

# Village of La Grange



## VILLAGE BOARD MEETING

**MONDAY, DECEMBER 10, 2007**

**7:30 p.m.**

**Book 1 of 2**

Village Hall Auditorium

53 S. La Grange Road

La Grange, IL 60525

Elizabeth M. Asperger  
Village President

Robert N. Milne  
Village Clerk

VILLAGE OF LA GRANGE  
BOARD OF TRUSTEES REGULAR MEETING

Village Hall Auditorium  
53 South La Grange Road  
La Grange, IL 60525

AGENDA

Monday, December 10, 2007 – 7:30 p.m.

1. CALL TO ORDER AND ROLL CALL

*President Elizabeth Asperger  
Trustee Mike Horvath  
Trustee Mark Kuchler  
Trustee Mark Langan  
Trustee Tom Livingston  
Trustee James Palermo  
Trustee Barb Wolf*

2. PRESIDENT'S REPORT

*This is an opportunity for the Village President to report on matters of interest or concern to the Village.*

- A. Oath of Office – Firefighter / Paramedic Brian Ratkovich
- B. Introduction – Canine Handler, Police Sergeant Erik Berg and K-9 Officer “Dak”

3. PUBLIC COMMENTS REGARDING AGENDA ITEMS

*This is the opportunity for members of the audience to speak about matters that are included on this Agenda.*

4. OMNIBUS AGENDA AND VOTE

*Matters on the Omnibus Agenda will be considered by a single motion and vote because they already have been considered fully by the Board at a previous meeting or have been determined to be of a routine nature. Any member of the Board of Trustees may request that an item be moved from the Omnibus Agenda to Current Business for separate consideration.*

- A. Amendment to Village Code – Regulations Governing Smoking in Public Places
- B. Ordinance – Establishing Regulations for Cable and Video Service Providers
- C. Amendment to Village Code – Standards for Constructing Utilities in Village Rights-of-Way

- D. Consolidated Voucher 071210
- E. Minutes of the Village of La Grange Board of Trustees Regular Meeting, Monday, November 26, 2007

5. CURRENT BUSINESS

*This agenda item includes consideration of matters being presented to the Board of Trustees for action.*

- A. Ordinance – Variation – Storage of Vehicles in Garages / Douglas and Jeanne Brown, 4 Calle View Drive: *Referred to Trustee Horvath*
- B. Ordinance – Abatement of 2007 Tax Levy / 2005 Street Light Refunding Bonds: *Referred to Trustee Kuchler*
- C. Resolution – Levying a Tax for Library Operating Purposes: *Referred to Trustee Kuchler*
- D. Ordinance – 2007 Property Tax Levy for Village Operations: *Referred to Trustee Kuchler*

6. MANAGER'S REPORT

*This is an opportunity for the Village Manager to report on behalf of the Village Staff about matters of interest to the Village.*

7. PUBLIC COMMENTS REGARDING MATTERS NOT ON AGENDA

*This is an opportunity for members of the audience to speak about Village related matters that are not listed on this Agenda.*

8. EXECUTIVE SESSION

*The Board of Trustees may decide, by a roll call vote, to convene in executive session if there are matters to discuss confidentially, in accordance with the Open Meetings Act.*

- A. Closed Session – Personnel Matters and Purchase, Sale, or Lease of Real Property

9. TRUSTEE COMMENTS

*The Board of Trustees may wish to comment on any matters.*

10. ADJOURNMENT

The Village of La Grange is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations so that they can observe and/or participate in this meeting, or who have questions, regarding the accessibility of the meeting or the Village's facilities, should contact the Village's ADA Coordinator at (708) 579-2315 promptly to allow the Village to make reasonable accommodations for those persons.

**PRESIDENT'S REPORT**

VILLAGE OF LA GRANGE  
Fire Department

**BOARD REPORT**

TO: Village President, Village Clerk, and  
Board of Trustees and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager and  
David W. Fleege, Fire Chief

DATE: December 10, 2007

RE: **OATH OF OFFICE – FIREFIGHTER/PARAMEDIC BRIAN  
RATKOVICH**

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With the recent resignation of Firefighter/Paramedic Brian Goodman in November 2007, a vacancy was created in the La Grange Fire Department. The La Grange Board of Fire and Police Commissioners have appointed Mr. Brian Ratkovich to the position of Firefighter/Paramedic effective December 17, 2007.

Brian is a licensed paramedic and certified firefighter. Brian most recently worked for a private ambulance provider. He resides in Bridgeview, Illinois.

We are pleased to present Brian Ratkovich to the Village Board and we invite him to step forward so that Village Clerk Robert Milne can administer the oath of office.

2-A

VILLAGE OF LA GRANGE  
Administrative Offices

**BOARD REPORT**

TO: Village President, Village Clerk,  
Board of Trustees and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager and  
Michael A. Holub, Police Chief

DATE: December 10, 2007

RE: **INTRODUCTION — CANINE HANDLER, POLICE SERGEANT ERIK  
BERG AND K-9 OFFICER “DAK”**

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President Asperger recently announced the retirement of K-9 Officer “Maximus” (affectionately known as Max) after five years of faithful service to the Village. Max and his handler, Police Officer Randy Pacana were our first K-9 unit. Max was well received by the community and will be missed. As these highly trained dogs develop a special, nearly unbreakable bond with their handler and their host family, it was only appropriate for Max to retire with the Pacana’s as their family pet. This is a recognized practice in law enforcement.

Chief Holub subsequently conducted an internal recruitment of the Police Department and identified Police Sergeant Erik Berg as our new K-9 Officer. In addition, we made a decision to utilize the Cook County Sheriff’s Canine Training Unit as our primary training facility, and to obtain a new dog through them. Previously, we used a civilian sight in Indiana. In contrast, the County facility is located in Orland park. In addition to being a police run facility, the Sheriff’s Canine Unit also conducts frequent training for area K-9 Units.

Sergeant Erik Berg went to Shallow Creek K-9 Breeders in Sharpsville, PA to help choose the Police Department’s new canine. The Department’s new dog is named DAK, a one-year-old Belgian Malinois (pronounced MAL-in-wah), one of the several varieties of the Belgian Shepherd Dog. The Malinois breed have a slightly different temperament than the German Shepherd in that they are more social and are better suited to a community policing role.

Sergeant Erik Berg and DAK began their training together with Cook County Sheriff’s Police Department K-9 Academy on October 22nd and finished during the last week of November. We are very grateful that the Cook County Sheriff’s Police Department extended an invitation for us to attend their Training Academy. Although we did have to purchase the dog and incidental training supplies, the specialized course of instruction itself from the County was at no cost.

2-13

Board Report  
RE: Introduction – Canine Handler,  
Police Sergeant Erik Berg and K-9 Officer “Dak”  
December 10, 2007 — Page 2

Sergeant. Berg and DAK together are trained for tracking and narcotics work. They have been assigned to the conventional police duties on the 4-12 shift. Sergeant Berg is first and foremost a member of the shift much as before, however now we have an additional patrol tool for our Department with DAK. We believe this arrangement will provide higher visibility of our K-9 Unit, and more opportunity to utilize the services of a K-9 more completely.

At this time, we would like to introduce Sergeant Berg and Dak to the Village Board and to the public.

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2-B.1

**OMNIBUS VOTE**

VILLAGE OF LA GRANGE  
Administrative Offices

**BOARD REPORT**

TO: Village President, Village Clerk, and Board of Trustees

FROM: Robert J. Pilipiszyn, Village Manager  
Andrianna Peterson, Assistant Village Manager  
Mark Burkland, Village Attorney

DATE: December 10, 2007

RE: AMENDMENT TO VILLAGE CODE – REGULATIONS  
GOVERNING SMOKING IN PUBLIC PLACES

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The Village passed an ordinance in April 2007, regulating smoking in certain public places, in places of employment, at the public entrances to such places, in and near open air dining areas, and at certain unenclosed public places including park and school grounds, all to protect the public health, safety and welfare of residents and to protect non-smokers from breathing secondhand smoke. The Village's ordinance was created in response to a "Clean Indoor Air Ordinance" that had been adopted by Cook County in 2006, and the ordinance was the result of collaborative efforts with the La Grange Business Association.

At the time that the ordinance was passed, the Illinois Senate had passed a bill that would repeal existing laws and replace them with a comprehensive, state-wide set of regulations governing smoking. The proposed legislation would preempt all existing local regulations to the extent that they were less restrictive than the State regulations.

Recognizing the likelihood that the proposed bill would become law (with an effective date of January 1, 2008), the Village Board revised the Village's draft ordinance to include an effective date that mirrored the anticipated State law. Further, the Village Board acknowledged that it would revisit the terms of the Village's ordinance prior to the effective date of any new State law, to ensure that the Village's ordinance did not conflict with any new State law.

Senate Bill 0500 became law on July 23, 2007 (P.A. 95-0017), with the predicted effective date of January 1, 2008. Consequently, Village staff has worked with the Village Attorney to identify portions of the Village's ordinance that should be amended accordingly. In summary, the recommended amendments are:

4-A

1. Changes to two definitions (Bar Area of Restaurant and Place of Employment) to maintain consistency with the new State law.
2. Removal of references to the Illinois Clean Indoor Air Act which has been rescinded by the new State law, which is called the “Smoke Free Illinois Act.”
3. Elimination of the exemptions in the Village’s ordinance that are no longer allowed because of the new State law. These exemptions include bar areas of restaurants, tobacco dealers, and the American Legion Hall. Exemptions that are included in the new State law—related to retail tobacco stores and certain rooms in nursing homes—remain in the Village’s ordinance. Conversely, smoking will now be prohibited in public places such as restaurants and in private clubs, such as the American Legion Hall, pursuant to state statute.
4. Increases in the penalty provisions for smoking violations as provided in the new State law.

A red-lined version of the existing Village ordinance is attached to aid in your review of the proposed changes to the Village Code. In addition, staff has communicated the proposed amendments to the La Grange Business Association which has been educating their membership regarding the changes since the State law was passed. At least one business decided to become smoke free as a result of the Village’s ordinance.

It should also be noted that the proposed ordinance amending the Village Code retains some provisions from the original Village ordinance that are more stringent than the State law. Those provisions include smoking restrictions within 20 feet (instead of 15 feet) of doorways, open air dining areas, and ventilation intakes and within 20 feet of an unenclosed outdoor venue, public park, play areas, and school grounds (instead of just enclosed spaces). In this regard, the Village of La Grange is a leader among surrounding municipalities.

We recommend that the attached ordinance amending the existing provisions of the Village Code governing smoking in public places be approved.

4-A.1

VILLAGE OF LA GRANGE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 96.45  
OF THE LA GRANGE CODE OF ORDINANCES  
TO REGULATE SMOKING IN CERTAIN PLACES

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer; and

WHEREAS, the President and Board of Trustees of the Village of La Grange have determined that smoking should be prohibited within the Village in certain public places, in places of employment, at the public entrances to such places, in and near open air dining areas, and at certain unenclosed public places including park and school grounds to protect the public health, safety, and welfare and to protect the right of nonsmokers to avoid breathing secondhand smoke;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County, Illinois, as follows:

Section 1. Recitals. The foregoing recitals are incorporated herein as the findings of the President and Board of Trustees.

Section 2. Amendment of Code of Ordinances. Section 96.45 titled "Illinois Indoor Clean Air Act Adopted By Reference," of the La Grange Code of Ordinances shall be, and it is hereby, amended in its entirety so that said Section 96.45 shall hereafter be as read as follows:

**§ 96.45 SMOKE FREE AIR REGULATIONS:**

(A) Background: Smoking creates serious hazards to the personal health and safety of people near the smoking and serious threats of damage to property that may result from the incendiary nature of smoking. It has been determined that breathing ambient smoke is a health hazard to both smokers and nonsmokers. Smoking produces substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide, and formaldehyde. Secondhand smoke affects the health of the bystander, interferes with respiratory tract defenses, and often causes nonsmokers to have allergic or irritating reactions. Secondhand smoke is a known cause of lung cancer.

Because smoking has potentially harmful effects, material and direct, on the public health, safety, welfare, and comfort, and on property of residents of the Village, it is necessary and desirable to establish regulations that prohibit smoking in ~~certain~~ enclosed public places, in ~~certain~~ places of employment, near entrances to ~~certain~~ public places and places of

employment, and within certain unenclosed public places including school grounds, park and recreation areas, and outdoor venues.

The State has enacted a comprehensive law regulating smoking and this Section 96.45 is intended to be consistent with that law.

(B) Short Title; Purpose: This Section may be cited as the "La Grange Smoke Free Air Act," the purpose of which is to protect the public health and comfort and the environment by regulating smoking in enclosed public places, places of employment, and open air dining areas to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke.

(C) Illinois Clean Indoor Air Act: ~~The provisions of the Illinois Clean Indoor Air Act, 410 ILCS 80/1 et seq., shall apply within the Village to the extent, but only to the extent, that the provisions of this Section 96.45 are less restrictive than that Act.~~ (D) Definitions: For purposes of this Section, the following terms shall have the following meanings:

AREA OF

RESTRICTION: ~~All areas within the Village classified in a Commercial, Office, or Institutional District pursuant to the La Grange Zoning Code and Zoning Map, and all multiple family residential buildings wherever located.~~

BAR: ~~A counter, and the area immediately adjacent to that counter, in a full service restaurant at which customers may be seated for the service of drinks, including without limitation alcoholic liquor, and the service of food.~~

BAR AREA OF RESTAURANT: ~~The area of a restaurant in which there is a bar and in which there may be a small area of floor space adjacent to the bar that may include tables with chairs. Food may be served in the bar area of a restaurant.~~ An establishment that is devoted to the serving of alcoholic liquor for consumption by customers on the premises and that derives not more than 10 percent of its gross revenue from the sale of food consumed on the premises.

BUSINESS: Any sole proprietorship, partnership, joint venture, corporation, association, or other business entity within the Village, whether formed for profit or nonprofit purposes. "Business" includes a "club" as defined in this Section.

CLUB: Any private not-for-profit association, corporation, or other entity comprised of persons who are bona fide members and that owns, leases, or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.

DWELLING: Any building or portion of a building designed or used exclusively for residential occupancy by an owner or tenant, including single family dwellings, two family dwellings and multiple family dwellings, but not including hotels or motels.

EMPLOYEE: Any person who is employed or retained by a business, including without limitation the owner or operator of a sole proprietorship or other similar business entity.

EMPLOYER: Any business that employs one or more employees.

ENCLOSED AREA: All space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.

OPEN AIR  
DINING AREA: A seating area open to the air and not on any right of way or public property that is accessory to a restaurant, hotel, cafeteria, club, or other public place engaged in purveying commercial food or beverage service where the public, members, or guests are invited to sit and receive food and beverage service for consideration.

OWNER: Any person, business, or club that, by reason of law or any written or oral arrangement or contract, exercises exclusive rights of possession, exclusion and control over any enclosed area or open air dining area.

When there is a landlord-tenant relationship, there shall be a rebuttable presumption that both the landlord and tenant shall be jointly and severally responsible for complying with the terms of this Section. An owner may rebut that presumption by demonstrating by clear and convincing evidence that the owner has taken reasonable steps to exercise all of its rights to compel the tenant to comply with this Section and the tenant has refused or failed to comply.

PLACE OF  
EMPLOYMENT: All areas under the control of a public or private employer within the Village that employees normally frequent during the course of employment, including without limitation common work areas, private offices, auditoriums, break rooms, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, clubs, and the interior of a vehicle of public conveyance.

Place of employment also includes the home office portion of a private dwelling, but only if the home office is used by more than one employee or is frequented by business invitees. Place of employment does not include that part of a private dwelling used as a home office if it is used by a single employee only who resides in that dwelling.

Place of employment includes a private dwelling used as a ~~daycare facility~~ to provide licensed child care, foster care, adult care, or other similar social service care.

PARK: A public park or recreation area that is open to and used by the general public.

PUBLIC  
ENTRANCE:

The doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.

Public entrance also means a doorway or other entrance for pedestrian ingress and egress to a place of employment (1) that is open to and intended for use by the general public's or business invitee's ingress and egress to the place of employment and (2) where employees are required or permitted to enter or exit the place of employment.

Public entrance also means the area immediately above, below, or aside and adjacent to any window or other means, whether electronic, mechanical, or manual, by which a public place or place of employment may be ventilated for exposure to or gathering of ambient air.

PUBLIC PLACE:

An area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

1. Vehicles of public conveyance; and
2. Common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators, and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family dwellings; and
3. Common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators, and staircases) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, healthcare facilities such as hospitals, clinics, and doctor's offices, museums, libraries, restaurants, polling places, government and Village owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments; and
4. Rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including without limitation any enclosed area under the control of the Village where there is in progress any public meeting.

Public place shall not include a private dwelling that does not meet the criteria for a place of employment or hotel or motel rooms designated

4-A.5

as smoking, provided that no more than 15 percent of the available rooms for rent under common ownership or control shall be designated as smoking rooms.

SCHOOL  
GROUNDS:

All public or private outdoor school grounds, but excluding any open areas specifically designated and permitted by the school administration for smoking by adults who are invited to use such area for smoking.

SMOKE  
OR SMOKING:

Inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

VILLAGE:               The Village of La Grange.

