOLUTION PROCEDURE:**

- (A) Village utility billing personnel shall be available during regular business hours to receive and consider disputes of any customer relative to an account for utility service. Customers having a dispute which cannot be resolved by utility billing personnel may request a hearing in writing, directed to the Village utility office.
- (B) Requests for a hearing shall be made in writing and contain the name, address, and telephone number of the person requesting the hearing, the address at which utility service is received and which is the subject of the dispute, the specific grounds or reasons for which the hearing is requested, and the specific relief requested.
- (C) Upon filing a request for a hearing, a hearing shall be scheduled with the customer. If the customer has been sent a notice of delinquency, the hearing shall be scheduled on or before the disconnection date specified in the notice of delinquency.
- (D) The Village Administrator, or his or her designee, shall serve as hearing officer for any hearings which may be held under this Section. The decision of the hearing officer with respect to the dispute shall be final.
- (E) The Village shall not disconnect the utility service of any person for nonpayment during the pendency of the dispute if:
 1. Written notice is given to the Village utility office as herein provided; and
 2. Payment of all undisputed portions of the bill is made; and
 3. All charges made during the pendency of the dispute are paid as they become due; and
 4. The person making the complaint or dispute enters into a bona fide effort to resolve the disputed matter with all due dispatch.
- (F) If the findings reached at the aforesaid hearing are adverse to the customer, said decision shall be reduced to writing, with a copy thereof to be forwarded to said customer by first class mail. Said decision should also contain the date on which utility service to the customer in question will be discontinued.

8-15-12: **COLLECTION ACTIONS:** The Village Administrator is hereby granted the authority to turn any delinquent account over to a collection agency, the Illinois Local Debt Recovery Program, or attorney retained by the Village for collection. In the event the Village sues to collect on an account, the Village shall be entitled to recover, in addition to the amounts due, its costs, expenses, and reasonable attorney fees incurred in collecting the debt. (amd. Ord. 17-24, 11-6-17; amd. Ord. 17-29, 12-4-17)

8-15-13: **LIENS:**

- (A) The amount of any utility bill which is delinquent shall constitute a lien upon the real estate for which such services were rendered.
- (B) The Village Administrator is hereby authorized and directed to file sworn statements showing such delinquencies in the office of the Recorder of Deeds of Tazewell County, Illinois, and the filing of such statements shall be deemed notice for payments of such charges for such utility services.
- (C) No such lien shall be defeated to the proper amount thereof because of an error or overcharge on the part of the Village, nor shall any lien be defeated upon proof that such utility service was used or contracted for by a tenant of the premises or occupant thereof other than the owner.

- (D) If the user of the utility service whose utility bill is unpaid is not the owner of the premises and the Village Administrator has written notice of this fact, notice shall be mailed to the owner of the premises, if an address be known to the Village Administrator, whenever such utility bill remains unpaid until the twenty-seventh day of the month next following the due date of the utility bill. Said notice shall be by first class mail.
- (E) The failure of the Village Administrator to record such lien claim or to mail or deliver 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 utility bills, as provided herein.
- (F) If payment of any amount due for utility service, additional charges, or benefits when the same becomes due shall not be made as provided in this Chapter, the Village may file or cause to be filed a complaint in the Circuit Court of Tazewell County for the foreclosure thereof in the same manner as a foreclosure of a real estate mortgage.
(Ord. 04-53, 3-7-05, amd. Ord. 19-09, 8-6-18)

8-15-14: **SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency, or circumstance, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the Village Board of Trustees that this Chapter would have been adopted had such unconstitutional or invalid section, subsection, paragraph, sentence, clause, or phrase, or any part thereof, not then been included. (Ord. 01-20, 10-15-01)

CHAPTER 18

SMALL WIRELESS FACILITIES

SECTION:

- 8-18-1: Purpose and Scope
- 8-18-2: Definitions
- 8-18-3: Regulation of Small Wireless Facilities
- 8-18-4: Dispute Resolution
- 8-18-5: Indemnification
- 8-18-6: Insurance

8-18-1 **PURPOSE AND SCOPE:** The purpose of this Chapter is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the Village's jurisdiction, or outside the rights-of-way on property zoned by the Village exclusively for commercial or industrial use, in a manner that is consistent with the Act.

