

## TITLE 12

### STREETS, SIDEWALKS AND PUBLIC PLACES

#### Chapters:

- 12.04 Street, Sidewalk and Driveway Construction and Repair
- 12.08 Obstructions, Encroachments and Excavations
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## Chapter 12.04

### Street, Sidewalk and Driveway Construction and Repair

#### Sections:

- 12.04.010 Supervision
- 12.04.020 Construction – Permit Required
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- 12.04.040 Pavement – Specifications
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- 12.04.070 Report of Defects
- 12.04.080 Driveway Construction – Permit Required – Application – Snow and Ice Removal – Repair

**§12.04.010 Supervision.** All public streets, alleys, sidewalks, and other public ways shall be under the supervision of the Superintendent of Public Works (for the provisions of Title 12, hereinafter the “Superintendent”). The Superintendent shall have supervision over all work thereon, and the cleaning thereof, and shall be charged with the enforcement of all ordinance provisions relating to such public places and is authorized to enforce such ordinances.

**§12.04.020 Construction – Permit Required.** It is unlawful to construct or lay any pavement on any public street, sidewalk, alley or other public way, without having first secured a permit therefor. Applications for such permits shall be made to the Village Clerk, and shall state the location of the intended pavement, the extent thereof, and the person or firm who is to do the actual construction work. No such permit shall be issued except on order of the Superintendent or Village Board.

**§12.04.030 Construction – Bond.** Each applicant shall file in the amount of Sixty Thousand Dollars (\$60,000.00) a bond, with surety as approved by the Village, conditioned to indemnify the Village from any loss or damage resulting from the work undertaken or the manner of doing the same.

**§12.04.040 Pavement – Specifications.** All street and sidewalk pavement shall be made in conformity with the specifications laid down from time to time by the Village Board or Superintendent.

**§12.04.050 Pavement – Injuring Unlawful.** It is unlawful to walk upon or drive any vehicle or animal upon, or injure any newly laid street or sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injury any pavement.

**§12.04.060 Pavement – Repair.** All public streets, alleys and sidewalk pavement shall be in good repair. Such repair work, whether done by the Village or by the abutting owner, shall be under the supervision of the Superintendent.

**§12.04.070 Report of Defects.** It is the duty of every Village officer or employee becoming cognizant of any defect in any street, alley or sidewalk, or any obstruction thereof, to report the same to the Superintendent as soon as possible.

**§12.04.080 Driveway Construction – Permit Required – Application – Snow and Ice Removal – Repair.**

- A. It is unlawful to construct or maintain any driveway in or across any public sidewalk in the Village where this necessitates any interference with or change in the grade of any public sidewalk or curb without first having obtained a permit therefor from the Superintendent. Application for such driveway permits shall state the size, location and material to be used in such driveway, and it is unlawful to depart from such specifications or vary from them without permission of the Superintendent or Village Board.
- B. It is the duty of any person, firm or corporation maintaining any such driveway to keep the same free from snow and ice or any obstruction, and to keep the same in good repair where the same crosses a public sidewalk.

## Chapter 12.08

### Obstructions, Encroachments and Excavations

#### Sections:

12.08.010	Obstructions
12.08.020	Barricades – When Required
12.08.030	Barricades – Disturbing Unlawful
12.08.040	Private Use
12.08.050	Encroachments
12.08.060	Excavations – Permit Required - Refilling
12.08.070	Openings – Permit Required - Guarding

**§12.08.010 Obstructions.** It is unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specifically authorized by ordinance or by the Superintendent.

#### **§12.08.020 Barricades – When Required.**

- A. Any person, firm or corporation laying or repairing any pavement on a street, sidewalk or other public place or making an excavation in the same shall maintain suitable barricades to prevent injury of any person or vehicle by reason of the work. Such barricades shall be protected by a light at nighttime.
- B. Any defect in any such pavement shall be barricaded to prevent injury, and any person, firm or corporation properly maintaining any opening or excavation in any such place shall guard such opening or excavation while the same remains open by proper barricades and lights.