(E) Prohibition in Enclosed Public Places: Except as otherwise explicitly provided in this Section 96.45, it is unlawful to smoke in any enclosed area of any public place ~~located in any area of restriction~~. Also, it is unlawful for the owner or other person in control of a public place ~~located in any area of restriction~~ to knowingly permit smoking in any enclosed area of that public place.

(F) Prohibition in Unenclosed Public Places and Outdoor Venues: Except as otherwise explicitly provided in this Section 96.45, it is unlawful to smoke in the following unenclosed public places:

- (1) The seating areas of all outdoor arenas, stadiums, and amphitheaters.
- (2) Public parks and recreation areas within 20 feet of any play area, any playground, or any scheduled activity group of any kind including but not limited to a game, show, party, event, or similar activity, but excluding parades and picnics.
- (3) School grounds.
- (4) Public sidewalks within 20 feet of a public entrance; provided, however, that this prohibition shall not apply to a person who is temporarily in such area for the purpose of walking or traversing through such area.
- (5) In, or within 20 feet of, an outdoor venue during the time that an outdoor event is taking place.

(G) Prohibition in Places of Employment: Except as otherwise explicitly provided in this Section 96.45, it is unlawful to smoke in any enclosed area of any place of employment. Also, it is unlawful for any employer or other person in control of a place of employment ~~located in any area of restriction~~ to knowingly permit smoking in any enclosed area of any place of employment.

(H) Prohibition in Open Air Dining Areas: Except as otherwise explicitly provided in this Section 96.45, it is unlawful to smoke in, or within 20 feet of, any open air dining area. Also,

it ~~shall be~~ unlawful for the owner of an open air dining area to knowingly permit smoking in an area available for open air dining.

(I) Prohibition at Public Entrances: It is unlawful to smoke within 20 feet of a public entrance, ~~exit, window that opens, or ventilation intake~~ to a public place or place of employment in ~~any area of restriction; provided, however, that this.~~ This prohibition shall does not apply to a person who is temporarily in such area for the purpose of walking or traversing through such area. Also, it is unlawful for any person or persons to gather or congregate within 20 feet of a public entrance for the purpose of smoking.

(J) Designation of Other No Smoking Areas: Nothing in this Section 96.45 shall be deemed to limit the owner or other person in control of a public place or a place of employment from further prohibiting smoking by designating outdoor areas not subject to the restrictions in this Section 96.45 as a place where smoking is prohibited, provided that the owner shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area. Violations of such privately designated non-smoking areas shall not be construed a violations of this Section 96.45.

(K) No Retaliation: No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Section 96.45 or exercises any rights afforded by this Section 96.45.

(L) No Smoking Signs:

(1) Signs in Public Places. Each owner or other person in control of a public place ~~shall~~ must post conspicuous "No Smoking" signs, in a form provided by the Village, in the enclosed area of any public place where smoking is prohibited. It ~~shall be~~ unlawful for any person to remove, deface, or obscure any sign posted pursuant to the provisions of this Section 96.45.

(2) Signs in Parks, Recreation Areas, School Grounds. Each owner or other person in control of a public park, a public recreation area, or a school ground shall cause signs to be posted at appropriate locations advising persons where smoking is prohibited within the park, recreation area, or school ground.

(3) Signs in Outdoor Venues. Each owner, management company, or other person in control of an outdoor venue shall cause signs or notices to be posted at appropriate locations advising persons where smoking is prohibited within the outdoor venue during outdoor events.

(M) Exceptions: The prohibitions set forth in this Section 96-45 shall not apply to the following places or circumstances until on and after January 1, 2008:

~~(1) Bar Area of Restaurant. The bar area of a restaurant when the owner or operator can demonstrate, to the satisfaction of the Village Manager, that such area (the "Bar Area") is partitioned from the remainder of the restaurant and has been equipped with separate air filtration or purification devices or similar technologies to effectively isolate secondhand smoke and its carcinogenic constituents from the remainder of the restaurant. Any doors or windows comprising any part of the partitions of the Bar Area shall remain closed at all~~

4-14.7

~~times except, and only to the extent necessary, for use by the public or employees for immediate and active ingress and egress. The Bar Area should, to the fullest extent feasible, be situated within the restaurant so that customers of the dining areas of the restaurant do not have to move through the Bar Area to be seated. The owner or operator of any restaurant that has an approved Bar Area shall demonstrate compliance with the standards of this paragraph no less frequently than once each year. The Bar Area shall not include any portion of the dining area of the restaurant.~~

~~(2) Tobacco Dealer. A public place or place of employment of a tobacco dealer that permits customers to sample tobacco products on the premises of the tobacco dealer, provided that smoke generated by smoking on the premises of the tobacco dealer does not infiltrate any other enclosed public place or place of employment. For purposes of this exemption, a tobacco dealer is a retailer whose principal business is the sale at retail of tobacco and tobacco-related products.~~

~~(3) American Legion Hall. The American Legion Hall existing as of January 1, 2007.~~

~~(1) Retail Tobacco Store. A retail tobacco store as defined by the Smoke Free Illinois Act and as limited by that Act.~~

~~(4) Portion of Open Air Dining Area. A designated area within an Open Air Dining Area not on a public sidewalk that is physically partitioned from other areas of the Open Air Dining Area. All locations within the Open Air Dining Area other than the designated smoking area shall be clearly marked as non-smoking with signs approved by the Village.~~

~~(2) Private and Semi-Private Rooms in Nursing Homes. Private and semi-private rooms in nursing homes and long-term care facilities where smoking cannot infiltrate other areas of the facility and that are occupied by one or more persons, all of whom are smokers and have requested in writing to be palace or to remain in a room where smoking is permitted.~~

~~(N) Penalties for Smoking Violations: AnyThe following provisions apply to an individual person:~~

~~(1) Offense. Any person who smokes in an area where smoking is prohibited under the provisions of this Section 96.45 shall beis guilty of an offense punishable by:(1) First Violation. A a fine of not less than \$25.00100 nor more than \$250 for a first violation.~~

~~(2) Second Violation. A fine of not less than \$50.00 for a second violation.~~

~~(3) Third and Subsequent Violations. A fine of not less than \$100.00 and not more than \$500.00 for a third and each subsequent violation.(4) Payments to Avoid Prosecution. A person may avoid prosecution by making the payments indicated to the Village within the times indicated:~~

	<u>Within 30 days</u>	<u>31 days to 60 days</u>	
First violation:	\$15.00	\$25.00	\$25.00
Second violation:	\$35.00	\$50.00	\$50.00
Third and subsequent			

~~violations:~~ ~~75% of fine~~ ~~100% of fine~~  
\$50 \$75

(O) Penalties for Owners, Managers, Operators. Any person who owns, manages, operates, or otherwise controls a public place, a place of employment, or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Section 96.45 shall be guilty of an offense punishable by a fine of not less than \$100.00 and not more than \$1,000.00. 250 for the first violation, not less than \$500 for the second violation within one year after the first violation, and not less than \$2,500 for each additional violation within one year after the first violation.

(P) Penalties for Failure to Post Signs. Any person who fails to post the signs required by this Section 96.45 shall be guilty of an offense punishable by fines as provided in Subsection (N) of this Section 96.45.

(Q) Each Day a Separate Offense. Each day that any violation of this Section 96.45 continues shall constitute a separate offense.

(R) Severability State Law Controls: ~~If any provision or part of this Section 96.45 or application hereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Section 96.45 and the application of the provision or part hereof to other persons not similarly situated or to other circumstances shall not be affected thereby of this Section 96.45 is inconsistent with any provision of the Smoke Free Illinois Act, 410 ILCS 82.1 et seq., then the provisions of the Smoke Free Illinois Act will apply and control.~~

~~(S) Effective Date: The prohibitions stated in this Section 96.45 shall become and be effective on July 1, 2007. All premises affected by this Section 96.45 in existence on or before July 1, 2007, shall cause signs to be posted in a conspicuous location within the public place, place of employment, or open air dining area on or before July 1, 2007. All premises affected by this Chapter established subsequent to July 1, 2007, shall cause such signs to be so posted as a condition to obtaining applicable business licensing and certificates of occupancy, as appropriate.~~

Section 3. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 2007.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2007.

4-A-9

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Village President

ATTEST:

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Village Clerk

# 4191275\_v3# 4191275\_v4

4-A.10

VILLAGE OF LA GRANGE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 96.45  
OF THE LA GRANGE CODE OF ORDINANCES  
TO REGULATE SMOKING IN CERTAIN PLACES

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer; and

WHEREAS, the President and Board of Trustees of the Village of La Grange have determined that smoking should be prohibited within the Village in certain public places, in places of employment, at the public entrances to such places, in and near open air dining areas, and at certain unenclosed public places including park and school grounds to protect the public health, safety, and welfare and to protect the right of nonsmokers to avoid breathing secondhand smoke;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County, Illinois, as follows:

Section 1. Recitals. The foregoing recitals are incorporated herein as the findings of the President and Board of Trustees.

Section 2. Amendment of Code of Ordinances. Section 96.45 titled "Illinois Indoor Clean Air Act Adopted By Reference," of the La Grange Code of Ordinances shall be, and it is hereby, amended in its entirety so that said Section 96.45 shall hereafter be as read as follows:

**§ 96.45 SMOKE FREE AIR REGULATIONS:**

(A) Background: Smoking creates serious hazards to the personal health and safety of people near the smoking and serious threats of damage to property that may result from the incendiary nature of smoking. It has been determined that breathing ambient smoke is a health hazard to both smokers and nonsmokers. Smoking produces substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide, and formaldehyde. Secondhand smoke affects the health of the bystander, interferes with respiratory tract defenses, and often causes nonsmokers to have allergic or irritating reactions. Secondhand smoke is a known cause of lung cancer.

Because smoking has potentially harmful effects, material and direct, on the public health, safety, welfare, and comfort, and on property of residents of the Village, it is necessary and desirable to establish regulations that prohibit smoking in enclosed public places, in certain places of employment, near entrances to public places and places of employment, and within certain unenclosed public places including school grounds, park and recreation areas, and outdoor venues.

4-A.11

The State has enacted a comprehensive law regulating smoking and this Section 96.45 is intended to be consistent with that law.

(B) Short Title; Purpose: This Section may be cited as the "La Grange Smoke Free Air Act," the purpose of which is to protect the public health and comfort and the environment by regulating smoking in enclosed public places, places of employment, and open air dining areas to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke.

(C) Definitions: For purposes of this Section, the following terms shall have the following meanings:

- BAR: An establishment that is devoted to the serving of alcoholic liquor for consumption by customers on the premises and that derives not more than 10 percent of its gross revenue from the sale of food consumed on the premises.
- BUSINESS: Any sole proprietorship, partnership, joint venture, corporation, association, or other business entity within the Village, whether formed for profit or nonprofit purposes. "Business" includes a "club" as defined in this Section.
- CLUB: Any private not-for-profit association, corporation, or other entity comprised of persons who are bona fide members and that owns, leases, or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.
- DWELLING: Any building or portion of a building designed or used exclusively for residential occupancy by an owner or tenant, including single family dwellings, two family dwellings and multiple family dwellings, but not including hotels or motels.
- EMPLOYEE: Any person who is employed or retained by a business, including without limitation the owner or operator of a sole proprietorship or other similar business entity.
- EMPLOYER: Any business that employs one or more employees.
- ENCLOSED AREA: All space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.
- OPEN AIR DINING AREA: A seating area open to the air and not on any right of way or public property that is accessory to a restaurant, hotel, cafeteria, club, or other public place engaged in purveying commercial food or beverage service where the public, members, or guests are invited to sit and receive food and beverage service for consideration.
- OWNER: Any person, business, or club that, by reason of law or any written or oral arrangement or contract, exercises exclusive rights of

4-A.12

possession, exclusion and control over any enclosed area or open air dining area.

When there is a landlord-tenant relationship, there shall be a rebuttable presumption that both the landlord and tenant shall be jointly and severally responsible for complying with the terms of this Section. An owner may rebut that presumption by demonstrating by clear and convincing evidence that the owner has taken reasonable steps to exercise all of its rights to compel the tenant to comply with this Section and the tenant has refused or failed to comply.

**PLACE OF  
EMPLOYMENT:**

All areas under the control of a public or private employer within the Village that employees normally frequent during the course of employment, including without limitation common work areas, private offices, auditoriums, break rooms, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, clubs, and the interior of a vehicle of public conveyance.

Place of employment also includes the home office portion of a private dwelling, but only if the home office is used by more than one employee or is frequented by business invitees. Place of employment does not include that part of a private dwelling used as a home office if it is used by a single employee only who resides in that dwelling.

Place of employment includes a private dwelling used to provide licensed child care, foster care, adult care, or other similar social service care.

**PARK:**

A public park or recreation area that is open to and used by the general public.

**PUBLIC  
ENTRANCE:**

The doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.

Public entrance also means a doorway or other entrance for pedestrian ingress and egress to a place of employment (1) that is open to and intended for use by the general public's or business invitee's ingress and egress to the place of employment and (2) where employees are required or permitted to enter or exit the place of employment.

Public entrance also means the area immediately above, below, or aside and adjacent to any window or other means, whether electronic, mechanical, or manual, by which a public place or place of employment may be ventilated for exposure to or gathering of ambient air.

4-4-13

**PUBLIC PLACE:** An area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

1. Vehicles of public conveyance; and
2. Common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators, and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family dwellings; and
3. Common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators, and staircases) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, healthcare facilities such as hospitals, clinics, and doctor's offices, museums, libraries, restaurants, polling places, government and Village owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments; and
4. Rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including without limitation any enclosed area under the control of the Village where there is in progress any public meeting.

Public place shall not include a private dwelling that does not meet the criteria for a place of employment or hotel or motel rooms designated as smoking, provided that no more than 15 percent of the available rooms for rent under common ownership or control shall be designated as smoking rooms.

**SCHOOL  
GROUNDS:**

All public or private outdoor school grounds, but excluding any open areas specifically designated and permitted by the school administration for smoking by adults who are invited to use such area for smoking.

**SMOKE  
OR SMOKING:**

Inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

**VILLAGE:** The Village of La Grange.

(E) Prohibition in Enclosed Public Places: Except as otherwise explicitly provided in this Section 96.45, it is unlawful to smoke in any enclosed area of any public place. Also, it is unlawful for the owner or other person in control of a public place to knowingly permit smoking in any enclosed area of that public place.

4-A.14

(F) Prohibition in Unenclosed Public Places and Outdoor Venues: Except as otherwise explicitly provided in this Section 96.45, it is unlawful to smoke in the following unenclosed public places:

- (1) The seating areas of all outdoor arenas, stadiums, and amphitheaters.
- (2) Public parks and recreation areas within 20 feet of any play area, any playground, or any scheduled activity group of any kind including but not limited to a game, show, party, event, or similar activity, but excluding parades and picnics.
- (3) School grounds.
- (4) Public sidewalks within 20 feet of a public entrance; provided, however, that this prohibition shall not apply to a person who is temporarily in such area for the purpose of walking or traversing through such area.
- (5) In, or within 20 feet of, an outdoor venue during the time that an outdoor event is taking place.

(G) Prohibition in Places of Employment: Except as otherwise explicitly provided in this Section 96.45, it is unlawful to smoke in any enclosed area of any place of employment. Also, it is unlawful for any employer or other person in control of a place of employment to knowingly permit smoking in any enclosed area of any place of employment.

(H) Prohibition in Open Air Dining Areas: Except as otherwise explicitly provided in this Section 96.45, it is unlawful to smoke in, or within 20 feet of, any open air dining area. Also, it is unlawful for the owner of an open air dining area to knowingly permit smoking in an area available for open air dining.

(I) Prohibition at Public Entrances: It is unlawful to smoke within 20 feet of a public entrance, exit, window that opens, or ventilation intake to a public place or place of employment. This prohibition does not apply to a person who is temporarily in such area for the purpose of walking or traversing through such area. Also, it is unlawful for any person or persons to gather or congregate within 20 feet of a public entrance for the purpose of smoking.

(J) Designation of Other No Smoking Areas: Nothing in this Section 96.45 shall be deemed to limit the owner or other person in control of a public place or a place of employment from further prohibiting smoking by designating outdoor areas not subject to the restrictions in this Section 96.45 as a place where smoking is prohibited, provided that the owner shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area. Violations of such privately designated non-smoking areas shall not be construed a violations of this Section 96.45.

(K) No Retaliation: No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Section 96.45 or exercises any rights afforded by this Section 96.45.

(L) No Smoking Signs:

- (1) Signs in Public Places. Each owner or other person in control of a public place must post conspicuous "No Smoking" signs, in a form provided by the Village, in

4-A.15

the enclosed area of any public place where smoking is prohibited. It is unlawful for any person to remove, deface, or obscure any sign posted pursuant to the provisions of this Section 96.45.

(2) Signs in Parks, Recreation Areas, School Grounds. Each owner or other person in control of a public park, a public recreation area, or a school ground shall cause signs to be posted at appropriate locations advising persons where smoking is prohibited within the park, recreation area, or school ground.

(3) Signs in Outdoor Venues. Each owner, management company, or other person in control of an outdoor venue shall cause signs or notices to be posted at appropriate locations advising persons where smoking is prohibited within the outdoor venue during outdoor events.

(M) Exceptions: The prohibitions set forth in this Section 96-45 shall not apply to the following places or circumstances until on and after January 1, 2008:

(1) Retail Tobacco Store. A retail tobacco store as defined by the Smoke Free Illinois Act and as limited by that Act.