In the event that applicable federal or State laws or regulations conflict with the requirements of this Chapter, the wireless provider shall comply with the requirements of this Chapter to the maximum extent possible without violating federal or State laws or regulations.

8-18-2 **DEFINITIONS:** For the purposes of this Chapter, the following terms shall have the following meanings:

ANTENNA: Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

APPLICABLE CODES: Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

APPLICANT: Any person who submits an application and is a wireless provider.

APPLICATION: A request submitted by an applicant to the Village for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

COLLOCATE OR COLLOCATION: To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

COMMUNICATIONS SERVICE: Cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53), as amended; or wireless service other than mobile service.

COMMUNICATIONS SERVICE PROVIDER: A cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

FCC: The Federal Communications Commission of the United States.

FEE:	A one-time charge.
HISTORIC DISTRICT OR HISTORIC LANDMARK:	A building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an Chapter adopted by the Village pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.
LAW:	A federal or State statute, common law, code, rule, regulation, order, or local Chapter or resolution.
MICRO WIRELESS FACILITY:	A small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.
MUNICIPAL UTILITY POLE:	A utility pole owned or operated by the Village in public rights-of-way.
PERMIT:	A written authorization required by the Village to perform an action or initiate, continue, or complete a project.
PERSON:	An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.
PUBLIC SAFETY AGENCY:	The functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.
RATE:	A recurring charge.
RIGHT-OF-WAY:	The area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include Village-owned aerial lines.
SMALL WIRELESS FACILITY:	A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.
UTILITY POLE:	A pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

WIRELESS FACILITY: Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

WIRELESS INFRASTRUCTURE PROVIDER: Any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the Village.

WIRELESS PROVIDER: A wireless infrastructure provider or a wireless services provider.

WIRELESS SERVICES: Any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

WIRELESS SERVICES PROVIDER: A person who provides wireless services.

WIRELESS SUPPORT STRUCTURE: A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

8-18-3 **REGULATION OF SMALL WIRELESS FACILITIES:**

(A) **Permitted Use:** Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (9) regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

(B) **Permit Required:** An applicant shall obtain one or more permits from the Village to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

1. **Application Requirements:** A wireless provider shall provide the following information to the Village, together with the Village's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:
 - (a) Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;

- (b) The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;
- (c) Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
- (d) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
- (e) A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
- (f) Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
- (g) In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Village, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.

2. Application Process: The Village shall process applications as follows:

- (a) The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
- (b) An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the Village fails to approve or deny the application within 90 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Chapter.

- (c) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within 120 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Chapter.

- (d) The Village shall deny an application which does not meet the requirements of this Chapter.

If the Village determines that applicable codes, Chapters or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

The Village shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the Village denies an application.

The applicant may cure the deficiencies identified by the Village and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The Village shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the applicant to submit a new application with applicable fees, and recommencement of the Village's review period.

The applicant must notify the Village in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.

Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

- (e) Pole Attachment Agreement: Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a Master Pole Attachment Agreement, provided by the Village for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

3. **Completeness of Application:** Within 30 days after receiving an application, the Village shall determine whether the application is complete and notify the applicant. If an application is incomplete, the Village must specifically identify the missing information. An application shall be deemed complete if the Village fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the Village's permit application form are submitted by the applicant to the Village.

Processing deadlines are tolled from the time the Village sends the notice of incompleteness to the time the applicant provides the missing information.

4. **Tolling:** The time period for applications may be further tolled by:
 - (a) An express written agreement by both the applicant and the Village; or
 - (b) A local, State or federal disaster declaration or similar emergency that causes the delay.
5. **Consolidated Applications:** An applicant seeking to collocate small wireless facilities within the jurisdiction of the Village shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

If an application includes multiple small wireless facilities, the Village may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The Village may issue separate permits for each collocation that is approved in a consolidated application.

6. **Duration of Permits:** The duration of a permit shall be for a period of not less than 5 years, and the permit shall be renewed for equivalent durations unless the Village makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable Village codes or any provision, condition or requirement contained in this Chapter.

If the Act is repealed as provided in Section 90 therein, renewals of permits shall be subject to the applicable Village code provisions or regulations in effect at the time of renewal.