**§12.08.030 Barricades – Disturbing Unlawful.** It is unlawful to disturb or interfere with any barricade or lights lawfully placed to protect or mark any new pavement or excavation or opening in any public street, alley or sidewalk.

**§12.08.040 Private Use.** It is unlawful for any person, firm or corporation to use any street, sidewalk or other public place, as space for the display of goods or merchandise for sale, or to write or mark any sign or advertisement on any such pavement.

**§12.08.050 Encroachments.** It is unlawful to maintain or erect any building or structure which encroaches upon any public street or property.

**§12.08.060 Excavations – Permit Required – Refilling.**

- A. It is unlawful to make any excavation in or tunnel under any public street, alley, sidewalk or other public place in the Village, without first having secured a permit therefor. Applications for such permits shall be made to the Village Clerk and shall specify the intended location and purpose of the excavation.
- B. Any such person making any such excavation shall refill the same properly and shall restore the surface to its condition before the excavation was made, as soon as possible. All such excavations, refills and resurfacing shall be made subject to the supervision and direction of the Superintendent.

**§12.08.070 Openings – Permit Required – Guarding.** It is unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the Superintendent or Village Board. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing, to the approval of the Superintendent.

## Chapter 12.12

### Street and Sidewalk Use Regulations

#### Sections:

12.12.010	Snow Removal
12.12.020	Deposits on Streets
12.12.030	Deposits on Sidewalks
12.12.040	Obstructing Drains
12.12.050	Erecting Poles and Wires – Permit Required
12.12.060	Erecting Gas Pumps – Permit Required
12.12.070	Games
12.12.080	Barbed Wire Fences

#### **§12.12.010 Snow Removal.**

- A. All vehicles should be moved off of streets and alleys within the Village if two (2) or more inches of snow are forecast.
- B. It is unlawful to allow any motor vehicle, trailer or any obstruction to remain on any street or alley within the Village limits in such a manner as to interfere unreasonably with snow removal operations when snow accumulation is two (2) or more inches in depth.
- C. The Village shall have the right, at its option and without notice, to remove any vehicle, trailer or other obstruction at the owner's cost and expense for proper snow removal and highway safety.
- D. Any person violating this Section shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and each day of violation shall be deemed a separate offense.

#### **§12.12.020 Deposits on Streets.**

- A. It is unlawful to deposit on any street any material which may be harmful to the pavement thereof, or any waste material, or any glass, or other articles which may do injury to any person, animal or property.
- B. Coal or other materials may be deposited in streets preparatory to delivery or use, provided that such deposit does not reduce the usable width of the roadway at that point to less than eighteen (18) feet, and provided that such material or coal, other than material to be used in actual building

construction, shall not be permitted to remain in such street for more than three (3) hours.

- C. Any such material or coal shall be guarded by lights if the same remains upon any street after nighttime.

**§12.12.030 Deposits on Sidewalks.**

- A. It is unlawful to deposit on any public sidewalk any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.
- B. Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than four (4) feet; provided that no such article shall remain on such walk for more than one-half (1/2) hour.

**§12.12.040 Obstructing Drains.** It is unlawful to obstruct any drain in any public street or alley.

**§12.12.050 Erecting Poles and Wires – Permit Required.**

- A. It is unlawful to erect any poles or wires or maintain any poles or wires over any public street, alley or other public way without having first secured permission from the Superintendent or Village Board.
- B. No such permit shall be issued until the applicant furnishes a bond or indemnity policy with corporate surety, to indemnify the Village against loss or liability, in the sum of Sixty Thousand Dollars (\$60,000.00) for any such loss or liability occasioned by such tank or pump.

**§12.12.060 Erecting Gas Pumps – Permit Required.** It is unlawful to maintain any gasoline pump or tank in any public street, alley or sidewalk, without having first obtained a permit therefor from the Superintendent or Village Board.

**§12.12.070 Games.** It is unlawful to play any games upon any street, alley or sidewalk or other public place, where such games cause unnecessary noise, or interfere with traffic or pedestrians.