(2) Private and Semi-Private Rooms in Nursing Homes. Private and semi-private rooms in nursing homes and long-term care facilities where smoking cannot infiltrate other areas of the facility and that are occupied by one or more persons, all of whom are smokers and have requested in writing to be palace or to remain in a room where smoking is permitted.

(N) Penalties for Smoking Violations: The following provisions apply to an individual person:

(1) Offense. Any person who smokes in an area where smoking is prohibited under the provisions of this Section 96.45 is guilty of an offense punishable by a fine of not less than \$100 nor more than \$250 for a first violation.

(2) Payments to Avoid Prosecution. A person may avoid prosecution by making the payments indicated to the Village within the times indicated:

<u>Within 30 days</u>	<u>31 days to 60 days</u>
\$50	\$75

(O) Penalties for Owners, Managers, Operators. Any person who owns, manages, operates, or otherwise controls a public place, a place of employment, or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Section 96.45 shall be guilty of an offense punishable by a fine of not less than \$250 for the first violation, not less than \$500 for the second violation within one year after the first violation, and not less than \$2,500 for each additional violation within one year after the first violation.

(P) Penalties for Failure to Post Signs. Any person who fails to post the signs required by this Section 96.45 shall be guilty of an offense punishable by fines as provided in Subsection (N) of this Section 96.45.

4-A.16

(Q) Each Day a Separate Offense. Each day that any violation of this Section 96.45 continues shall constitute a separate offense.

(R) State Law Controls: If any provision of this Section 96.45 is inconsistent with any provision of the Smoke Free Illinois Act, 410 ILCS 82.1 *et seq.*, then the provisions of the Smoke Free Illinois Act will apply and control.

Section 3. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 2007.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
Elizabeth M. Asperger, Village President

ATTEST:

\_\_\_\_\_  
Robert N. Milne, Village Clerk

4-A-17

VILLAGE OF LA GRANGE  
Administrative Offices

**BOARD REPORT**

TO: Village President, Village Clerk,  
Board of Trustees, and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager  
Andrianna Peterson, Assistant Village Manager

DATE: December 10, 2007

RE: **ORDINANCE – ESTABLISHING REGULATIONS FOR CABLE  
AND VIDEO SERVICE PROVIDERS**

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In July 2007, the Cable and Video Competition Act was signed into law in Illinois. The legislation effectively replaces individual municipal franchising authority with a new statewide regulatory framework for video/cable programming. The law created two sub-set pieces of legislation; the Cable and Video Competition Law of 2007 and the Cable and Video Customer Protection Law.

Specifically, the Cable and Video Competition Law establishes two mutually exclusive ways that a cable or video operator may obtain authority to provide cable or video service. The first is the traditional franchise approach under which our current cable operator, Comcast, is authorized subject to the federal and State cable laws. The second allows for statewide authorization administered by the Illinois Commerce Commission. AT&T has elected to obtain authority through the statewide option, and was granted an authorization in November 2007.

The Cable and Video Customer Protection Law created a uniform set of statewide customer service standards applicable to all cable and video operators. The standards are very similar to the federal cable customer service standards applicable under our current franchise, and also include an automatic award of customer credits for certain violations. So that we can enforce the standards and require credits, the Village must adopt an ordinance incorporating the provisions of the new law. These standards will become effective as to incumbent cable franchises such as Comcast as of January 2008.

As a result of these two sub-set pieces of legislation, the Illinois Municipal League has developed model language to assist municipalities in enacting appropriate regulatory ordinances under state statute. The recommended enabling ordinance provides for (1) adoption of the Cable and Video Customer Protection Law, (2)

4-B

establishment of a cable/video service provider fee and a Public, Education and Government access (“PEG”) support fee, and (3) maintenance of the required PEG access channels.

The recommended ordinance serves to protect the public by declaring the Village’s intent to enforce the customer service standards and require customer credits; maintain PEG channel programming; and to continue to receive its fair share of fees. In addition, the suggested ordinance provides that the Village’s existing customer service oversight and fee collection authority will continue to be provided through the West Central Cable Agency. In summary, the regulatory “playing field” is now level between cable and video service providers, and municipal authority over standards, obligations and fees has generally not been diminished.

We recommend that the ordinance be approved.

4-B.1

VILLAGE OF LA GRANGE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 9  
OF THE LA GRANGE CODE OF ORDINANCES  
TO ESTABLISH REGULATIONS  
FOR CABLE AND VIDEO SERVICE PROVIDERS

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety, and welfare of its citizens; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Cable and Video Competition Law of 2007, Public Act 95-0009 (the "Act") ; and

WHEREAS, the President and the Board of Trustees of the Village of La Grange desire to establish the service provider fee and the PEG access support fee the Act authorizes municipalities to impose on a holder of a statewide authorization under 220 ILCS 5/21-801; and

WHEREAS, each incumbent cable operator to whom the Village has issued a franchise under 65 ILCS 5/11-42-11 pays a franchise fee to the Village at a rate equal to 5 percent of gross revenues; and

WHEREAS, each incumbent cable operator to whom the Village has issued a franchise is required by such franchise to make annual payments or contribute in-kind equipment and services for public, education, and government access support in the Village at a rate equal to approximately 1% of gross revenues; and

WHEREAS, each incumbent cable operator to whom the Village has issued a franchise is required by such franchise to designate and retransmit two channels on its network to provide for public, education, and government access use; and

WHEREAS, the President and the Board of Trustees also desire to adopt by reference all of the customer service and privacy protection standards set forth in the Cable and Video Customer Protection Law; and

WHEREAS, at least three copies of the Cable and Video Customer Protection Law have been on file in the Office of the Village Clerk of the Village of La Grange, and available for inspection, for not less than 30 days; and

WHEREAS, the President and the Board of Trustees find that it is in the best interest of the Village to add a new Chapter 103 to the La Grange Code of Ordinances setting forth regulations for cable and video service providers.

4-B.2

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County and State of Illinois, as follows:

Section 1. Recitals. The foregoing recitals are hereby incorporated into and made a part of this Ordinance by this reference.

Section 2. Amendment to Title IX of Code of Ordinances. Title 9, titled "General Regulations," of the La Grange Code of Ordinances is hereby amended to add thereto a new Chapter 103, titled "Cable and Video Service Provider Regulations," which new Chapter 103 will hereafter be and read as provided in Attachment A to this Ordinance.

Section 3. Severability. If any provision of this Ordinance or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, then such occurrence will not affect other provisions of this Ordinance or their application that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable unless otherwise specifically provided by this Ordinance.

Section 4. Effective Date. This Ordinance will be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however that the provisions of Sections 103.09 through 103.12 of this ordinance will take effect as to incumbent cable operators on January 1, 2008.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 2007.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

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4-B.3

ATTACHMENT A

CHAPTER 103: CABLE AND VIDEO SERVICE PROVIDER REGULATIONS

**§ 103.01 DEFINITIONS**

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

"Cable Service" - That term as defined in 47 U.S.C. § 522(6).

"Commission" - Illinois Commerce Commission or ICC.

"Gross Revenues" - All consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the Village.

- (1) Gross revenues shall include the following:
  - (i) Recurring charges for cable or video service.
  - (ii) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
  - (iii) Rental of set top boxes and other cable service or video service equipment.
  - (iv) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
  - (v) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
  - (vi) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
  - (vii) A pro rata portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the Village. The allocation shall be based on the number of subscribers in the Village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
  - (viii) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's

4-B.4

network, such as a "home shopping" or similar channel, subject to subsection (ix).

- (ix) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
  - (x) The service provider fee permitted by 220 ILCS 5/21-801(b).
- (2) Gross revenues do not include any of the following:
- (i) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
  - (ii) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
  - (iii) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to non-cable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
  - (iv) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
  - (v) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, State, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
  - (vi) Security deposits collected from subscribers.
  - (vii) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- (3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate

rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

"Holder" - A person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

"Incumbent Cable Operator" - A person or entity that provided cable services or video services in the Village under a franchise agreement with the Village pursuant Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11) on January 1, 2007.

"PEG" - Public, education and governmental.

"PEG Access Support Fee" - The amount paid under this Chapter and 220 ILCS 5/21-801(d) by the holder to the Village for the service areas within its territorial jurisdiction.

"Service" - The provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

"Service Provider Fee" - The amount paid under this Chapter and 220 ILCS 5/21-801 by the holder to a Village for the service areas within its territorial jurisdiction.

"Video Service" - Video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

### **§ 103.02 CABLE TELEVISION FRANCHISE.**

A person or entity, including a telecommunications carrier, seeking to provide cable service or video service pursuant to this Chapter shall not use the public rights-of-way for the installation or construction of facilities for the provision of cable service or video service or offer cable service or video service until it has obtained either (i) a State-issued authorization to offer or provide cable or video service under Section 401 of the Cable and Video Competition Law of 2007 (220 ILCS 5/21-100 *et seq.*) or (ii) a cable franchise from the Village under Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11).

### **§ 103.03 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.**

(a) Fee Imposed. A service provider fee is hereby imposed on any holder providing cable service or video service in the Village.

(b) Amount of Fee. The amount of the service provider fee imposed hereby shall be 5 percent of the holder's gross revenues.

4-B.6

(c) Notice to the Village. Unless the holder has earlier sent notice to the Village pursuant to 220 ILCS 5/21-801(a), the holder shall notify the Village at least 10 days prior to the date on which the holder begins to offer cable service or video service in the Village.

(d) Holder's Liability. The holder shall be liable for and pay the service provider fee to the Village. The holder's liability for the fee shall commence on the first day of the calendar month following 30 days after receipt of the ordinance adopting this Chapter by the holder. The ordinance adopting this Chapter shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the Village. Together with this ordinance the Village shall send the holder instructions for remitting the payment and statement required hereby.

(e) Payment Date. The payment of the service provider fee shall be due on a quarterly basis, 45 days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(e) Exemption. The fee hereby imposed does not apply to cable service or video service providers that have an existing franchise agreement with the Village, under 65 ILCS 5/11-42-11, in which a fee is paid.

(g) Credit for Other Payments. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit for prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 103.03(b),

#### **§ 103.04 PEG ACCESS CARRIAGE REQUIREMENTS; PEG ACCESS SUPPORT FEE IMPOSED.**

(a) PEG Channels; Number; Carriage. On the date set forth in Section 103.04(d), but not earlier than 90 days after the holder sends notice to the Village under 220 ILCS 5/21-801(a), the holder shall (i) designate the same amount of capacity on its network to provide for public, education, and government access use, as the incumbent cable operator is required to designate under its franchise terms in effect on January 1, 2007, and (ii) retransmit to its subscribers the same number of public, education, and government access channels as the incumbent cable operator was retransmitting to subscribers on January 1, 2007.

(b) PEG Fee Imposed. A PEG access support fee is hereby imposed on any holder providing cable service or video service in the Village in addition to the fee imposed pursuant to Section 103.03(b).

(c) Amount of Fee. The amount of the PEG access support fee imposed hereby shall be 1 percent of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the Village or its designee for PEG access support in the Village.

(d) Payment. The holder shall pay the PEG access support fee to the West Central Cable Agency, or any other successor entity designated by the Village to manage public, education and government access. The holder's liability for the PEG access support fee shall commence on the date set forth in Section 103.03(d).

(e) Payment Due. The payment of the PEG access support fee shall be due on a quarterly basis, 45 days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(f) Credit for Other Payments. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that that operator owes under Section 103.04(c).

**§ 103.05 APPLICABLE PRINCIPLES.**

All determinations and calculations under this Chapter shall be made pursuant to generally accepted accounting principles.

**§ 103.06 NO IMPACT ON OTHER TAXES DUE FROM HOLDER.**

Nothing contained in this Chapter shall be construed to exempt a holder from any tax that is or may later be imposed by the Village, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the Village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the Village's 911 or E911 fees, taxes or charges.

**§ 103.07 AUDITS OF CABLE/VIDEO SERVICE PROVIDER.**

(a) Audit Requirement. The Village shall have the right to inspect the Grantee's income records and the right to audit and to re-compute any amounts determined to be payable under this Chapter; provided however that such audit shall take place within 60 months after the close of each of the Grantee's fiscal years.

(b) Additional Payments. Any additional amount due the Village as a result of an audit shall be paid within 30 days after written notice to the Grantee by the Village, which notice shall include a copy of the audit report.

(c) Gross Revenue Statement. The Grantee shall file annually with the Village no later than 120 days after the end of the Grantee's fiscal year, a copy of a gross revenues statement certified by an officer of the Grantee.

(d) Termination of Local Franchises. If all local franchises between the Village and incumbent cable operator(s) terminate, the audit requirements shall be those adopted by the Village pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 et seq. No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

4-B.8

**§ 103.08 LATE FEES / PAYMENTS.**

(a) Interest. If any franchise payment or recomputed amount, cost or penalty, is not made before the applicable dates heretofore specified, interest will be charged daily from such date at an annual rate of 12 percent. The Grantee shall reimburse the Village for any additional expenses and costs incurred by the Village by reason of the delinquent payment(s).

(b) Termination of Local Franchises. If all local franchises between the Village and incumbent cable operator(s) terminate, the late filing fee, late payment fee, and failure to file penalty shall be those adopted by the Village pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 et seq.

**§ 103.09 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.**

(a) Adoption. The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and made applicable to the cable or video providers offering services within the Village's boundaries.

(b) Amendments. Any mandatory amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Chapter shall be incorporated into this Chapter by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Chapter by reference without formal action by the corporate authorities of the Village.

(b) Reports. When any report or notice is given to the Village under the Cable and Video Customer Protection Law, a copy of that report or notice also shall be given to:

West Central Cable Agency  
c/o David A. Brink, Administrator  
201 Acacia Drive  
Indian Head Park, IL. 60525

**§ 103.10 ENFORCEMENT.**

The Village hereby declares, pursuant to law, its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law.

**§ 103.11 PENALTIES.**

The Village, pursuant to 220 ILCS 5/70-501(r)(1), does hereby declare that for any material breach of the standards and requirements of the Cable and Video Customer Protection Law, as incorporated by reference in this ordinance, a cable or video provider shall be subject to monetary penalties which shall not exceed \$750.00 for each day of the material breach, and shall not exceed \$25,000.00 for each occurrence of a material breach per customer. Such penalties shall be in addition to the penalties provided in the Law and shall not represent the Village's exclusive remedy for any material breach. All monetary penalties shall apply on a competitively neutral basis.

4-B.9

(a) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(b) The Village will give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least 30 days from the receipt of the notice to remedy the specified material breach.

(c) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice and opportunity to cure described in 103.11(b).

(d) The Board of Trustees hereby delegates authority to levy penalties to the Village Manager.

(e) The decision of the Village Manager to levy penalties may be appealed to the Board of Trustees, which shall conduct a hearing on the alleged material breach and penalties levied therefore within 21 days after receipt of the cable or video providers request for an appeal.

#### **§ 103.12 CUSTOMER CREDITS.**

The Village hereby adopts and incorporates by reference the schedule of customer credits for violations of the Law provided for in the provisions of 220 ILCS 5/70-501(s). Those credits shall be applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for proactively providing the credits and the customer is under no obligation to request the credit.

VILLAGE OF LA GRANGE  
Administrative Offices

**BOARD REPORT**

TO: Village President, Village Clerk,  
Board of Trustees, and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager  
Andrianna Peterson, Assistant Village Manager

DATE: December 10, 2007

RE: **AMENDMENT TO VILLAGE CODE – STANDARDS FOR  
CONSTRUCTING UTILITIES IN VILLAGE RIGHTS-OF-WAY**

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Back in September, the Village Board adopted a comprehensive amendment to the Village Code governing standards for constructing utilities in Village rights-of-way. These new standards were adopted in response to the Illinois Cable and Video Competition Act that was signed into law in July. The Act eliminated individual municipal franchising authority for video services, and restricted our ability to regulate video service / cable service utilities within the Village's rights-of-way.

Now that the Illinois Municipal League has had an opportunity to more fully review and evaluate the Act, they have recommended an updated set of model standards that reflect the impact of changes in technology. Most of the updates are housekeeping in nature, to provide clarity and consistency with the Act.

Village staff and the Village Attorney have compared our existing standards against the new model regulations, and have prepared an ordinance which make the appropriate changes and also carry forward those regulatory standards of specific interest to La Grange (i.e. appearance standards such as height of utility cabinets; location of structures near high traffic areas such as schools; and managing the number of utility structures within a specific location to guard against overcrowding). The proposed ordinance is attached for your consideration.

The standards will apply to any utility service provider requesting utilization of Village right-of-way. Recently, AT & T applied for and received regulatory approval from the Illinois Commerce Commission to launch its new video service product. Consequently, we anticipate that AT & T will be applying for utility permits in La Grange in the near future.

We recommend that the ordinance be approved.