7. **Means of Submitting Applications:** Applicants shall submit applications, supporting information and notices to the Village by personal delivery at the Village's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

(C) **Collocation Requirements and Conditions:**

1. **Public Safety Space Reservation:** The Village may reserve space on municipal utility poles for future public safety uses, for the Village's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the Village reasonably determines that the municipal utility pole cannot accommodate both uses.

2. **Installation and Maintenance:** The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Chapter. The wireless provider shall ensure that its employees, agents or contracts that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.
3. **No interference with public safety communication frequencies:** The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment.

Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.

If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

The Village may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

4. The wireless provider shall not collocate small wireless facilities on Village utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

However, the antenna and support equipment of the small wireless facility may be located in the communications space on the Village utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

5. The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.
6. The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a Village ordinance, written policy adopted by the Village, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

7. **Alternate Placements:** Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the Village may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

If the applicant refuses a collocation proposed by the Village, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

8. **Height Limitations:** The maximum height of a small wireless facility shall be no more than 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:

- (a) 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the Village, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the Village, provided the Village may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or
 - (b) 45 feet above ground level.
9. **Height Exceptions or Variances:** If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a [SPECIAL USE PERMIT, VARIANCE OR ADMINISTRATIVE WAIVER] in conformance with procedures, terms and conditions set forth in [INSERT APPROPRIATE SECTION(S) OF ZONING CHAPTER].
10. **Contractual Design Requirements:** The wireless provider shall comply with requirements that are imposed by a contract between the Village and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
11. **Ground-mounted Equipment Spacing:** The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.
12. **Undergrounding Regulations:** The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.

13. Collocation Completion Deadline: Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the Village and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the Village grants an extension in writing to the applicant.

(D) Application Fees: Application fees are imposed as follows:

1. Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.
2. Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
3. Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.
4. The Village shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
 - (a) routine maintenance;
 - (b) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the Village at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with subsection d. under the Section titled Application Requirements; or
 - (c) the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.
5. Wireless providers shall secure a permit from the Village to work within rights-of-way for activities that affect traffic patterns or require lane closures.

(E) Exceptions to Applicability: Nothing in this Chapter authorizes a person to collocate small wireless facilities on:

1. property owned by a private party or property owned or controlled by the Village or another unit of local government that is not located within rights-of-way, or a privately-owned utility pole or wireless support structure without the consent of the property owner;
2. property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or

3. property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Chapter do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Chapter shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Chapter.

- (F) **Pre-Existing Agreements:** Existing agreements between the Village and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on Village utility poles, that are in effect on June 1, 2018, remain in effect for all small wireless facilities collocated on the Village's utility poles pursuant to applications submitted to the Village before June 1, 2018, subject to applicable termination provisions contained therein. Agreements entered into after June 1, 2018, shall comply with this Chapter.

A wireless provider that has an existing agreement with the Village on the effective date of the Act may accept the rates, fees and terms that the Village makes available under this Chapter for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the Village that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the Village's utility poles pursuant to applications submitted to the Village before the wireless provider provides such notice and exercises its option under this paragraph.

- (G) **Annual Recurring Rate:** A wireless provider shall pay to the Village an annual recurring rate to collocate a small wireless facility on a Village utility pole located in a right-of-way that equals (i) \$200 per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the Village utility pole.

If the Village has not billed the wireless provider actual and direct costs, the fee shall be \$200 payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

- (H) **Abandonment:** A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the Village notifying the wireless provider of the abandonment.

The notice shall be sent by certified or registered mail, return receipt requested, by the Village to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within 90 days of such notice, the Village may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

A wireless provider shall provide written notice to the Village if it sells or transfers small wireless facilities within the jurisdiction of the Village. Such notice shall include the name and contact information of the new wireless provider.

8-18-4 **DISPUTE RESOLUTION:** The Circuit Court of Tazewell shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the Village shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

8-18-5 **INDEMNIFICATION:** A wireless provider shall indemnify and hold the Village harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the Village improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Chapter and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the Village or its employees or agents. A wireless provider shall further waive any claims that they may have against the Village with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

8-18-6 **INSURANCE:**

(A) The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

1. property insurance for its property's replacement cost against all risks;
2. workers' compensation insurance, as required by law;

OR

3. commercial general liability insurance with respect to its activities on the Village improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of Village improvements or rights-of-way, including coverage for bodily injury and property damage.