**§12.12.080 Barbed Wire Fences.** It is unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electric current, anywhere within three (3) feet of any public street, alley, sidewalk, park or other public way or place.

## Chapter 12.16

### Signs and Awnings Over Streets and Sidewalks

#### Sections:

12.16.010	Permit Required
12.16.020	Application – Indemnity
12.16.030	Construction
12.16.040	Permit Period
12.16.050	Height Above Walk
12.16.060	Inspection

**§12.16.010 Permit Required.** No person, firm or corporation shall erect or maintain any sign, signboard or rigid canopy over any street, sidewalk, alley or other public way in the Village without having first obtained a permit therefor as herein provided.

**§12.16.020 Application – Indemnity.** Each person, firm or corporation seeking such a permit shall file an application with the Village Clerk in the form required by the Board. Any applicant who signs and submits this application shall indemnify the Village from any loss or damage or liability, including but not limited to the Village's reasonable attorney's fees and other legal expenses that may result from the construction or maintenance of such sign or canopy.

**§12.16.030 Construction.** All signs and canopies extending over any public sidewalk, street, alley or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds or falling from other cause.

**§12.16.040 Permit Period.** The period for which permits required by this Chapter shall run shall be the same as the general license year.

**§12.16.050 Height Above Walk.** The lowest part of any such canopy, sign or of any non-rigid awning, or any support thereof which extends over any public way shall be at least eight (8) feet above the level of the walk or public way over which it extends, but no such sign shall be maintained over any public way used by vehicles if any part of its support or of the sign is less than fifteen (15) feet above the level of such public way.

**§12.16.060 Inspection.** It shall be the duty of the Building Inspector to inspect or cause to be inspected in compliance with the provisions set forth in Chapter 1.08, every sign, canopy or awning which extends over any sidewalk, street, alley or other public way. If any such sign or canopy is found to be insecurely fastened he/she shall report this fact to the owner of the sign or to the owner or occupant of the premises on which it is

fastened. If the sign or canopy is not made secure within ten (10) days after such notice, it may be taken down by the Village.

## Chapter 12.20

### Trees and Shrubs

#### Sections:

12.20.010	Planting – Permit Required – Placement
12.20.020	Removal – Permit Required – Application
12.20.030	Injuring Unlawful
12.20.040	Attaching Advertisements or Notices Unlawful
12.20.050	Dangerous Trees
12.20.060	Wires
12.20.070	Gas Pipes
12.20.080	Excavations

**§12.20.010 Planting – Permit Required – Placement.** It is unlawful to plant any tree or bush in any public street or parkway or other public place without having first secured a permit therefor. Applications for such permits shall be made to the Village Clerk, and shall be referred to the Village Board. All trees and shrubs so planted shall be placed subject to the directions and approval of the Committee on Streets and Alleys.

**§12.20.020 Removal – Permit Required – Application.** It is unlawful to remove or cut down any tree or shrub in any street, parkway or other public place without having first secured a permit therefor. Applications for such permits shall be made to the Village Clerk, and shall be referred to the Village Board before permission shall be granted.

**§12.20.030 Injuring Unlawful.** It is unlawful to injure any tree or shrub planted in any such public place.

**§12.20.040 Attaching Advertisements or Notices Unlawful.** It is unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway or other public place.

**§12.20.050 Dangerous Trees.**

- A. Any tree or shrub which overhangs any sidewalk, street or other public place in the Village in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises or of the premises on which such tree or shrub grows so that the obstruction shall cease.

- B. Any limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

**§12.20.060 Wires.**

- A. It is unlawful to attach any wire or other rope to any tree or shrub in any public street, parkway or other public place without permission of the Superintendent or Village Board.
- B. Any person or company given the right to maintain poles and wires in the streets, alleys or other public places in the Village shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such place so far as may be possible and shall keep all such trees and shrubs properly trimmed subject to the supervision of the Superintendent, so that no injury shall be done whether to the poles or wire or shrubs and trees by contact.

**§12.20.070 Gas Pipes.** Any person, firm or corporation maintaining any gas pipe in the Village shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs.