4-C

VILLAGE OF LA GRANGE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 9  
OF THE LA GRANGE CODE OF ORDINANCES  
REGARDING STANDARDS FOR CONSTRUCTION  
OF FACILITIES IN PUBLIC RIGHTS-OF-WAY

WHEREAS, the Village of La Grange has the authority to adopt ordinances and to promulgate rules and regulations governing the use of public rights-of-way and protecting the public health, safety, and welfare of its citizens; and

WHEREAS, the Village uses the public rights-of-way within its corporate limits to provide essential public services to its residents and businesses, including traffic control signals, water, sanitary sewer and storm sewer; and

WHEREAS, other utility service providers, including electricity, telephone, natural gas and cable television and video service providers have placed, or from time to time may request to place, certain utility facilities in the public rights-of-way within the Village; and

WHEREAS, legislatures and regulatory agencies at the State and federal levels have implemented changes in the regulatory framework to enhance competition in the providing of various utility services; and

WHEREAS, the combination of legislative and regulatory changes and the development of new technologies has led additional service providers to seek opportunities to provide services in the Village; and

WHEREAS, these regulatory and technological changes have resulted in demands for access to and use of the public rights-of-way in the Village as service providers, particularly in the video and communications services, attempt to provide new or additional services to compete with incumbent service providers; and

WHEREAS, unlike prior deregulations of utility services in which incumbent service providers have been required to make their transmission and/or distribution systems available to competitors, video and communications services seeking to compete with incumbent service providers are seeking to install their own facilities for delivering competing video and communications services; thereby increasing the number of service providers seeking access to and use of the public rights-of-way in the Village; and

WHEREAS, the public rights-of-way within the Village are a limited public resource held in trust by the Village for the benefit of its citizens and the Village has

4-C.1

a custodial duty to ensure that the public rights-of-way are used, repaired and maintained in a manner that best serves the public interest; and

WHEREAS, the Village President and the Board of Trustees find and determine that it is necessary to and in the best interests of the public health, safety and general welfare to establish uniform standards and regulations for access to and use of the public rights-of-way in the Village by utility service providers and other persons and entities that desire to place structures, facilities or equipment in the public rights-of-way, so as to (i) prevent interference with the use of streets, sidewalks, alleys and other public ways and places by the Village and the general public, (ii) protect against visual and physical obstructions to vehicular and pedestrian traffic, (iii) prevent interference with the facilities and operations of the Village's utilities and of other utilities lawfully located in public rights-of-way or property, (iv) protect against environmental damage, including damage to trees, from the installation of utility facilities, (v) preserve the character of the neighborhoods in which facilities are installed, (vi) prevent visual blight, and (vii) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of (i) the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*, including without limitation Sections 11-20-5, 11-20-10, 11-42-11, 11-42-11.2, 11-80-1, 11-80-3, 11-80-6, 11-80-7, 11-80-8, 11-80-10, and 11-80-13, (ii) Section 4 of the Telephone Company Act, 220 ILCS 65/4, (iii) the Illinois Highway Code, including, without limitation, Articles 7 and 9 thereof, 605 ILCS 5/1-101 *et seq.*, (iv) the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/1 *et seq.*, and (v) the Cable and Video Competition Law of 2007, 220 ILCS 5/21-100 *et seq.*; and

WHEREAS, this Ordinance establishes generally applicable standards for use of, repair of, and construction on, over, above, along, under, across, or within public rights-of-way; and

WHEREAS, in the enactment of this Ordinance, the Village has considered a variety of standards for use of, repair, of, and construction on, over, above, along, under, across, or within the public right-of-way, including without limitation the standards relating to Accommodation of Utilities on Right-of-Way of the Illinois State Highway System promulgated by the Illinois Department of Transportation, 92 Ill. Adm. Code § 530.10 *et seq.*; and

WHEREAS, the Village President and Board of Trustees find that it is in the best interests of the Village, the public, and the utilities using the public rights-of-way to establish comprehensive set of construction standards and requirements to achieve various beneficial goals, including without limitation enhancing the planning of new utility facilities; minimizing interference with and damage to rights-of-way and the streets, sidewalks, and other structures and improvements located in, on, and above the rights-of-way; and reducing costs and expenses to the public;

4-c.2

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County and State of Illinois, as follows:

Section 1. Recitals. The foregoing recitals are hereby incorporated into and made a part of this Ordinance by this reference.

Section 2. Repealer. La Grange Ordinance No. O-07-32, passed and approved by the Board of Trustees on September 24, 2007, is hereby repealed and is of no further force and effect.

Section 3. Amendment to Title IX of Code of Ordinances. Title 9, titled "General Regulations," of the La Grange Code of Ordinances is hereby amended to add thereto a new Chapter 102, titled "Construction of Utility Facilities in Public Rights-of-Way," which new Chapter 102 will hereafter be and read as provided in Attachment A to this Ordinance.

Section 4. Effective Date. This Ordinance will be in full force and effect after its passage, approval, and publication in pamphlet form in the manner provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 2007.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

# 4965154\_v1

4-c.3

ATTACHMENT A

CHAPTER 102: CONSTRUCTION OF UTILITY FACILITIES  
IN PUBLIC RIGHTS-OF-WAY

§ 102.01 PURPOSE AND SCOPE.

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

(b) Facilities Subject to This Chapter. This Chapter applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the Village. A facility lawfully established prior to the effective date of this Chapter may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement. To the extent any provision of this Chapter 102 is inconsistent with or conflicts with any provision in Chapter 99 or other chapter of this Code, the provision of this Chapter 102 applies and controls.

(c) Franchises, Licenses, or Similar Agreements. The Village, in its discretion and as limited by law, may require utilities to enter into a franchise, license, or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the Village rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the Village enter into such an agreement. In such an agreement, the Village may provide for terms and conditions inconsistent with this Chapter.

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

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

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

(e) Conflicts with Other Chapters. This Chapter supersedes all Chapters or parts of Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

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

(g) Sound Engineering Judgment. The Village shall use sound engineering judgment when administering this Chapter and may vary the standards, conditions, and requirements expressed in this Chapter when the Village so determines. Nothing herein shall be construed to limit the ability of the Village to regulate its rights-of-way for the protection of the public health, safety and welfare.

## **§ 102.02 DEFINITIONS.**

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

"AASHTO" - American Association of State Highway and Transportation Officials.

"ANSI" - American National Standards Institute.

"Applicant" - A person applying for a permit under this Chapter.

"ASTM" - American Society for Testing and Materials.

"Backfill" - The methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring" - To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Cable operator" - That term as defined in 47 U.S.C. §522(5).

"Cable service" - That term as defined in 47 U.S.C. §522(6).

"Cable system" - That term as defined in 47 U.S.C. §522(7).

"Carrier Pipe" - The pipe enclosing the liquid, gas or slurry to be transported.

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

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

"Coating" - Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

"Code" - The La Grange Code of Ordinances.

"Conductor" - Wire carrying electrical current.

"Conduit" - A casing or encasement for wires or cables.

4-c.5

"Construction" or "Construct" - The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification, or abandonment in place of facilities.

"Cover" - The depth of earth or backfill over buried utility pipe or conductor.

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

"Director of Public Works" - The Village's Director of Public Works or his or her designee.

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

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

"Encasement" - Provision of a protective casing.

"Equipment" - Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

"Excavation" - The making of a hole or cavity by removing material, or laying bare by digging.

"Extra Heavy Pipe" - Pipe meeting ASTM standards for this pipe designation.

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

"Freestanding Facility" - A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Frontage Road" - Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access to a highway.

"Hazardous Materials" - Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the Director of Public Works to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives, or any substance determined to be hazardous or toxic under any federal or state law, statute, or regulation.

4-C.6

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

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

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

"IDOT" - Illinois Department of Transportation.

"ICC" - Illinois Commerce Commission.

"Jacking" - Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting" - Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use" - The use of pole lines, trenches, or other facilities by two or more utilities.

"J.U.L.I.E." - The Joint Utility Locating Information for Excavators utility notification program.

"Major Intersection" - The intersection of two or more major arterial highways.

"Occupancy" - The presence of facilities on, over, or under right-of-way.

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

"Parkway" - Any portion of the right-of-way not improved by street or sidewalk.

"Pavement Cut" - The removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee" - That entity to which a permit has been issued pursuant to Sections 102.04 and 102.05 of this Chapter.

"Practicable" - That which is performable, feasible or possible, rather than that which is simply convenient.

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

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

"Prompt" - That which is done within a period of time specified by the Village. If no time period is specified, the period shall be 30 days.

"Public Entity" - A legal entity that constitutes or is part of the government, whether at local, state, or federal level.

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

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

"Roadway" - That part of the highway that includes the pavement and shoulders.

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

"Security Fund" - That amount of security required pursuant to Section 102.10 of this Chapter.

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

"Sound Engineering Judgment" - A decision consistent with generally accepted engineering principles, practices, and experience.

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

4-0.8

following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

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

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

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

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

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

“Video Service” - That term as defined in section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

“Village” - The Village of La Grange, Illinois.

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

“Wet Boring” - Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

### **§ 102.03 ANNUAL REGISTRATION REQUIRED.**

Every utility that occupies right-of-way within the Village shall register on January 1 of each year with the Director of Public Works, providing the utility's name, address, and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a 24-hour telephone number for each such person, and evidence of insurance as required in Section 102.08 of this Chapter, in the form of a certificate of insurance.

### **§ 102.04 PERMIT REQUIRED; APPLICATION AND FEES.**

(a) Permit Required. No person shall construct (as defined in this Chapter) any facility on, over, above, along, upon, under, across, or within any Village right-of-way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this Chapter), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across, or within the right-of-way without first filing an application with the Director of Public Works and obtaining a permit from the Village therefor, except as otherwise provided in this Chapter. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

4-C.9

(b) Permit Application. All applications for permits pursuant to this Chapter shall be filed on a form provided by the Village and shall be filed in such number of duplicate copies as the Village may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(c) Minimum General Application Requirements. The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

- 1) The utility's name and address and telephone and facsimile numbers;
- 2) The applicant's name and address, if different from the utility, and its telephone and facsimile numbers, e-mail address, and its interest in the work;
- 3) The names, addresses, and telephone and facsimile numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
- 4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- 5) Evidence that the utility has placed on file with the Village:
  - i) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
  - ii) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the Village and shall promote protection of the safety and convenience of the public. Compliance with ILCC regulations for emergency contingency plans constitutes compliance with this Section unless the Village finds that additional information or assurances are needed;
- 6) Drawings, plans, and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- 7) A plat or plats of survey showing property lines, and rights-of-way, existing sidewalks, curbs, gutters, underground utilities, easements, and similar features;

4-C.10

- 8) Evidence of permission from appropriate private property owners to under walk on that private property;
- 9) Evidence of insurance as required in Section 102.08 of this Chapter;
- 10) Evidence of posting of the security fund as required in Section 102.10 of this Chapter;
- 11) Evidence of an application for an electrical permit from the Village if, and as, required by the Code of Ordinances;
- 12) Any request for a variance from one or more provisions of this Chapter (see Section 102.21 of this Chapter); and
- 13) Such additional information as may be reasonably required by the Village.

(d) Supplemental Application Requirements for Specific Types of Utilities. In addition to the requirements of Subsection (c) of this Section, the permit application shall include the following items as applicable to the specific utility that is the subject of the permit application:

- 1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected, to obtain, has been issued by the ICC or other jurisdictional authority;
- 2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- 3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- 4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control and the Metropolitan Water Reclamation District have been satisfied; or
- 5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(e) Applicant's Duty to Update Information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the Village within 30 days after the change necessitating the amendment.

(f) Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Chapter shall be accompanied by a fee in the amount of \$1,000 for plan review, inspections, and other services. No application

4-C-11

fee is required to be paid by electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

**§ 102.05 ACTION ON PERMIT APPLICATIONS.**

(a) Village Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the Director of Public Works within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Director of Public Works shall reject such application in writing, stating the reasons therefor. If the Director of Public Works is satisfied that the proposed work conforms to the requirements of this Chapter and all applicable ordinances, codes, laws, rules, and regulations, the Director of Public Works shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Village Director of Public Works, that the construction proposed under the application shall be in full compliance with the requirements of this Chapter.

(b) Additional Village Review of Applications of Telecommunications Retailers.

- 1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the Village that it intends to commence work governed by this Chapter for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the Village not less than 10 days prior to the commencement of work requiring no excavation and not less than 30 days prior to the commencement of work requiring excavation. The Director of Public Works shall specify the portion of the right-of-way upon which the facility may be placed, used, and constructed.
- 2) If the Director of Public Works fails to provide such specification of location to the telecommunications retailer within either (i) 10 days after service of notice to the Village by the telecommunications retailer in the case of work not involving excavation for new construction or (ii) 25 days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, then the telecommunications retailer may commence work without obtaining a permit under this Chapter.
- 3) Upon the provision of such specification by the Village, when a permit is required for work pursuant to Section 102.04 of this Chapter the telecommunications retailer shall submit to the Village an application for a permit and any and all plans, specifications, and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of Subsection (a) of this Section.

(c) Additional Village Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007. Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted forty-five (45) days after submission to the Village, unless otherwise acted upon by the Village, provided the holder has complied with applicable Village codes, ordinances, and regulations.

4-C.12

**§ 102.06 EFFECT OF PERMIT.**

(a) Authority Granted; No Property Right or Other Interest Created. A permit from the Village authorizes a permittee to undertake only certain activities in accordance with this Chapter on Village rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the rights-of-way.

(b) Duration. No permit issued under this Chapter shall be valid for a period longer than six (6) months unless construction is actually begun within that period and is thereafter diligently pursued to completion.

(c) Pre-construction meeting required. Unless waived in writing by the Director of Public Works, no construction shall begin pursuant to a permit issued under this Chapter prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the Village with such Village representatives in attendance as the Village deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

(d) Compliance with All Laws Required. The issuance of a permit by the Village does not excuse the permittee from complying with other requirements of the Village and all applicable statutes, laws, ordinances, rules, and regulations.

**§ 102.07 REVISED PERMIT DRAWINGS.**

If the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings, and specifications submitted with the permit application, then the permittee shall submit a revised set of drawings or plans to the Village within 90 days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Chapter, then it shall be treated as a request for variance in accordance with Section 102.21 of this Chapter. If the Village denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

**§ 102.08 INSURANCE.**

(a) Required Coverage and Limits. Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the Village, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs 1 and 2 below:

4-c.13

- 1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X," "C," and "U" coverage) and products-completed operations coverage with limits not less than:
  - i) \$5,000,000 for bodily injury or death to each person;
  - ii) \$5,000,000 for property damage resulting from any one accident; and
  - iii) \$5,000,000 for all other types of liability;
- 2) Automobile liability for owned, non-owned, and hired vehicles with a combined single limit of \$1,000,000 for personal injury and property damage for each accident;
- 3) Worker's compensation with statutory limits; and
- 4) Employer's liability insurance with limits of not less than \$1,000,000 per employee and per accident.

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

(b) Excess or Umbrella Policies. The coverage required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

(c) Copies Required. The utility shall provide copies of any of the policies required by this Section to the Village within 10 days after receipt of a written request therefor from the Village.

(d) Maintenance and Renewal of Required Coverage. The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 30 days after receipt by the Village, by registered mail or certified mail, return receipt requested, of a written notice addressed to the Village Manager of such intent to cancel or not to renew."

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

(e) Self-Insurance. A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection (a) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection (a), or the requirements of Subsections (b), (c) and (d) of this Section. A utility that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance

4-c.14

coverage and limit requirements required under Subsection (a) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(f) Effect of Insurance and Self-Insurance on Utility's Liability. The legal liability of the utility to the Village and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

(g) Insurance Companies. All insurance provided pursuant to this section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois.

#### **§ 102.09 INDEMNIFICATION.**

By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to indemnify and defend the Village and its elected and appointed officials and officers, employees, agents and representatives from and against any and all injuries, claims, demands, judgments, damages, losses, and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from, or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failures to act, or misconduct of the utility or its affiliates, officers, employees, agents, contractors, or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed, or prohibited by this Chapter or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct, or breach of this Chapter by the Village or its officials, officers, employees, agents, or representatives.

#### **§ 102.10 SECURITY.**

(a) Purpose. The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:

- 1) The faithful performance by the permittee of all the requirements of this Chapter;
- 2) Any expenditure, damage, or loss incurred by the Village occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the Village issued pursuant to this Chapter; and
- 3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the Village may pay or incur by reason of any action or non-performance by permittee in violation of this Chapter including, without limitation, any damage to public property or restoration work the permittee is required by this Chapter to perform that the Village must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the Village from the permittee pursuant to this Chapter or any other applicable law.

4-c.15

(b) Form. The permittee shall provide the Security Fund in the form of either a surety bond in a form acceptable to the Village or an unconditional letter of credit in a form acceptable to the Village, at the permittee's election. The surety bond or letter of credit shall, at a minimum:

- 1) Provide that it will not be canceled without prior notice to the Village and the permittee;
- 2) Not require the consent of the permittee prior to the collection by the Village of any amounts covered by it; and
- 3) Shall provide a location convenient to the Village and within the State of Illinois at which it can be drawn.

(c) Amount. The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Director of Public Works, but not less than \$5,000. The amount may include reasonable, directly related costs that the Village estimates are likely to be incurred if the permittee fails to perform such restoration. When the construction of facilities proposed under the permit will be performed in phases in multiple locations in the Village, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Director of Public Works may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (c) for any single phase.