The wireless provider shall include the Village as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the Village in a commercial general liability policy prior to the collocation of any wireless facility.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the Village. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the Village.

(Ord. 19-07, 8-6-18)

CHAPTER 9

SIGN REGULATIONS

SECTION:

10-9-1:	Purpose
10-9-2:	Definitions
10-9-3:	General Application Of Sign Regulations; Building Permit Required
10-9-4:	General Regulations For Signs
10-9-5:	Sign Regulations Within Residential Districts
10-9-6:	Sign Regulations Within Business Districts
10-9-7:	Sign Regulations Within Industrial Districts
10-9-8:	Murals
10-9-9:	Application Of Other Laws
10-9-10:	Severability Clause
10-9-11:	Violation And Penalty

10-9-1: **PURPOSE:** The following regulations are provided to maintain the attractiveness and orderliness of the appearance of the Village and to protect the public safety.

10-9-2: **DEFINITIONS:**

ADVERTISING SIGN:	Any sign, including the supporting structure, which directs attention to a business, service, or activity not conducted upon the premises, or a product not offered or sold upon the premises where such a sign is located.
ATTACHED SIGN:	A sign permanently affixed to the exterior surface of a building. No attached sign shall project further than twelve inches (12") from said building.
BANNER:	A type of sign. If it is not more than 16 square feet, it shall not be counted against the allowable sign area for a property. If it is greater than 16 square feet, it shall. (amd Ord. 11-30, 1-3-12)
BACK-TO-BACK SIGN:	A structure with two (2) parallel and directly opposite signs with their faces oriented to opposite directions. Back-to-back signs may be separated by not more than four feet (4'). A back-to-back sign shall constitute one sign.
BUSINESS SIGN:	A sign, including any supporting or framing structure, which directs attention to a business or profession conducted upon the premises or to a commodity, service, or entertainment sold or offered upon the premises on which the sign is located.
DIRECTIONAL SIGN:	An on premises sign giving directions, which may contain the name or logo of an establishment, but not contain any advertising copy. (Ord. 99-36, 11-15-99)
FREE-STANDING SIGN:	Any sign permanently erected on a free-standing framework supported and affixed by one or more uprights or braces in or upon the ground.
ILLUMINATED SIGN:	Any sign which has characters, letters, figures, designs, or outline illuminated by electric lights or luminous tubes.
PERSON:	Any person, firm, partnership, association, corporation, company, or organization of any kind.

POLITICAL SIGN: A temporary sign used in connection with a local, state, or national election or referendum. (Ord. 99-36, 11-15-99)

PORTABLE SIGN: Any sign not classified as an attached or free-standing sign or a vehicle sign or a banner. (amd. Ord. 07-03, 5-7-07; amd. Ord. 11-30, 1-3-12)

SIGN AREA: The area encompassed within the shortest line drawn around the perimeter of the display, message, or wording, including all letters and designs which are part of the sign; including border and trim, but excluding bases, aprons, supports, and other structural members; whichever is greater. The total allowable sign area for a property includes the total of both business and advertising signs. The terms "sign area" and "gross sign area" are used interchangeably. (amd. Ord. 99-36, 11-15-99)

VEHICLE SIGN: A sign located on a vehicle or trailer. (Ord. 07-03, 5-7-07)

10-9-3: GENERAL APPLICATION OF SIGN REGULATIONS; BUILDING PERMIT REQUIRED: No sign, outdoor advertising structure, or display of any character shall be permitted except in conformity with the following regulations. A building permit is required for erection, construction, placement, or replacement of any sign to be permanently attached to a building or to be permanently erected as a free-standing sign.

10-9-4: GENERAL REGULATIONS FOR SIGNS:

- (A) No illuminated business or advertising sign shall be of such brightness or shall flash, scintillate, or move as to create hazardous or annoying glare. Time and temperature or message signs not otherwise prohibited under this regulation will be allowed, provided they do not create hazardous or annoying glare.
- (B) No business or advertising sign shall be so located as to materially impede or so illuminated as to interfere with the effectiveness of any traffic control device or obstruct a motorist's view at any street or highway intersection or any railroad sign or signal at any railroad crossing.
- (C) Signs used exclusively for the posting or displaying of official notices by a public agency or official or by a person giving legal notice, and signs erected or maintained by a public agency or official, or required by law to be displayed by a public utility for directional warning or informational purposes are not subject to the regulations of this Chapter. Informational and directional signs (which may include a corporate identity symbol) are exempt from this regulation.
- (D) No business or advertising sign shall be pasted or painted directly on the surface of any wall or roof.
- (E) No sign shall be permitted to be placed on a fence in any residential district.
- (F) No sign shall be permitted to be placed on a fence in any commercial or industrial district unless said fence meets setback requirements for a sign in that zoning district.
- (G) Temporary signs are allowed without a permit and are subject to the following:
 1. Real estate signs shall comply with the size limitations of "For Sale" or "For Rent" signs as specified in Sections 10-9-5, 10-9-6, and 10-9-7.
 2. Political signs as defined in Section 10-9-4(S).

4. Spacing:

- (a) On all streets and highways within the jurisdiction of this Title, no advertising sign may be established within one thousand three hundred twenty feet (1320') of any other advertising sign, measured on the same side of the street.
- (b) The minimum distance between structures shall be measured along the nearest edge of the pavement between points directly opposite the center of the signs along each side of the highway and shall apply only to structures located on the same side of the street or highway.

- (C) "For Sale" Or "For Rent" Signs Within I-1 And I-2 Districts: There shall be no more than one (1) sign per zoning lot, except that on a corner lot, one (1) sign shall be permitted on each street side. No sign area shall exceed sixty four (64) square feet nor shall any sign exceed seven feet (7') in height.
- (D) One (1) construction sign not exceeding thirty two (32) square feet is permitted for a time period no longer than necessary to complete the activity to which it refers. If the sign refers to more than one (1) activity, then the activity completed last shall apply with respect to the time the sign may exist. (Ord. 07-31, 9-4-07)

10-9-8: **MURALS:**

- (A) Definitions: Whenever the following words or terms are used in this section, they shall have the meanings herein subscribed to them unless the content makes such meaning repugnant thereto:

MURAL: The word "mural" shall mean a painting or graphic art or combination thereof applied to an exterior wall or applied to a substrate which is attached to an exterior wall, which is not used or intended to be used as an advertising device for any goods produced or sold, services rendered, or business conducted, and does not contain any brand name, product name, or abbreviation of the name of any product, company, profession or business, any logo, trademark, trade name or other commercial message, or any political or religious message or endorsement prohibited by the First Amendment.

GRAFFITI: The word "graffiti" shall mean unauthorized inscribing, spraying of paint, or making symbols using chalk, dye, ink, paint, spray paint or similar materials on public or private places, structures, or other surfaces.

PUBLIC BODY: The words "public body" shall mean any body politic and corporate, including but not limited to counties, townships, cities, villages, incorporated towns, school districts, and all other municipal corporations.

- (B) Permitted Murals: Public bodies shall be permitted to install and display murals which meet all of the requirements of this section. No murals shall be installed, displayed or owned by any individuals or entities other than public bodies.
- (C) Regulations on Permitted Murals: No mural shall be permitted except in compliance with the following requirements:
 1. Murals may be installed in the B-1, B-2, B-3, I-1, and I-2 zoning districts. Murals shall not be permitted in the R-S, R-1, R-2, R-3, or R-4 zoning districts. Murals may not in any zoning district be applied or installed upon a building which is used exclusively for residential purposes.

2. Murals shall not be installed or displayed upon the exterior façade of any building except a building owned by a public body or a building owned by a private party but for which the public body has obtained a license agreement, lease, or other similar instrument which grants the public body the right to use the portion of the building upon which the mural is to be installed and displayed by the public body.
3. Murals shall only be permitted on the side or rear walls of buildings.
4. The lighting of murals shall be designed and installed in a method and manner which shall minimize the effects of the mural lighting on neighboring properties.
5. Graffiti shall not be considered a mural and shall not be permitted.
6. Murals shall not contain any material characterized as "obscene" as defined by Section 6-2-18 of the Village Code.
7. No part of the mural shall extend above the roof line.
8. A mural shall not extend more than 6 inches from the plane of the wall upon which it is installed or to be affixed.

(D) Content Selection: Public bodies who desire to install and display a mural pursuant to this Ordinance shall be responsible for taking all necessary steps, and making all necessary arrangements to commission, purchase, license or own the artistic content of the mural. Each public body which installs and displays a mural pursuant to this ordinance shall be responsible for the content of the art subject to the limitations contained in this section. Multiple public bodies may cooperate on a single mural project.