**§12.20.080 Excavations.** In making excavations in streets or other public places proper care shall be taken to avoid injury to the roots of any tree or shrub, wherever possible.

## Chapter 12.24

### Village Parks

#### Sections:

- 12.24.010 Hours
- 12.24.020 Parking

#### **§12.24.010 Hours.**

- A. The Village parks shall be closed from 10:00 p.m. until 6:00 a.m. on weekdays, weekends and holidays.
- B. After the closing of these parks, no one will be allowed to loiter within the areas. Law enforcement officers shall be in charge of enforcing this section.

Such hours may be extended by written request and permission given by the Village Board. These requests will be on file at the Princeville Village Hall.

#### **§12.24.020 Parking.**

- A. No second division vehicle, as such vehicle is defined in Chapter 1, Section 1-146 of the Illinois Municipal Code, 625 ILCS 5/1-146, shall park anywhere in the Village park known as Cutters Grove. This prohibition applies to, but is not limited in application to, parking on any street, road, or parking area in Cutters Grove. However, the prohibition does not apply to a school bus or a tour bus the passengers of which are using Cutters Grove; and also does not apply to any maintenance or service vehicle that is in Cutters Grove to maintain or service the park.
- B. Any person violating any of the provisions of subsection A of this section shall be subject to a fine of Fifty Dollars (\$50.00) for each offense. Each calendar day that such a violation continues shall be considered a separate offense and shall subject the person in violation to an additional fine of Fifty Dollars (\$50.00).

## Chapter 12.28

### Small Cell Wireless Facilities in Public Right-of-Way

#### Sections:

12.28.010	Purpose and Scope
12.28.020	Definitions
12.28.030	Regulation of Small Wireless Facilities
12.28.040	Dispute Resolution
12.28.050	Indemnification
12.28.060	Insurance
12.28.070	Severability

#### **§12.28.010 Purpose and Scope.**

- A. Purpose. The purpose of this Ordinance is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities in the 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.
- B. Conflicts with Other Ordinances. This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.
- C. Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal or State laws or regulations.

#### **§12.28.020 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 or entity who submits a siting application and the agents, employees and contractors of such person or entity.

“Application”: A request submitted by an applicant to the Village for a permit to collocate small wireless facilities, and/or a request that includes the installation of a new utility pole for such collocation at a specific location, 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 pre-existing structure or utility pole, and/or modification of a structure for the purposes of mounting or installing a wireless facility on that structure or utility pole.

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

“Communications Service Provider”: A cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

“FCC”: The Federal Communications Commission of the United States.

“Fee”: A one-time charge.

“Historic District” or “Historic Landmark”: A building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the Village pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

“Law”: A federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

“Micro Wireless Facility”: A small wireless facility that is not larger in dimension than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that has an exterior antenna, if any, no longer than eleven (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 six (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 six (6) cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility and any pre-existing associated equipment of the structure, is cumulatively no more than twenty-eight (28) 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.

### **§12.28.030 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 subsection C.9 herein 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 Wireless 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;
  - f. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge; and
  - 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. Completeness of Application. Should the Village notify the applicant on or before the 10th day after the applicant's submission that the application is materially incomplete, and clearly and specifically identifies the missing documents and information and the specific rule or regulation creating the obligation to submit such documents or information, the time period date calculation (in paragraphs 3(b) and (c) below) shall restart at zero on the date on which the applicant submits all of the documents and information identified by the Village to render the application complete.

Should the applicant make a supplemental submission that is still deficient, the Village must notify the applicant within ten (10) days of that supplemental submission that it is deficient in the same manner as described above. If the Village adequately notifies the applicant of the continued deficiency, the Village's time period to approve the application is tolled from the day after the date when the Village notifies the applicant that its supplemental submission was not sufficient to render the application complete in the manner listed in the above paragraph, until the date when the applicant submits all of the documents and information identified by the Village to render the application complete

3. 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 sixty (60) 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 forty-five (45) days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 60th 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 ninety (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 seventy-five (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.