(d) Withdrawals. The Village, by 14-day advance written notice stating its intention to exercise withdrawal rights under this Subsection and the reason for withdrawal, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the Village for such amount within the 14-day notice period. Withdrawals may be made if the permittee:

- 1) Fails to make any payment required to be made by the permittee hereunder;
- 2) Fails to pay any liens relating to the facilities that are due and unpaid;
- 3) Fails to reimburse the Village for any damages, claims, costs, or expenses which the Village has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- 4) Fails to comply with any provision of this Chapter that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

(e) Replenishment. Within 14 days after receipt of written notice from the Village that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in Subsection (c) of this Section.

(f) Interest. The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the Village, upon written request

4-C.16

for said withdrawal to the Village, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in Subsection (c) of this Section.

(g) Closing and Return of Security Fund. Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village for failure by the permittee to comply with any provisions of this Chapter or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the Village to the extent necessary to cover any reasonable costs, loss or damage incurred by the Village as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

(h) Rights Not Limited. The rights reserved to the Village with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Chapter or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the Village may have. Notwithstanding the foregoing, the Village shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

#### **§ 102.11 PERMIT SUSPENSION AND REVOCATION.**

(a) Village Right to Revoke Permit. The Village may revoke or suspend a permit issued pursuant to this Chapter for one or more of the following reasons:

- 1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
- 2) Non-compliance with this Chapter;
- 3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the public rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- 4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(b) Notice of Revocation or Suspension. The Village shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Chapter stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section 102.11.

(c) Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension. Upon receipt of a written notice of revocation or suspension from the Village, the permittee shall have the following options:

- 1) Immediately provide the Village with evidence that no cause exists for the revocation or suspension;
- 2) Immediately correct, to the satisfaction of the Village, the deficiencies stated in the written notice, providing written proof of such correction to the Village within five working days after receipt of the written notice of revocation; or

4-C.17

- 3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the public rights-of-way and restore the rights-of-way to the satisfaction of the Village providing written proof of such removal to the Village within 10 days after receipt of the written notice of revocation.

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

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

(e) Failure or Refusal of the Permittee to Comply. If the permittee fails to comply with the provisions of Subsection c) of this Section, the Village or its designee may, at the option of the Village: (1) correct the deficiencies; or (2) upon not less than 20 days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than 30 days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the Village. The permittee shall be liable in all events to the Village for all costs of removal.

#### **§ 102.12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.**

(a) Notification of Change. A utility shall notify the Village no less than 30 days prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Chapter, with respect to the work and facilities in the right-of-way.

(b) Amended Permit. A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the Village's right-of-way.

(c) Insurance and Bonding. All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

#### **§ 102.13 GENERAL CONSTRUCTION STANDARDS.**

(a) Standards and Principles. All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications and this Code as they are amended from time to time:

- 1) Standard Specifications for Road and Bridge Construction;
- 2) Supplemental Specifications and Recurring Special Provisions;
- 3) Highway Design Manual;

- 4) Highway Standards Manual;
- 5) Standard Specifications for Traffic Control Items;
- 6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- 7) Flagger's Handbook;
- 8) Work Site Protection Manual for Daylight Maintenance Operations; and
- 9) Title 9 of this Code.

(b) Interpretation of Municipal Standards and Principles. If a discrepancy exists between or among differing principles and standards required by this Chapter, the Director of Public Works shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Director of Public Works shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

#### **§ 102.14 TRAFFIC CONTROL.**

(a) Minimum Requirements. The Village's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

(b) Warning Signs, Protective Devices, and Flaggers. The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(c) Interference with Traffic. All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(d) Notice When Access is Blocked. At least 48 hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to Section 102.20 of this Chapter, the utility shall provide such notice as is practicable under the circumstances.

(e) Compliance. The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the Village.

#### **§ 102.15 LOCATION OF FACILITIES.**

(a) General Requirements. In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this subsection.

- 1) No Interference with Village Facilities. No utility facilities shall be placed in any location if the Director of Public Works determines that the proposed

location will require the relocation or displacement of any of the Village's utility facilities or will otherwise interfere with the operation or maintenance of any of the Village's utility facilities.

- 2) Minimum Interference and Impact. The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with, the rights and reasonable convenience of property owners who adjoin said right-of-way.
  - 3) No Interference with Travel. No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.
  - 4) No Limitations on Visibility. No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.
  - 5) Size of Utility Facilities. The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.
- (b) Parallel Facilities Located Within Highways.
- 1) Overhead Parallel Facilities. An overhead parallel facility may be located within the right-of-way lines of a highway only if:
    - i) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
    - ii) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (0.6 m) behind the face of the curb, where available;
    - iii) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;
    - iv) No pole is located in the ditch line of a highway; and
    - v) Any ground-mounted appurtenance is located within one foot (0.3 m) of the right-of-way line or as near as possible to the right-of-way line.
  - 2) Underground Parallel Facilities. An underground parallel facility may be located within the right-of-way lines of a highway only if:
    - i) The facility is located as near the right-of-way line as practicable and not more than eight feet (2.4 m) from and parallel to the right-of-way line;
    - ii) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound

4-c.20

engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and

- iii) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than five feet (1.5 m) from the right-of-way line and any above-grounded appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.

(c) Facilities Crossing Highways.

- 1) No Future Disruption. The construction and design of crossing facilities installed between the ditch lines or curb lines of Village highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
- 2) Cattle Passes, Culverts, or Drainage Facilities. Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
- 3) 90 Degree Crossing Required. Crossing facilities shall cross at or as near to a 90-degree angle to the centerline as practicable.
- 4) Overhead Power or Communication Facility. An overhead power or communication facility may cross a highway only if:
  - i) It has a minimum vertical line clearance as required by ILCC's rules titled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
  - ii) Poles are located within one foot (0.3 m) of the right-of-way line of the highway and outside of the clear zone; and
  - iii) Overhead crossings at major intersections are avoided.
- 5) Underground Power or Communication Facility. An underground power or communication facility may cross a highway only if:
  - i) The design materials and construction methods will provide maximum maintenance-free service life; and
  - ii) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- 6) Markers. The Village may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency telephone number. Markers may also be eliminated as provided in current federal regulations. (49 C.F.R. 192.707 (1989)).

4-c.21

(d) Facilities to be Located Within Particular Rights-of-Way. The Village may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

(e) Freestanding Facilities.

- 1) The Village may restrict the location and size of any freestanding facility located within a right-of-way.
- 2) The Village may require any above-ground equipment or facility located within a public right-of-way to be reasonably screened from view with shrubbery or other reasonable plant elements of a value not exceeding \$2,000.

(f) Facilities Installed Above Ground. Above ground facilities may be installed only if:

- 1) No other existing facilities in the area are located underground;
- 2) New underground installation is not technically feasible; and
- 3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

(g) Facility Attachments to Bridges or Roadway Structures.

- 1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
- 2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
  - i) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
  - ii) The type, length, value, and relative importance of the highway structure in the transportation system;

4-c.22

- iii) The alternative routings available to the utility and their comparative practicability;
  - iv) The proposed method of attachment;
  - v) The ability of the structure to bear the increased load of the proposed facility;
  - vi) The degree of interference with bridge maintenance and painting;
  - vii) The effect on the visual quality of the structure; and
  - viii) The public benefit expected from the utility service as compared to the risk involved.
- (h) Appearance Standards.
- 1) The Village may prohibit the installation of facilities in particular locations in order to preserve visual quality.
  - 2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

**§ 102.16 CONSTRUCTION METHODS AND MATERIALS.**

- (a) Standards and Requirements for Particular Types of Construction Methods.
- 1) Boring or Jacking.
    - i) Pits and Shoring. Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Director of Public Works from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 48 hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
    - ii) Wet Boring or Jetting. Wet boring or jetting shall not be permitted under the roadway.
    - iii) Borings with Diameters Greater Than Six Inches. Borings greater than six inches (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch (25 mm).

4-C.23

- iv) Borings with Diameters Six Inches or Less. Borings of six inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
  - v) Tree Preservation. Any facility located within the drip line of any tree designated by the Village to be preserved or protected shall comply with the requirements of Chapter 100 of Title IX of this Code.
- 2) Trenching. Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction."
- i) Length. The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Director of Public Works.
  - ii) Open Trench and Excavated Material. Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
  - iii) Drip Line of Trees. The utility shall not trench within the drip line of any tree designated by the Village to be preserved.
- 3) Backfilling.
- i) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction." When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
  - ii) For a period of three years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Director of Public Works, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Director of Public Works.
- 4) Pavement Cuts. Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this paragraph 4) is permitted under Section 30-92, the following requirements shall apply:

4-C.24

- i) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Director of Public Works.
  - ii) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the Village.
  - iii) All saw cuts shall be full depth.
  - iv) For all rights-of-way which have been reconstructed with a concrete surface/base in the last seven years, or resurfaced in the last three years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.
- 5) Encasement.
- i) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the Village.
  - ii) The venting, if any, of any encasement shall extend within one foot (0.3 m) of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
  - iii) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or Village approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the Village. Bell and spigot type pipe shall be encased regardless of installation method.
  - iv) In the case of gas pipelines of 60 psig or less, encasement may be eliminated.
  - v) In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided;
  - vi) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.

4-c.25

- 6) Minimum Cover of Underground Facilities. Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

TYPE OF FACILITY	MINIMUM COVER
Electric Lines	30 Inches (0.8 m)
Communication, Cable or Video Service Lines	24 Inches (0.6 m)
Gas or Petroleum Products	30 Inches (0.8 m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, or Drainage Line	Sufficient Cover to Provide Freeze Protection

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

1) Electric Power or Communication Lines.

- i) Code Compliance. Electric power or communications facilities within Village rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) titled "Rules for Construction of Electric Power and Communications Lines," and the National Electrical Safety Code.
- ii) Overhead Facilities. Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
- iii) Underground Facilities. (1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads. (2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if: (a) the crossing is installed by the use of "moles," "whip augers," or other approved method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction. (3) Cable shall be grounded in accordance with the National Electrical Safety Code.
- iv) Burial of Drops. All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snowdrops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the Village. Weather

4-C-26

permitting, utilities shall bury all temporary drops, excluding snowdrops, within ten (10) business days after placement.

- 2) Underground Facilities Other than Electric Power or Communication Lines. Underground facilities other than electric power or communication lines may be installed by:
    - i) the use of "moles," "whip augers," or other approved methods which compress the earth to move the opening for the pipe;
    - ii) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
    - iii) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
    - iv) tunneling with vented encasement, but only if installation is not possible by other means.
  - 3) Gas Transmission, Distribution and Service. Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a Village approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192), IDOT's "Standard Specifications for Road and Bridge Construction," and all other applicable laws, rules, and regulations.
  - 4) Petroleum Products Pipelines. Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
  - 5) Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines. Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois."
  - 6) Ground Mounted Appurtenances. Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending one foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Director of Public Works. With the approval of the Director of Public Works, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.
- (c) Materials.
- 1) General Standards. The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standards Specifications for Road

4-C.27

and Bridge Construction,” the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.

- 2) Material Storage on Right-of-Way. No material shall be stored on the right-of-way without the prior written approval of the Director of Public Works. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the Village.
- 3) Hazardous Materials. The plans submitted by the utility to the Village shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.
- (d) Operational Restrictions.
  - 1) Construction operations on rights-of-way may, at the discretion of the Village, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
  - 2) These restrictions may be waived by the Director of Public Works when emergency work is required to restore vital utility services.
  - 3) Unless otherwise permitted by the Village, the hours of construction are those set forth in applicable chapters of this Code.

(e) Location of Existing Facilities. Any utility proposing to construct facilities in the Village shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The Village will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Village or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

#### **§ 102.17 TREES; VEGETATION CONTROL.**

(a) Compliance with tree and vegetation protection. All work pursuant to this Chapter shall be subject to the tree preservation requirements of Chapter 100 of Title IX of this Code.

(b) Chemical Use. Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Director of Public Works that such spraying is the only practicable method of vegetation control.

4-c.28

**§ 102.18 REMOVAL, RELOCATION, OR MODIFICATIONS OF UTILITY FACILITIES.**

(a) Notice. Within 90 days after written notice from the Village, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Village improvement in or upon, or the operations of the Village in or upon, the rights-of-way.

(b) Removal of Unauthorized Facilities. Within 30 days after written notice from the Village, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the public rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the public rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- 1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
- 2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
- 3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Chapter; or
- 4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

(c) Emergency Removal or Relocation of Facilities. The Village retains the right and privilege to cut or move any facilities located within the rights-of-way of the Village, as the Village may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

(d) Abandonment of Facilities. Upon abandonment of a facility within the public rights-of-way of the Village, the utility shall notify the Village within 90 days. Following receipt of such notice the Village may direct the utility to remove all or any portion of the facility if the Director of Public Works determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the Village does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the Village, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

**§ 102.19 CLEANUP AND RESTORATION.**

The utility shall remove all excess material and restore all turf and terrain and other property within five (5) days after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the Village. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Director of Public Works. Such cleanup and repair may be required to consist of backfilling, re-grading, re-seeding, re-sodding, or any other requirement to restore the right-of-way to a condition

4-c.29

substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Director of Public Works for good cause shown.

**§ 102.20 MAINTENANCE AND EMERGENCY MAINTENANCE.** The time period provided in this Section may be extended by the Director Public Works for good cause shown.

(a) General. Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the Village and at the utility's expense.

(b) Emergency Maintenance Procedures. Emergencies may justify non-compliance with normal procedures for securing a permit:

- 1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
- 2) In an emergency, the utility shall, as soon as possible, notify the Director of Public Works or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the Village police shall be notified immediately.
- 3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

(c) Emergency Repairs. The utility must file in writing with the Village of a description of the repairs undertaken in the right-of-way within 48 hours after an emergency repair.

**§ 102.21 VARIANCES.**

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

(b) Authority to Grant Variances. The Director of Public Works shall decide whether a variance is authorized for each provision of this Chapter identified in the variance request on an individual basis.

(c) Conditions for Granting of Variance. The Director of Public Works may authorize a variance only if the utility requesting the variance has demonstrated that:

4-C.30

- 1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- 2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

(d) Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the Director of Public Works may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Chapter but which carry out the purposes of this Chapter.

(e) Right to Appeal. Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Director of Public Works under the provisions of this Chapter shall have the right to appeal to the Village Manager. The application for appeal shall be submitted in writing to the Village Clerk within 30 days after the date of such order, requirement, decision or determination. The Village Manager shall timely decide the appeal.

#### **§ 102.22 PENALTIES.**

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

#### **§ 102.23 ENFORCEMENT.**

Nothing in this Chapter shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Chapter.

#### **§ 102.24 SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

4-C.31

**VILLAGE OF LA GRANGE**

Disbursement Approval by Fund  
December 10, 2007  
Consolidated Voucher 071210

<u>Fund No.</u>	<u>Fund Name</u>	<u>12/10/07 Voucher</u>	<u>11/30/07 Payroll</u>	<u>Total</u>
01	General	205,010.71	232,831.33	437,842.04
21	Motor Fuel Tax			0.00
22	Foreign Fire Insurance Tax			0.00
23	TIF	14,608.64		14,608.64
24	ETSB	2,156.84		2,156.84
40	Capital Projects	71,713.24		71,713.24
50	Water	38,661.60	31,710.77	70,372.37
51	Parking	6,046.58	20,118.13	26,164.71
60	Equipment Replacement			0.00
70	Police Pension	115.20		115.20
75	Firefighters' Pension			0.00
80	Sewer	1,366.19	7,252.32	8,618.51
90	Debt Service			0.00
91	SSA 4A Debt Service			0.00
93	SAA 269			0.00
94	SAA 270			0.00
		<u>339,679.00</u>	<u>291,912.55</u>	<u>631,591.55</u>

We the undersigned Manager and Clerk of the Village of La Grange hereby certify that, to the best of our knowledge and belief, the foregoing items are true and proper charges against the Village and hereby approve their payment.

\_\_\_\_\_  
Village Manager

\_\_\_\_\_  
Village Clerk

\_\_\_\_\_  
President

\_\_\_\_\_  
Trustee

\_\_\_\_\_  
Trustee

\_\_\_\_\_  
Trustee

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Trustee

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Trustee

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Trustee

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## MINUTES

VILLAGE OF LA GRANGE  
BOARD OF TRUSTEES REGULAR MEETING  
Village Hall Auditorium  
53 South La Grange Road  
La Grange, IL 60525

Monday, November 26, 2007 - 7:30 p.m.

### 1. CALL TO ORDER AND ROLL CALL

The Board of Trustees of the Village of La Grange regular meeting was called to order at 7:30 p.m. by President Asperger. On roll call, as read by Village Clerk Robert Milne, the following were present:

PRESENT: Trustees Langan, Horvath, Kuchler, Livingston, Palermo and Wolf

ABSENT: None

OTHERS: Village Manager Robert Pilipiszyn  
Assistant Village Manager Andrianna Peterson  
Village Attorney Mark Burkland  
Community Development Director Patrick Benjamin  
Assistant Community Development Director / Planner Angela Mesaros  
Finance Director Lou Cipparrone  
Public Works Director Ken Watkins  
Assistant Public Works Director Mike Bojovic  
Police Chief Mike Holub  
Fire Chief David Fleege  
Doings Reporter Ken Knutson  
Suburban Life Reporter Joe Sinopoli

### 2. PRESIDENT'S REPORT

President Asperger announced that following the formal Village Board meeting this evening, the Board will reconvene in an informal workshop setting to discuss the zoning variation process and invited the audience to remain in attendance.