(E) Administrative Review Process: Art murals shall not be installed without first obtaining a permit from the Village of Morton Director of Planning and Zoning. If an application is denied by the Village of Morton Director of Planning and Zoning the applicant may appeal such denial to the Village Board. All applicants must submit the following information for any mural permit to be considered:

1. Building elevation drawn to scale, and one 8.5" x 11" reduction suitable for photo copying, that identifies:
 - (a) The façade on which the mural is proposed;
 - (b) The location of existing and proposed murals;
 - (c) The mural dimensions;
 - (d) The height of the mural above grade; and
 - (e) The location and angle of direction for all lights for the mural.
2. Written description of the type of mural (painted, mosaic, etc.) and details showing how the mural is affixed to the wall surface.
3. If a mural is to be constructed on a building other than one owned by the public body which is requesting the permit, the public body shall produce with the application for a mural permit such documents as may be necessary to evidence the license, lease, or other agreement in place between the public body and the private property owner which permits the public body to install a mural on the proposed façade.
4. No fee is required for approval of a mural.

5. A mural permit shall only be granted to public bodies. Private parties shall not be eligible to receive a mural permit.

(F) Expiration, Maintenance, and Alterations:

1. Expiration: If the mural is not completed within six months of issuance of a mural permit, the permit is void, and no further work on the mural may be done at the premises until a new permit has been secured.
2. Maintenance: Building owners are responsible for ensuring that a permitted mural is maintained in good condition and is repaired in the case of vandalism or accidental destruction. Muralists and building owners are encouraged to consider protective clear top coatings, cleanable surfaces, and/or other measures that will discourage vandalism or facilitate easier and cheaper repair of the mural if needed.
3. Alterations to the mural area may be allowed but must be approved by obtaining new permit through the process described in Section 10-9-8(D).
4. Grandfather Clause: Any displays constituting murals under this Section currently in existence at the time of approval of this ordinance shall be deemed to be allowed under this ordinance. Any material alterations, other than routine maintenance, to such a mural would be subject to the provisions herein.
(Ord. 19-03, 6-4-18)

10-9-9: **APPLICATION OF OTHER LAW:** The provisions of the Highway Advertising Control Act of 1971 as now in force or as may be amended from time to time shall apply where applicable notwithstanding any of the provisions of this Chapter.

10-9-10: **SEVERABILITY CLAUSE:** If any section, subsection, subparagraph, sentence, clause, or phrase of this Chapter or any part thereof, or application thereof to any person, firm, corporation, public agency, or circumstance, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the Board of Trustees that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not then been included.

10-9-11: **VIOLATION AND PENALTY:** The provisions of Title 10, Chapter 10, Section 5 of the Morton Municipal Code shall apply to any violations of this Chapter. (Ord. 83-16, 9-6-83)

- (e) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
- (f) The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public street, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards, to reduce or minimize the effect of such variation upon other properties in the neighborhood, and to better carry out the general intent of this Title.

4. The following situations, and only those situations, are permissible areas in which variations from the regulations of this Title are allowed to be granted by the Zoning Board of Appeals when in accordance with the standards established in this Section:
- (a) To permit reconstruction of a building accommodating a nonconforming use, when the building was specifically designed for such use and destroyed to an extent exceeding twenty five percent (25%) of its fair market value.
 - (b) To permit any yard or open space requirement less than the yard or open space requirement, except a variation shall not be granted outside of the Mixed Use Overlay District to permit any yard or open space requirement of less than 12 feet on any side of a parcel abutting a public road, street, or alleyway or of less than 6 feet on any side of a parcel abutting any property other than a public road, street, or alleyway, unless such property at the time of the application for a variation contains a yard or open space less than the applicable requirement, and in that instance no variation shall be granted to permit a yard or open space requirement less than the actual yard or open space existing on the property at the time of the application for variation.
(amd. Ord. 19-02, 5-7-18)
 - (c) To permit a reduction of the parking or loading requirements for a specific use whenever the character or use of the building or property is such as to make unnecessary the full provision of such facilities.
 - (d) To permit an increase by not more than twenty five percent (25%) to the distance required parking spaces are to be from the use served.
 - (e) To permit a variation of these regulations to secure an appropriate development of a lot where adjacent to such lot on two (2) or more sides there are structures not conforming to the regulations of the district.
 - (f) To permit the extension of a zoning district line in a specific instance where the rules of this Title for interpreting the zoning district line are unclear in relation to a single property.
 - (g) To vary the sign regulations, except height, of free-standing signs, where because of unique conditions of the property on which the sign is to be placed, the regulations contained herein would be inappropriate¹. Variances for the height of a sign may only be granted in the Interstate Corridor District. Variances for the height of a sign may not be granted in any other zoning district. (Ord. 78-31, 3-5-79; amd. Ord. 01-41, 3-18-02; amd. Ord. 04-42, 12-6-04; amd. Ord. 11-30, 1-3-12; amd. Ord. 13-22, 11-4-13; amd. Ord. 15-04, 7-6-15; amd. Ord 17-27, 12-4-17)