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

If the Village determines that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the wireless 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 thirty (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 thirty (30) days after the applicant resubmits the application, or it is deemed approved. Failure to resubmit a revised application within thirty (30) days of the 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 resubmitted application.

Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application to cure defects, 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. Batch applications. A single application seeking authorization for multiple collocations of small wireless facilities on existing utility poles or wireless support structures, or the replacement of existing utility poles or wireless support structures, shall comply with the timeframes set forth in this paragraph 3(b) above.

A single application seeking authorization for multiple collocations of small wireless facilities using a new utility pole or wireless support structure shall comply with the timeframes set forth in this paragraph 3(c) above.

A single application seeking authorization for multiple collocations of small wireless facilities combining collocations on existing utility poles or wireless support structures and new utility poles or support structures shall comply with the timeframes set forth in paragraph 3(c) above.

- 4. Tolling. Any time period involving an application may be further tolled by an express written agreement between the applicant and the Village.
- 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 twenty-five (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 five (5) years, and the permit shall be renewed for equivalent durations unless the Village makes a finding that the small wireless facility 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's Zoning Officer at the Princeville Village Hall, 206 N. Walnut Street, Princeville, Illinois, 61559, 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 contractors 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 any Village ordinance, written policy adopted by the Village, comprehensive plan or other written design plan that applies to other

occupiers of the rights-of-way, including location 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 one hundred (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 do 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 ten (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. Ten (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 three hundred (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 three hundred (300) feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or
  - b. Forty-five (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 in conformance with procedures, terms and conditions set forth in Chapter 17.36 of the Village Zoning Code.

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 rights-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 a wireless provider's request 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 one hundred eighty (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 sixty (60) days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed three hundred sixty (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 Five Hundred Dollars (\$500.00) for an application to collocate up to five (5) small wireless facilities on existing utility poles or wireless support structures, and

One Hundred Dollars (\$100.00) for each small wireless facility addressed in a consolidated application to collocate more than five (5) small wireless facilities on existing utility poles or wireless support structures.

2. Applicant shall pay an application fee of One Thousand Dollars (\$1,000.00) 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 ten (10) days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with subsection B.1.d herein 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 Ordinance do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

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

- F. **Pre-Existing Agreements.** Existing agreements between the Village and wireless providers that relate to the collocation of small wireless facilities in the rights-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 (2) 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) Two Hundred Dollars (\$200.00) per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the Village utility pole. This annual recurring rate includes any possible right-of-way access fee or fee for attachment to the Village-owned structures in such right-of-way.

If the Village has not billed the wireless provider actual and direct costs, the fee shall be Two Hundred Dollars (\$200.00) 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 twelve (12) months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within ninety (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 ninety (90) days of such notice, the Village may remove or cause the removal of such facility 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 within thirty (30) days of the sale or transfer of a small wireless facility within the jurisdiction of the Village. Such notice shall include the name and contact information of the new wireless provider.

**§12.28.040 Dispute Resolution.** The Circuit Court of Peoria County shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the Village shall allow the collocating person to collocate on its poles at annual rates of no more than Two Hundred Dollars (\$200.00) per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

**§12.28.050 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.

**§12.28.060 Insurance.** The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

- A. Property insurance for its property's replacement cost against all risks; and
- B. Workers' compensation insurance, as required by law; and
- C. Commercial general liability insurance with respect to its activities on the Village improvements or rights-of-way, including coverage for bodily injury and property damage in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence with an aggregate limit of not less than One Million Dollars (\$1,000,000.00).

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.

As used in this Section, "financial ability to self-insure" shall mean having and maintaining net unrestricted assets of at least One Hundred Million Dollars (\$100,000,000.00), as determined in accordance with generally accepted accounting methods consistently applied, while maintaining appropriate loss reserves for the amount of self-insurance obligations established in this Section and otherwise which are actuarially derived in accordance with accepted standards of insurance industry and accrued or otherwise funded.

**§12.28.070 Severability.** If any provision of this Chapter or application thereof to any person or circumstances is held or ruled to be unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Chapter that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Chapter is severable.