This Saturday, December 1, the Village in conjunction with the La Grange Business Association will conduct the 16<sup>th</sup> Annual Hometown Holiday and President Asperger encouraged everyone to attend the numerous events scheduled for the evening. Thank you was extended to Trustee Mark Langan for donating the evergreen tree which has been decorated for the festivities. Lastly, President Asperger commended Public Works

4-E

Director Ken Watkins and his staff for decorating and maintaining the Village's Central Business District for the event

A. Oath of Office – Firefighter / Paramedic Charles Crudele

President Asperger stated that a vacancy occurred within the Fire Department and the La Grange Board of Fire and Police Commission appointed Charles Crudele to the position of Firefighter / Paramedic effective November 19, 2007. President Asperger welcomed Charles who is a licensed paramedic and will attend the Firefighter II Academy in order to achieve his training certification. Village Clerk Milne administered the Oath of Office to Firefighter/Paramedic Charles Crudele.

3. PUBLIC COMMENTS REGARDING AGENDA ITEMS

Don Johnson, 240 S. La Grange Road requested follow-up information regarding tandem trucks used by Federal Express on the non-designated truck routes in La Grange. Village President Asperger noted the Village Manager would check on this matter.

4. OMNIBUS AGENDA AND VOTE

- A. Ordinance (#O-07-41) – Resubdivision of Lots, 201 S. Brainard
- B. Ordinance (#O-07-42) – Creating an Additional Class C-1 Liquor License, Pizza Etal LLC, d/b/a Aurelio's Pizza, 11 W. Calendar Avenue
- C. Consolidated Voucher 071126 (\$2,589,623.96)
- D. Minutes of the Village of La Grange Board of Trustees Regular Meeting, Monday, November 12, 2007

It was moved by Trustee Langan to approve items A, B, C, and D of the Omnibus, seconded by Trustee Livingston. Approved by roll call vote.

Ayes: Trustees Langan, Horvath, Kuchler, Livingston, Palermo, and Wolf  
Nays: None  
Absent: None

5. CURRENT BUSINESS

None

6. MANAGER'S REPORT

None

4-E.1

7. PUBLIC COMMENTS REGARDING MATTERS NOT ON AGENDA

None

8. EXECUTIVE SESSION

9. TRUSTEE COMMENTS

10. ADJOURNMENT

At 7:45 p.m. it was moved by Trustee Langan to adjourn, seconded by Trustee Horvath.  
Approved by unanimous voice vote.

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Elizabeth M. Asperger, Village President

ATTEST:

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Robert N. Milne, Village Clerk

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Approved Date

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4-E.2



# Village of La Grange



## VILLAGE BOARD MEETING

**MONDAY, DECEMBER 10, 2007**

**7:30 p.m.**

**Book 2 of 2**

Village Hall Auditorium

53 S. La Grange Road

La Grange, IL 60525

Elizabeth M. Asperger  
Village President

Robert N. Milne  
Village Clerk

**CURRENT BUSINESS**

VILLAGE OF LA GRANGE  
Community Development Department

**BOARD REPORT**

TO: Village President, Village Clerk  
Board of Trustees and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager  
Patrick D. Benjamin, Community Development Director  
Angela M. Mesaros, Assistant Community Development Director

DATE: December 10, 2007

RE: **ORDINANCE - VARIATION - STORAGE OF VEHICLES IN GARAGES/  
DOUGLAS AND JEANNE BROWN, 4 CALLE VIEW DRIVE.**

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Douglas and Jeanne Brown purchased the property at 4 Calle View Drive in February 2007. The property consists of two buildable lots of record (Lot 3 and Lot 4). At the time of purchase, the property contained a single family residence with an attached garage and a detached garage. In June 2007, the petitioners applied for a permit to demolish the existing house, construct a new single family residence with an attached garage, and maintain the existing detached garage. According to the Village's regulations, only one garage is permitted per zoning lot. Therefore, the building permit was issued only under the condition that the existing detached garage be demolished prior to issuance of a Certificate of Occupancy.

Staff and the Village Attorney reviewed the possibility of maintaining the detached garage for storage or as a stand-alone structure for fitness or recreational purposes (potential uses identified by the petitioners). It appears that retaining the structure itself is more important to the petitioners than the end use, or adding a corresponding area to the new home or attached garage. However, the Zoning Code states that the total gross floor area of accessory storage structures, other than garages, shall not exceed 100 square feet. In addition, the Code does not currently allow variations for the size of storage structures. We may want to review the restriction on not being able to vary the size of accessory structures in the next phase in the Zoning Code Amendments.

After several meetings and conversations with staff about options for maintaining the existing detached garage, the petitioners concluded that they would seek a variation from the Zoning Code in order to allow more than one garage on the property. The property in question is located within the R-1 Single Family Residential District, which has larger minimum lot size requirements than most areas of the Village. According to the petitioners, the large lot size creates a unique situation. The garage is an existing structure that is screened by landscaping and mature trees. In addition, the petitioners are willing to remove the driveway, which serves the existing garage.

5-A

On November 15, 2007, the Zoning Board of Appeals held a public hearing on this matter (see Findings of Fact). At the public hearing, the petitioners presented the application. The motion to recommend that the variation be granted failed by a vote of three (3) ayes and three (3) nays. Pursuant to Subsection 13-102D of the Zoning Code, at least four aye votes are required to decide in favor of any application.

Those Zoning Board members recommending denial felt that the Zoning Code is clear in not supporting two garages on a single zoning lot. In addition, they felt that the application does not meet the following standards required for variation: (1) Unique Physical Condition: although the lot is larger than most zoning lots, the property is not irregular shaped compared to similar properties in the area; (2) Not Self Created: while the detached garage is existing, the petitioners were aware of the zoning regulations and chose to construct a new house with attached garage; and (3) Denied Substantial Rights: the Code allows only one garage for all new construction throughout the village.

The members voting in favor stated that they felt the garage is not obtrusive and fits within the context of the neighborhood and the structure would be used for storage and not as a garage. They felt that this is a useful structure in a good location with plenty of land.

If you concur with the recommendation of the Zoning Board of Appeals to deny the request, then a motion to deny the variation is in order. No resolution or ordinance memorializing such action is necessary. Conversely, should you choose to grant the variation, a motion to approve the attached ordinance authorizing the variation would be appropriate. It is also within the purview of the Village Board to have the petitioners covet, for example, that they would remove and not restore the driveway to the existing garage, or apply for another accessory structure. The petitioners have acknowledged their willingness to accept such a conditional approval in their transmittal letter.

Please note that in accordance with State Statute, the approval of any proposed variation which fails to receive the approval of the Board of Appeals will not be passed except by the favorable vote of two-thirds (2/3) majority vote by roll call of all Trustees currently holding office (four out of six Trustees).

Staff has prepared the attached ordinance authorizing the variation for your consideration.

5-A.1

ORDINANCE NO. O-07-

AN ORDINANCE ALLOWING ZONING VARIATION  
OF THE VILLAGE OF LA GRANGE

Published in pamphlet form by authority of the Board of Trustees of the Village of La Grange, County of Cook, State of Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2007.

WHEREAS, Douglas and Jeanne Brown, owners of the property commonly known as 4 Calle View Drive, La Grange, Illinois, and legally described as follows:

Lots 3 and 4 in El Sueno De Pleasant View, being a subdivision of a piece of parcel of land in the southeast corner or SQ of the east ½ of the southeast ¼ of Section 8, Township 38 North, Range 12 East of the Third Principal Meridian, as per plat recorded as document 15645796, in Book 413 of Plats Page 8, in Cook County, Illinois.

have applied for variation from Subparagraph 9-101C4(c) (Storage of Vehicles in Garages) of Chapter 154 of the Village of La Grange Code of Ordinances in order to allow more than one garage on the above referenced property. The Zoning Board of Appeals, as required by law, has conducted a duly noticed public hearing on this matter on November 15, 2007.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LA GRANGE, COUNTY OF COOK, STATE OF ILLINOIS:

SECTION 1: A variation from Subparagraph 9-101C4(c) (Storage of Vehicles in Garages) of Chapter 154 of the La Grange Code of Ordinances, in order to maintain the existing detached garage on Lot 3 of the subject property, be hereby granted to the owner of the above-referenced property in conformance with the plans submitted to the Zoning Board of Appeals.

SECTION 2: This Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form for review at the La Grange Village Offices and the La Grange Public Library.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2007, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

5-A.2

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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Elizabeth M. Asperger, VILLAGE PRESIDENT

ATTEST:

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Robert N. Milne, VILLAGE CLERK

5-A.3

**FINDINGS OF FACT**

ZONING BOARD OF APPEALS  
OF THE  
VILLAGE OF LA GRANGE

President Asperger and  
Board of Trustees

November 15, 2007

**RE: ZONING CASE #564: VARIATION – Douglas and Jeanne Brown – 4 Calle View Drive, to consider a zoning variation from SubParagraph 9-101C4(c) to allow more than one garage on the subject lot.**

The Zoning Board of Appeals transmits for your consideration its recommendations for a request of zoning variation to allow more than one garage, necessary to maintain an existing detached garage in the rear yard of Lot 3 on the property at 4 Calle View Drive.

**I. THE SUBJECT PROPERTY:**

The property in question is a single family residential lot. The zoning lot is larger than most lots in the Village. The lot measures approximately 230 feet wide. Typical lots measure 50 feet in width.

**II. CHARACTERISTICS OF THE SURROUNDING AREA:**

The subject property is located in the R-1 Single Family Residential District.

**III. VARIATIONS SOUGHT:**

The applicant desires a variation from Subparagraph 9-101C4(c) (Storage of Vehicles in Garages) of the La Grange Zoning Code. The applicant wishes to maintain an existing detached garage. At the public hearing, the applicant requested a variation in order to maintain more than one garage on the subject property. Subparagraph 14-303E1 (m) Authorized Variations, allows variation of subsection 9-101C4 related to off-street storage of vehicles in residential districts. The requested variation falls within the authorized limits of the Zoning Code.

**IV. THE PUBLIC HEARING:**

After due notice, as is required by law, (including legal publication, posting at the subject property and courtesy notices to owners within 250 feet of the subject property) the Zoning Board of Appeals held a public hearing on the proposed variation in the La Grange Village Hall Auditorium on November 15, 2007. Present were Commissioners Charles Benson, Jr., (arrived 7:45 p.m.), Rosemary Naseef, Ian Brenson, Nancy Pierson, Kathy Schwappach and Chairperson Pro Tem Nathaniel Pappalardo presiding. Also present was Staff Liaison, Angela Mesaros. Testimony was given under oath by the

5-A.4

applicants. No objectors appeared at the hearing and no written objections have been filed to the proposed variation.

Chairperson Pro Tem Pappalardo swore in, Douglas Brown, 5312 Howard, Western Springs, Illinois, owner of the subject property, who presented the application and answered questions from the Commissioners:

- Mr. Brown presented an aerial map of the neighborhood to show context. The property is located in the R-1 district. It was sold by the builder as two buildable lots. The Browns recently demolished a single family home with attached garage, which was located on Lot 4. Currently, Lot 3 consists of a previously existing detached garage and driveway, which are more on the scale of a golf cart. Currently, the owners are using the detached garage for storage.
- Each lot is approximately a half acre in size. There are more than two dozen mature trees on the property. In June, the Petitioners received a building permit to construct a house with a small two car attached garage and no storage on a footprint similar to the previous house. They have not disturbed the trees. The new house meets all the setback requirements for Lot 4.
- In order to receive a building permit for the new house with attached garage, the Village has asked the Petitioners to demolish the existing garage. The Browns have requested to leave the garage in place.
- The Petitioners feel that the property is unique due to the pre-existing building and the large size of the lot. They feel that the purpose of the Code is to prevent overcrowding, which is not an issue here. The detached garage is on a separate lot. The landscaping provides natural screening and is not obtrusive to the neighbors.
- Mr. Brown indicated that all immediate neighbors are in support of the request. The structure is useful and a good location, with plenty of land surrounding it.

Chairperson Pro Tem Pappalardo solicited questions from the Commissioners:

- Commissioner Brenson asked how far along in the building process they are. Answer: They are framing the house. Commissioner Brenson further asked if demolition of the garage was a condition of the permit. Answer: yes.
- Chairperson Pro Tem Pappalardo asked if the new house on Lot 4 would comply with the Code regarding setbacks and building coverage. Answer: Yes.

5-A.5

- Commissioner Benson asked for a definition of zoning lot. Commissioner Naseef read the definition of zoning lot from the Zoning Code.
- Commissioner Benson asked if there were previously two garages on the property. Answer: Yes, they predate the Code.
- Commissioner Naseef asked if the Code would allow an accessory structure that is not a garage. Answer: No variance is permitted for a storage structure that exceeds one hundred square feet and no other accessory structure would be permitted by Code. Therefore, the variance request is authorized only for more than one garage.
- Chairperson Pro Tem Pappalardo asked for clarification on the storage structure. Answer: The existing garage is too large to be considered as a storage building, and there is no authorized variation for allowing a storage structure larger than one hundred square feet. Staff and the Village Attorney met with the petitioners to discuss options for maintaining the structure; they found that the requested variation is the only option for variation within the authorized limits of the Code.

Chairperson Pro Tem Pappalardo solicited questions or comments from the audience.

- Mitch Dziak, 900 Calle View, stated that he sees no reason to require that anyone tear down this garage unless they were going to build on Lot 3.

*Under the provisions of the Zoning Ordinance, no variation shall be granted unless the applicant establishes that carrying out the strict letter of the provisions of this code would create a particular hardship or practical difficulty. Such a showing shall require proof that the variation sought satisfies certain conditions. The following facts were found to be evident:*

1. Unique Physical Condition:

This zoning lot is larger than most lots in the Village. It is located within the R-1 Single Family Residential District, which has larger minimum lot size requirements than most areas of the Village. The property contains two buildable lots of record. According to the petitioners, the large lot size creates a unique situation.

2. Not Self-Created:

The Petitioners purchased the subject property in February 2007. They are in the process of constructing a new single family residence with an attached garage. According to the

5-A.6

Village's regulations regarding garages, only one garage is permitted per zoning lot. Therefore, construction of the new garage makes it necessary to demolish the existing garage. The petitioners were informed of this regulation in March 2007 prior to application for a building permit and were issued the building permit only under the condition that the existing garage be demolished.

3. Denied Substantial Rights:

The Zoning Code permits only one garage per zoning lot; this requirement applies to all new construction in La Grange.

4. Not Merely Special Privilege:

Owners of properties similar to the subject lot would also be required to demolish existing detached garages in order to construct a new house with an attached garage.

5. Code and Plan Purposes:

The Zoning Code allows only one garage per lot

6. Essential Character of the Area:

According to the petitioners, granting a variance would seemingly not adversely affect the character of the neighborhood. The subject property is a large lot with mature trees that provide screening for the existing structure.

7. No Other Remedy:

Through consultations with Village staff, the petitioners have determined that the requested variation is the only possible course of action to maintain the existing detached garage and construct a new house with an attached garage. Other options to maintain the existing garage would require reconfiguration of the zoning lot: (1) Maintain the property as a single zoning lot in which case they would be permitted to construct the new single family residence without the attached garage and maintain the existing detached garage, or (2) Divide the property into two separate zoning lots, so that they could construct two new single family residences -- (a) Lot 4: a house with an attached garage as proposed, and (b) Lot 3: a single family house with use of the existing detached garage.

**V. FINDINGS AND RECOMMENDATION:**

- Commissioner Brenson stated that the Petitioners should have decided that they wanted to maintain the existing structure before they began construction on the property.

5-14-7

- Commissioner Pierson stated that she supports the Petition because she feels that the garage blends in with the neighborhood and that she likes this concept better than two lots with two new houses.
- Commissioner Naseef stated that the Zoning Code is clear in not supporting two garages on one zoning lot.
- Commissioner Naseef stated that she feels this does not meet the variation standards. She has difficulty with this request qualifying as a unique situation, because the lot is not odd shaped. The self-created criterion is also difficult, because the detached garage exists, but the situation was created by the Petitioners by adding a new house with an attached garage.
- Commissioner Naseef stated that the Petition does not meet the substantial rights criterion, because the Code would not allow two garages on any other lot in La Grange; the Code clearly states that one garage is permitted.
- Commissioner Benson stated that if they use this as a storage structure, the Village would not be allowing two garages per se.
- Commissioner Naseef stated that maybe they could pursue a different path outside of the jurisdiction of the Zoning Board in order to allow both garages.
- Chairperson Pro Tem Pappalardo stated that strict interpretation of the Code is the charge of the Zoning Board of Appeals.

There being no further questions or comments from the Audience or the Commissioners, a motion was made by Commissioner Pierson and seconded by Commissioner Schwappach that the Zoning Board of Appeals recommend to the Village Board of Trustees approval of the application submitted with ZBA Case #564.

Motion Failed by a roll call vote (3/3/1).

AYE: Benson, Pierson and Schwappach  
NAY: Naseef, Brenson and Pappalardo  
ABSENT: Brewin

BE IT THEREFORE RESOLVED that the Zoning Board of Appeals failed to recommend to the Village Board of Trustees approval of the variation from Subparagraph 9-101C4(c) to allow more than one garage on the subject lot at 4 Calle View Drive.