¹ See Chapter 9 of this Title.

- (h) To permit more than one (1) driveway per residential lot.
- (i) To permit a nonconforming building to be structurally altered or reconstructed within its bounding walls to an extent exceeding in aggregate cost twenty five percent (25%) of its fair market value including land value. (Ord. 81-28, 11-16-81)
- (j) Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change the zoning classifications of the District Map or to permit a use not otherwise permitted; such power and authority being reserved to the Board of Trustees. (Ord. 78-31, 3-5-79; Ord. 81-28, 11-16-81)
- (k) To permit a variance in number, size, or location of accessory use, accessory area, accessory buildings, or structures, except solar water systems. (Ord. 81-35, 1-18-82, amd. Ord. 10-20 10-4-10)
- (l) To permit a variation of the regulations pertaining to satellite antenna dishes. (Ord. 84-22, 3-4-85)
- (m) To permit only the following types of variances for property located in an interstate corridor:
 1. Sign regulations;
 2. Side, rear, and front yard setbacks for lots of record (less than one acre) existing at the time of adoption of Ordinance 94-31; and
 3. Side, rear, and front yard setbacks for structures as described in Title 10, Chapter 4, Subsection 7(H)2. (Ord. 94-32, 5-15-95)
- 5. The concurring vote of four (4) members of the Board of Appeals shall be necessary to grant a variation. (Ord. 78-31, 3-5-79)
- 6. If a variance is granted, work or construction shall commence within ninety (90) days of the granting of the variance for residential property; and shall be completed according to the guidelines outlined in Title 4, Chapter 1, Subsection 6 (Completion of Work). For all commercial and industrial properties, work or construction shall commence within one hundred eighty (180) days of the granting of the variance; and shall be completed according to the guidelines outlined in Title 4, Chapter 1, Subsection 6. Completion means the completion of the exterior of the building(s) and/or all other improvements as specified in the building permit issued for the work or construction. Failure to comply with either time requirement shall mean automatic revocation of the variance upon the expiration of the time limit. The variance may only be reinstated upon reapplication, public hearing, and approval of the Zoning Board of Appeals. In the alternative, the Zoning Board of Appeals may reject the reapplication.

This paragraph shall be effective August 1, 1987; and all variances that have been granted prior to said date shall be subject to the provisions of same. For purposes of applying the time limit provisions, the date of August 1, 1987, shall be the commencement point for all variances granted prior to said date. (Ord. 87-8, 7-20-87; amd. Ord. 11-22, 10-3-11)

(D) Appeals Procedure:

1. An appeal may be taken to the Zoning Board of Appeals by any person or by any officer, department, board, or bureau aggrieved by a decision of the ZEO or his authorized agent. Such an appeal shall be taken within forty five (45) days of the action complained of, by filing with the ZEO a notice of appeal specifying the grounds thereof. The ZEO shall forthwith transmit to the Zoning Board of Appeals all of the papers constituting a record upon which the action appealed from was taken.

2. An appeal shall stay all proceedings in furtherance of the action appealed unless the ZEO certifies to the Zoning Board of Appeals, after notice of the appeal has been filed, that by reason of facts stated in the appeal a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed unless by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application of the ZEO and on due cause shown. (Ord. 04-53, 3-7-05)
3. The Zoning Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give notice thereof to the parties, and shall render a written decision on the appeal without unreasonable delay. The Zoning Board of Appeals may affirm or may, upon concurring vote of four (4) members, reverse, wholly or in part, or modify the order, requirement, decision, or determination that, in its opinion, ought to be done; and to that end, shall have all the powers of the officer from whom the appeal is taken. The ZEO shall maintain records of all actions of the Zoning Board of Appeals relative to appeals.

(E) Zoning Amendment Procedure:

1. Amendments may be proposed by the Village Board of Trustees, the Plan Commission, the Zoning Board of Appeals, or any person, firm, corporation, or organization, provided that any person, firm, corporation, or organization shall have a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest which may become a freehold interest, or any exclusive possessory interest (with the concurrence of the person holding the freehold interest) which is specifically enforceable in the land which is described in the application for amendment. Any proposal shall set forth names of owners of all benefiting interests in any land trusts wherein a land trust is proposing such amendment, and there shall be provided changes in beneficial ownership from time to time through amendment process.
2. An application for an amendment shall be obtained from and filed with the ZEO. Such applications for zoning amendments shall be in a form so that the application, when complete, including required accompanying material, shall provide such information as required by the Commission for its review. Applications for amendments initiated by the Plan Commission, Board of Appeals, or Village Board of Trustees shall include a copy of the minutes of that body approving the filing of an application for zoning amendment.

Applications for zoning amendments initiated by any person, firm, corporation, or organization described above as eligible to petition for a zoning amendment, shall not be considered nor scheduled for public hearing until the zoning amendment fee has been deposited with the Village Treasurer to partially cover the cost of this procedure, and under no condition shall such sum or any part thereof be refunded for failure of said amendment to be enacted into law.¹

3. Once the Zoning Ordinance amendment has been filed with the ZEO, the ZEO shall arrange proper legal notice, as required by law, and schedule the public hearing for the next regular Plan Commission meeting which fulfills the minimum public notice requirements.
4. The Plan Commission shall hold a public hearing on each application for zoning amendment at the time and place scheduled in the public notice. The hearing shall be conducted and a record of proceedings preserved in the manner as from time to time prescribed by the Commission. Where additional information is required for the Plan Commission's review, the Plan Commission, by official action, may continue the hearing to the time and place of the next Plan Commission meeting.

¹ Section 10-11-7 of this Title.

5. Within forty five (45) days after the close of the hearing on a proposed amendment, the Plan Commission shall make its recommendations to the Village Board. On applications for zoning amendments which would change the zoning classification of a particular property, the recommendation shall include findings of fact bearing on the decision. Such findings of fact shall relate to matters such as:
 - (a) Existing uses of other property within the general area of the subject property;
 - (b) Evidenced recent trends in land use development of the general area;
 - (c) Any conditions which renders the property less desirable or inappropriate for the uses to which it is presently zoned; and
 - (d) The zoning amendment, if granted, serves the public interest and does not solely benefit the property of the applicant alone.

In its findings of fact and recommendation to the Village Board, the Plan Commission may recommend approval or disapproval, or recommend the change of zoning classification of the subject property to any other more restrictive zoning classification than specified in the public notice.

6. The Village Board shall not act upon a proposed amendment to this Title until it shall have received a written report and recommendation from the Plan Commission except, however, that no action by the Plan Commission within forty five (45) days of the public hearing of the matter shall be deemed to be a favorable recommendation.
7. In case of a written protest against any proposed zoning amendment signed and acknowledged by the owners of twenty percent (20%) of the frontage proposed to be altered, or by the owners of twenty percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered, as to regulations or district, filed with the ZEO, such amendment shall not be passed except by the favorable vote of two-thirds (2/3) of the Trustees then holding office. (Ord. 04-53, 3-7-05)
8. The Village Board shall cause to be published, no later than March 31 of each year, a map¹ clearly showing the existing zoning uses, divisions, restrictions, regulations, and classifications for the preceding calendar year. If, in any calendar year, there are no changes in the zoning uses, divisions, restrictions, regulations, and classifications, no map need be published for such calendar year.

The Village Board may establish a fee to be charged each person desiring a copy of such map. Such fee shall be paid to the ZEO who shall account for such moneys. Such fees shall be applied to defray the cost of publishing the zoning map.

¹ Morton Zoning Map adopted in 10-3-2 of this Title.

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