5-A-8

FF – ZBA Case #564  
4 Calle View Drive  
Variation – Number of Garages  
November 15, 2007 – Page 6

Respectfully submitted:

Zoning Board of Appeals of the  
Village of La Grange

BY: Nathaniel J. Pappalardo  
Nathaniel Pappalardo, Chairperson Pro Tem

5-A-9

## STAFF REPORT

**CASE: ZBA #564 - Douglas and Jeanne Brown, 4 Calle View Drive -Storage of Vehicles in Garages**

### **BACKGROUND**

(Note: This Staff Report is solely based on information presented in the application and on a physical inspection of subject property and environs, and is not influenced by any other circumstance.)

The petitioners, Douglas and Jeanne Brown, are in the process of constructing a new single family house with an attached garage at the subject property, 4 Calle View Drive. The property contains two buildable lots (Lot 3 and Lot 4). The new house, currently under construction, is located entirely on Lot 4. An existing detached garage is currently located on Lot 3. The Browns' plans are to maintain the property as a single zoning lot with one house as it has been in the past. They wish to maintain the existing 25.5 ft. by 47 ft. detached garage in the rear yard of Lot 3 for use as a storage structure.

According to Subsection 9-101C4(c) of the Zoning Code, *Storage of Vehicles in Garages*, "No more than one garage, whether detached or attached to the principal structure on the lot, shall be permitted on any lot in a residential district." As proposed, the property would have two garages. Therefore, a building permit for the new single family residence could be issued only with the condition that the existing detached garage be demolished prior to issuance of a Certificate of Occupancy for the house.

After several meetings and conversations with staff about options for the existing detached garage, the petitioners concluded that the only option was to seek a variation from the Zoning Code. The petitioners seek a variation in order to maintain more than one garage on the subject property. Subparagraph 14-303E1 (m) (Authorized Variations) allows the variation of Section 9-1014C related to off street storage of vehicles in residential districts. The requested variation falls within the authorized limits of the Zoning Code.

### **VARIATION STANDARDS**

In considering a variation, be guided by the General Standard as outlined in our Zoning Code that "No variation shall be granted pursuant to this Section unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Subsection."

**Unique Physical Condition** - *"The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot."*

5-A-10

This zoning lot is larger than most lots in the Village. It is located in the R-1 Single Family Residential District, which has larger minimum lot size requirements than most areas of the Village. The property contains two buildable lots of record. According to the petitioners, the large lot size creates a unique situation.

**Not Self-Created** - *"The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid."*

The petitioners purchased the subject property in February 2007. They are in the process of constructing a new single family residence with an attached garage. According to the Village's regulations regarding garages, only one garage is permitted per zoning lot. Therefore, construction of the new garage makes it necessary to demolish the existing garage. The petitioners were informed of this regulation in March 2007 prior to application for a building permit and were issued the building permit only under the condition that the existing garage be demolished.

**Denied Substantial Rights** - *"The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision."*

The Zoning Code permits only one garage per zoning lot; this requirement applies to all new construction in La Grange.

**Not Merely Special Privilege** - *"The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation."*

Owners of properties similar to the subject lot would also be required to demolish existing detached garages in order to construct a new house with an attached garage.

**Code and Plan Purposes** - *"The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan."*

The Zoning Code allows only one garage permitted per lot.

5-A-11

**Essential Character of the Area** - *"The variation would not result in a use or development on the subject property that:*

- a. *Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or*
- b. *Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or*
- c. *Would substantially increase congestion in the public streets due to traffic or parking; or*
- d. *Would unduly increase the danger of flood or fire; or*
- e. *Would unduly tax public utilities and facilitates in the area; or*
- f. *Would endanger the public health or safety."*

According to the petitioners, granting a variance would seemingly not adversely affect the character of the neighborhood. The subject property is a large lot with mature trees that provide screening for the existing structure.

**No Other Remedy** - *"There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property."*

Through consultations with Village staff, the petitioners have determined that the requested variation is the only possible course of action to maintain the existing detached garage and construct a new house with an attached garage. Other options to maintain the existing garage would require reconfiguration of the zoning lot: (1) Maintain the property as a single zoning lot in which case they would be permitted to construct the new single family residence without the attached garage and maintain the existing detached garage, or (2) Divide the property into two separate zoning lots, so that they could construct two new single family residences -- (a) Lot 4: a house with an attached garage as proposed, and (b) Lot 3: a single family house with use of the existing detached garage.

5-14-12





To: The Members of the LaGrange Zoning Board of Appeals

Thank you for your consideration of our request.

This application may be different than most of the zoning matters that you consider in that we are seeking your recommendation to not make a change on our property.

We are completely in agreement with what we understand to be the spirit and goals of the Village code. We want to live in a village that discourages overly large homes that are out of scale with their lots, that encourages the preservation of trees and green space and that respects the character of our neighborhood.

### Summary

We are asking that we not be required to remove the existing structure that is at the northeast corner of the 3 Callevue Drive lot. In this cover note and in our formal application we hope to show you that our request is

- consistent with the goals and spirit of the Village Code
- supported by our neighbors
- a unique situation that will not create a precedent

### Background

In February this year we purchased lot 3 and lot 4 on Callevue Drive. Lot 4, the western lot, contained a single family home with a 2 car attached garage. Lot 3, the eastern lot, contained a single smaller structure. This structure has garage doors and had been used to store yard care equipment. Each lot is about one-half acre in size and, taken together, they are more than an acre. Both lots contain a large number of mature trees.

The two lots have always been subdivided and have always had separate property tax identification numbers. Before we bought them the lots were owned by a developer who was marketing the lots separately.

In June this year we applied for and received a building permit to build a new home on lot number 4. We designed the new house to fit almost exactly in the footprint of the old one. The permit for the new house was issued on the basis that it met all of the requirements for its location on lot 4 alone, without any consideration of lot 3. The new house was sited in such a way that not a single mature tree had to be removed. In order to keep the new house of a moderate size consistent with the neighborhood and in order to avoid removing any trees, it is planned to have just a small 2-car attached garage. Construction of the new house began in September.

5-A-15

At the same time that the Village issued us the building permit for the construction of the house on lot 4 it also asked us to tear down the structure on lot 3.

### The Structure in Question

The building on lot 3 is in the northeast corner of the lot. It is a well-constructed building on a foundation and it is in good condition. Said another way, this is not just an old shed. There are garage doors that open on the west side. There is currently a small drive that leads from the south edge of lot 3 on Callevue Drive to the building. This drive is small, more like a golf cart path, and it is not essential to our use of the building so we would remove it if the Village wanted.

In the past the building was used to store yard and gardening equipment and we would plan to continue this use. We will also likely store an antique vehicle there.

### The Neighbors

Attached are letters from the neighbors who would be affected if the structure on lot 3 was removed or allowed to stay.

Please take special note of letter from the Hatch family. They are the family just to the east of lot 3. Of all the neighbors the structure is closest to them and they would be the most affected if the structure was removed or allowed to stay.

The letters speak for themselves. In person, our neighbors have expressed relief that we were not building a "McMansion" with a four car garage. They have said they were happy that the lots were not being re-subdivided and developed for three homes as they could have been. And they expressed surprise that the Village would have any issue with preserving the unobtrusive structure on lot 3.

We are not aware of any neighbor who has an objection to the leaving the structure in place.

### The Unique Situation

Our situation is unique in several respects.

First, the structure in question is on a separate legal lot from the house. Second, the lots together comprise an area of more than an acre. Finally, we are not asking for permission to build a new structure but merely to keep the existing one.

Taken together, these three unique circumstances make it very unlikely that recommending a variance in this case would result in a precedent that would create difficulties for the Village in the future.

5-A.16

Conclusions

The strict letter of the Village Code for lots 3 and 4 on Callevue Drive in the R-1 district would allow us to build a house in excess of 20,000 square feet including a very large garage. It would do so without consideration of the views of the neighbors or of the need to destroy many of the beautiful mature trees on the property.

In contrast, our plans are in harmony with the goals and spirit of the Code. Our plan is to build a home that is appropriate in size (about the same footprint as the previous home) and, in order to keep it appropriate, to include only a small attached garage. Our plan is to preserve our neighbors' views, to preserve the trees and open space and, we hope, to preserve the existing structure on lot 3.

We don't believe it is logical to require the destruction of an existing structure that the neighbors prefer in favor of a new one that they have voiced concerns about.

By recommending that the structure be permitted to remain we believe that the Board would

- be acting within its authority to recommend a variance,
- be acting consistently with the goals of the Code,
- be acting in the stated best interests of the neighbors, and
- would do so without creating a precedent.

One final note; we would be willing to consider some conditions or limitations on the variation if granted. For example, if it would help if we were to remove the paved path leading to the building on lot 3 we would do that. We would also consider agreeing to remove the structure if lot 3 were ever sold or agreeing that we would not apply for another accessory storage structure.

Thank you for your consideration.

Sincerely,

  
Douglas Brown

  
Jeanne Brown

October 15, 2007

5-14-17

**APPLICATION FOR ZONING VARIATION**

Application # 564  
Date Filed: 10-16  
UARCO #  
83171

TO THE PRESIDENT AND BOARD OF TRUSTEES  
VILLAGE OF LA GRANGE, ILLINOIS

(please type or print)

Application is hereby made by Douglas and Jeanne Brown

Address: 5312 Howard, Western Springs, IL 60558 (temporary rental residence) Phone: 708-246-6757

Owner of property located at 3 Callevue Drive and 4 Callevue Drive

Permanent Real Estate Index No: 18-08-409-003

Present Zoning Classification: R1 Present Use: Storage

**Ordinance Provision for Variation from Article # 9-101 of Zoning Ordinance, to wit:**

Limitation on garages / storage buildings.

**A. Minimum Variation** of Zoning requirement necessary to permit the proposed use, construction, or development:

Variation to allow us to keep an existing structure.

We would be open to accepting conditions such as removing the driveway on lot 3 or not building any additional accessory structures on either lot.

**B. The purpose** therefor,

We plan to use the existing structure for storage of yard care and gardening equipment and for long term storage of an antique vehicle.

**C. The specific feature(s)** of the proposed use, construction, or development that require a variation:

The structure in question already exists on the lot at 3 Callevue Drive. The Village, as part of the permit review for the new home at 4 Callevue, has requested that the structure be removed. We are requesting a variation to allow the existing structure to remain.

PLAT OF SURVEY must be submitted with application. The plat should show any existing buildings on the petitioned property as well as any existing buildings on property immediately adjacent. It should also show any proposed new

5-A-18

construction in connection with the variation, including landscaping, fencing, etc.

1. General Standard. The Petitioner must list below **FACTS AND REASONS** substantially supporting each of the following conclusions or the petition for variation cannot be granted. (if necessary, use additional page)

a. State practical difficulty or particular hardship created for you in carrying out the strict letter of the zoning regulations, to wit:

The structure on lot 3 exists today. It is a well built structure with a foundation. It is in good condition and serves its purpose well. It is impractical to destroy a good building just to build another one a short distance away. If this building were removed, a replacement storage structure would be located in the middle of open space that is enjoyed not only by ourselves but also by our neighbors.

b. A reasonable return or use of your property is not possible under the existing regulations, because:

There is the possibility that we would sell lot 3 at some time. It is reasonable to keep the existing structure so that a future owner could build a home and use the structure as the primary garage

c. Your situation is unique (not applicable to other properties within that zoning district or area) in the following respect(s):

Our situation is unique in three ways

- The structure is on a separate legal lot from the home we are building on lot 4
- Lots 3 and 4, taken together, make up over an acre. We are not aware of any other lot of this size in the village.
- The structure is pre-existing. We would not, of course, ask to build this structure but it makes sense to keep it.

2. Unique Physical Condition. The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

The building where it now stands takes advantage of natural screening to keep it unobtrusive to the neighbors. The lot has many mature trees. To rebuild a structure for a similar use in a different location would mean it would be in a more obtrusive location (for the neighbors) and might mean trees would have to come down.

5-A, 19

3. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid

The current structure has existed for at least 40 years.

4. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

Many property owners enjoy the use of an attached garage and a detached garage or storage building. They do so because the detached building predates the change in the code. Again, we would not propose to build new structure but the building is here and we would like to continue to use it.

Also, we think that the fact that the building is on its own lot is important. We note that the Village did not require that structure be removed when the developer from whom we bought both lots was marketing the lots separately.

5. Not Merely Special Privilege. The alleged hardship or difficulty is not merely inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.

Our request is not being made based on monetary considerations. Many owners of lots subject to the same provisions are permitted to keep using structures that pre-exist on their property.

6. Code and Plan Purposes. The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.

Our request is, in fact, completely in harmony with the spirit and purposes of the code. We, in essence, are asking permission to leave both lots almost completely unchanged. We are building a modestly sized new home on the 4 Callevue lot in exactly the same footprint as the existing house and will leave everything on the 3 Callevue lot alone. Our plan leaves the same amount of open space as existed before and preserves all of the large trees on both lots.

7. Essential Character of the Area. The variation would not result in a use or development on the subject property that:

(a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or No

5-A.20

- (b) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or No
- (c) Would substantially increase congestion in the public streets due to traffic or parking; or No
- (d) Would unduly increase the danger of flood or fire; or No
- (e) Would unduly tax public utilities and facilities in the area; or No
- (f) Would endanger the public health or safety. No

8. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.

Another remedy might be to put up a new building but this would have to be set back such that it would be in the middle not only of the open space we enjoy but that is enjoyed by the several other homes that share the view of the open space. The best remedy is to leave the current situation alone.

\* \* \*

**NOTICE:** This application must be filed with the office of the Community Development Director, accompanied by necessary data called for above and the required filing fee of Five Hundred Dollars (\$500.00).

The above minimum fee shall be payable at the time of the filing of such request. It is also understood that the applicant shall reimburse the Village any additional costs over and above these minimums, which are incurred by the Village, including but not limited to the following:

- (a) Legal Publication (direct cost);
- (b) Recording Secretarial Services (direct cost);
- (c) Court Reporter (direct cost);
- (d) Administrative Review and Preparation (hourly salary times a multiplier sufficient to recover 100 percent of the direct and indirect cost of such service);

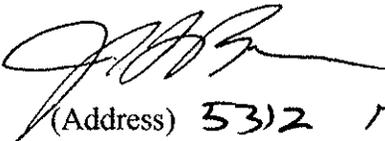
5-A.21

- (e) Document Preparation and Review (hourly salary times a multiplier sufficient to recover 100 percent of the direct and indirect cost of such service);
- (f) Professional and Technical Consultant Services (direct cost);
- (g) Legal Review, Consultation, and Advice (direct cost);
- (h) Copy Reproduction (direct cost); and
- (i) Document Recordation (direct cost); and
- (j) Postage Costs (direct cost).

Such additional costs shall be paid by the applicant prior to the Board of Trustees making a decision regarding the request.

I, the undersigned, do hereby certify that I am the owner, or contract purchaser (**Evidence of title or other interest you have in the subject property, date of acquisition of such interest, and the specific nature of such interest must be submitted with application.**) and do hereby certify that the above statements are true and correct to the best of my knowledge.

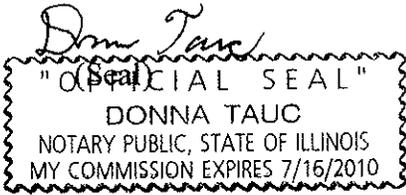
  
 (Signature of Owner or Contract Purchaser)

  
 (Address) 5312 Howard Ave

(City) Western Springs (State) IL (Zip Code) 60558

Subscribed and sworn to before me this 11<sup>th</sup> day of October, 2007.

(Notary Public)



Enclosures:

5-A-22

**(FOR VILLAGE USE ONLY)**

1. Filed with Office of the Community Development Director: Oct. 14, 2007.
2. Transmitted to Zoning Board of Appeals at their meeting held: November 15, 2007
3. Continuation (if any):
4. Notice of hearing published in: Sub Life on: October 24, 2007
5. Findings and Recommendation of Zoning Board of Appeals referred to Village Board at Meeting of:  
December 10, 2007
6. Final Action of Village Board for adoption of amending ordinances or denial of applicant's request at meeting held:
7. Payment of expenses satisfied:

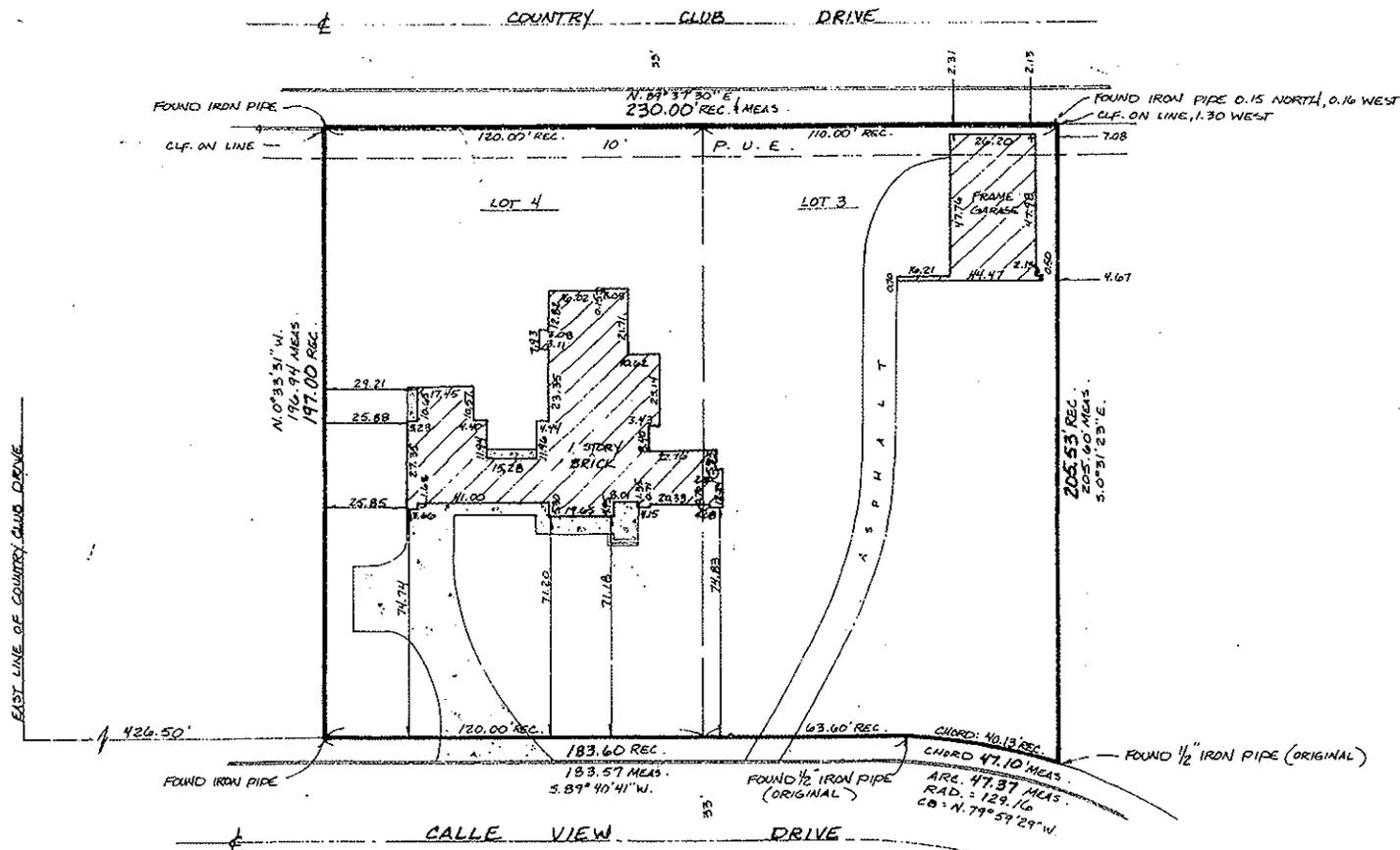
Conditions Imposed:

5-A.23

# SCHOMIG LAND SURVEYORS, LTD. PLAT OF SURVEY

LOTS 3 AND 4 IN EL SUENO DE PLEASANT VIEW, BEING A SUBDIVISION OF A PIECE OF PARCEL OF LAND IN THE SOUTHEAST CORNER OR SQ OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, AS PER PLAT RECORDED AS DOCUMENT 15645796. IN BOOK 413 OF PLATS PAGE 8. IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS: 4 CALLEVIEW DRIVE  
AREA OF PROPERTY = 45,436 SQUARE FEET



5-A.24

STATE OF ILLINOIS }  
COUNTY OF COOK }

WE, SCHOMIG LAND SURVEYORS, LTD. AS ILLINOIS LICENSED PROFESSIONAL LAND SURVEYORS, HEREBY CERTIFY THAT WE HAVE SURVEYED THE PROPERTY DESCRIBED IN THE CAPTION TO THE PLAT HEREON DRAWN AND THAT THE SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SAME.

ALL DIMENSIONS ARE IN FEET AND DECIMAL PARTS OF A FOOT AND ARE CORRECT AT A TEMPERATURE OF 68 DEGREES FAHRENHEIT. DIMENSIONS SHOWN ON BUILDINGS ARE TO THE OUTSIDE OF BUILDINGS.

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

- I.P. = IRON PIPE
- C.L.F. = CHAIN LINK FENCE
- D.E. = DRAINAGE EASEMENT
- W.F. = WOOD FENCE
- P.U.E. = PUBLIC UTILITY EASEMENT
- B.L. = BUILDING LINE
- C.B. = CHORD BEARING



BY: Russell W. Schomig

COMPARE LEGAL DESCRIPTION WITH DEED AND REPORT ANY DISCREPANCY IMMEDIATELY. A TITLE COMMITMENT WAS NOT FURNISHED FOR USE IN PREPARATION OF THIS SURVEY. IF A TITLE COMMITMENT WAS NOT FURNISHED, THERE MAY BE EASEMENTS, BUILDING LINES OR OTHER RESTRICTIONS NOT SHOWN ON THIS PLAT. THIS PLAT DOES NOT SHOW BUILDING RESTRICTIONS ESTABLISHED BY LOCAL ORDINANCES. LOCAL AUTHORITIES MUST BE CONSULTED REGARDING ANY RESTRICTIONS.

DO NOT SCALE DIMENSIONS FROM THIS PLAT. NO EXTRAPOLATIONS SHOULD BE MADE FROM THE INFORMATION SHOWN WITHOUT THE PERMISSION OF SCHOMIG LAND SURVEYORS, LTD. THIS PLAT IS NOT TRANSFERABLE UNLESS PRINTS WITH AN EMBOSSED SEAL ARE OFFICIAL COPIES.  
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SURVEYED: JUNE 26 2006

BUILDING LOCATED: JUNE 26 2006

ORDERED BY: JARDINE & JARDINE, LIMITED



**David S. Hinton  
815 Country Club Drive  
La Grange, IL 60525**

October 11, 2007

To: Village of LaGrange "City Counsel"

Re: Douglas Brown Residence  
4 Calle View  
Lot # 3

Dear Sirs:

I am writing to express my fervent support of the Brown family request to allow the existing building on their property to remain standing and intact.

The building has been there, directly across the street from my residence, and not only has it been there for a long time but is unobtrusive in it's current state. In my opinion, a newer building would do nothing to enhance the property or our reaction to any substitute.

As neighbors, we are extremely pleased that the Brown's are building a new home on this site in preserving the existing trees and keeping the space intact.

We hope you'll look favorably upon the Brown request.

Sincerely,



David S. Hinton

5-1A.25

David and Susan Hatch  
810 Country Club Drive  
La Grange, IL 60525

Village of La Grange  
La Grange, IL 60525

October 11, 2007

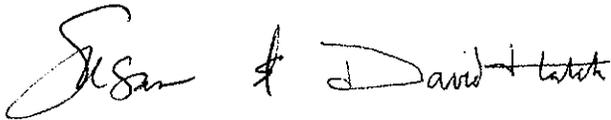
Dear board members,

Our new neighbors, the Browns, are building a house next door. We are supportive of the Browns' desire to keep the existing storage structure in its place. The building has been there for many decades, and we would prefer to have it remain rather than have the Browns tear it down to build another storage unit. As it is, the low level building is surrounded by trees and shrubs and is relatively unobtrusive. It is next to our driveway and separated by generous natural growth. Our backyard landscaping flows smoothly into the Browns' open side yard, and we like the way it looks and feels when we are outdoors. It's lovely to have space for naturally connected yards and a variety of mature trees. We wouldn't like to see that marred by the building of a new structure in the open space.

Should the Browns' east lot ever be sold separately, we would understand the need for the old building to be destroyed since that would be necessary in order to build a new house on the lot.

Thank you for considering our opinions. In this case, it seems the least harmful approach is to leave things as they are for the time being.

Sincerely,

Handwritten signatures of Susan and David Hatch. The signature for Susan is on the left, and the signature for David Hatch is on the right, with a small 'Hatch' written at the end of his name.

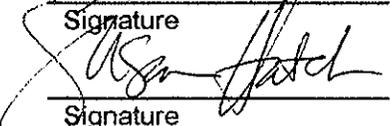
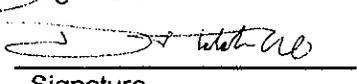
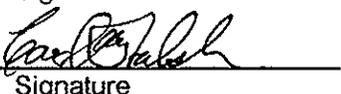
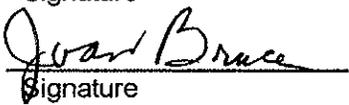
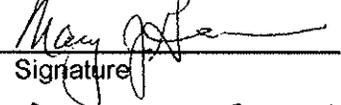
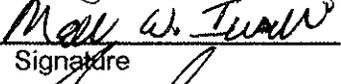
Susan and David Hatch

5-A.26

To: The Trustees of the Village of LaGrange and The Members of the LaGrange Zoning Board of Appeals

Re: Lot 3 On Callevue Drive

**We are in support of the Brown s' request that the existing structure at the northeast corner of lot 3 on Callevue Drive be permitted to remain.**

	DAVIDS. HINTON	815 COUNTRY CLUB	10/11/07
Signature	Printed Name	Address	Date
	Susan Hatch	810 Country Club	10-11-7
Signature	Printed Name	Address	Date
	David Hatch	810 Country Club	10-11-7
Signature	Printed Name	Address	Date
	CARL M WALSH	8 CALLEVIEW DR	10/13/07
Signature	Printed Name	Address	Date
	JOAN BRUCE	809 COUNTRY CLUB	10-13-07
Signature	Printed Name	Address	Date
	Judy McElvogue	819 Country Club	10/13/07
Signature	Printed Name	Address	Date
	Mary Glessner (Bouse)	805 Country Club Dr	10/13/07
Signature	Printed Name	Address	Date
	MARK W. IWANOWSKI	6 CALLEVIEW DR	10/13/07
Signature	Printed Name	Address	Date
	NICHOLAS A. PANN	909 COUNTRY CLUB DR.	10/14/07
Signature	Printed Name	Address	Date
Signature	Printed Name	Address	Date
Signature	Printed Name	Address	Date
Signature	Printed Name	Address	Date
Signature	Printed Name	Address	Date

5-A.27

To: The Trustees of the Village of LaGrange and The Members of the LaGrange Zoning Board of Appeals

Re: Lot 3 On Callevue Drive

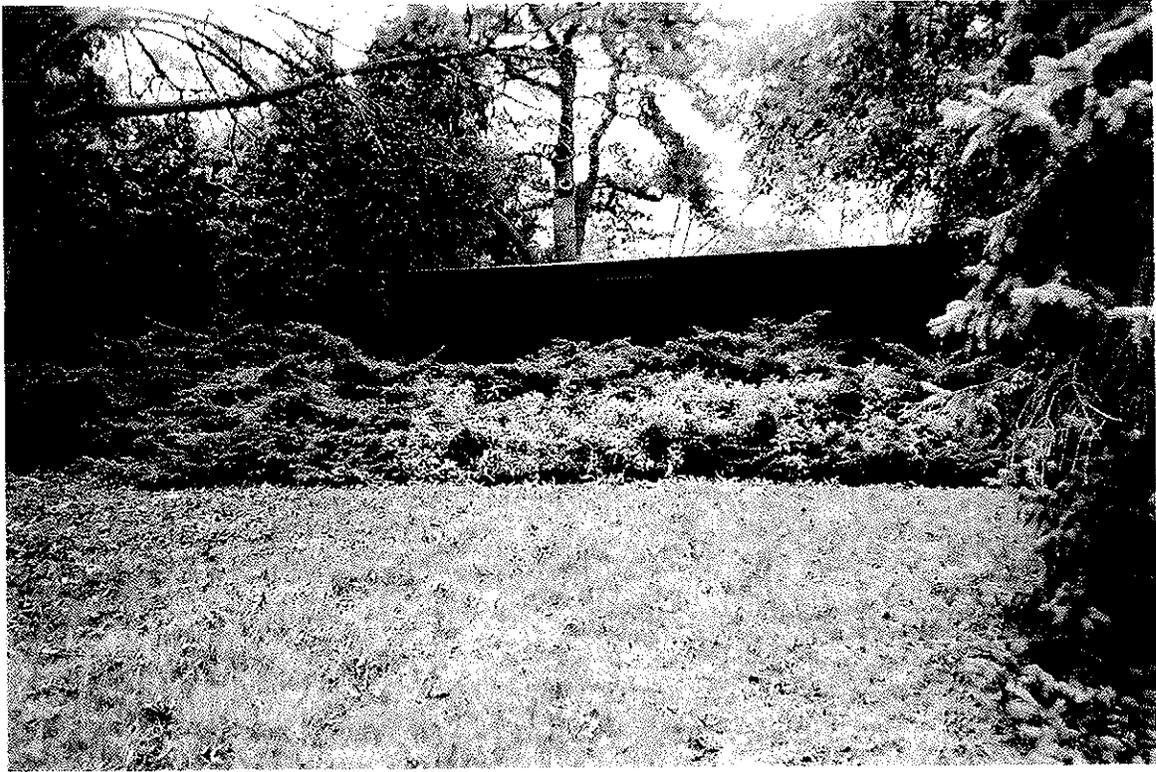
**We are in support of the Brown's request that the existing structure at the northeast corner of lot 3 on Callevue Drive be permitted to remain.**

 Signature	<u>Ronald Woloszewicz</u> Printed Name	<u>5910 Country Club</u> Address	<u>10/11/07</u> Date
 Signature	<u>MITCH DZIAK</u> Printed Name	<u>900 CALLE VUE</u> Address	<u>10/11/2007</u> Date

_____ Signature	_____ Printed Name	_____ Address	_____ Date
_____ Signature	_____ Printed Name	_____ Address	_____ Date
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5-A-28

ZBA Case #564  
Petitioner's Exhibit  
Existing Access Structure



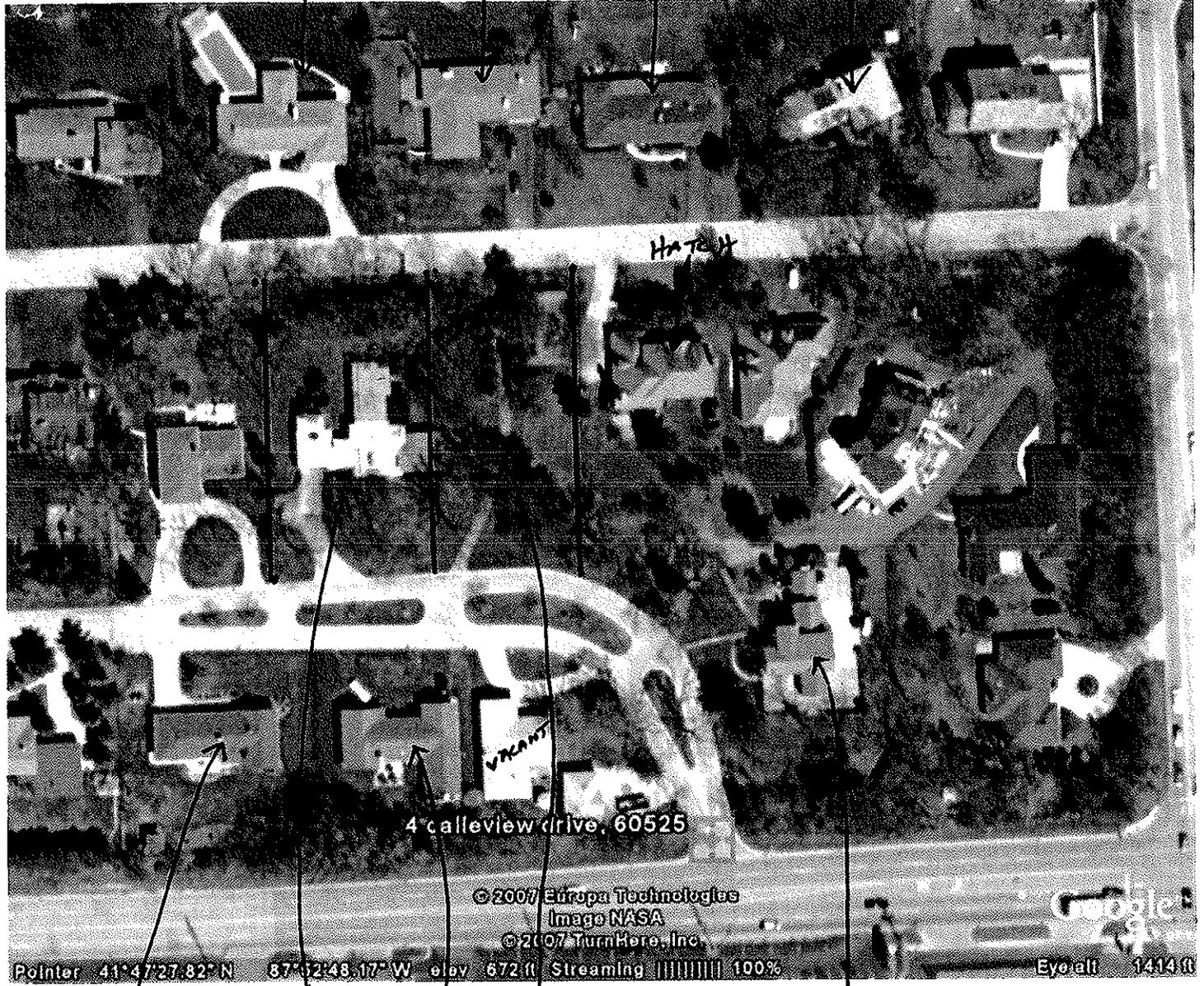
5-A.29

McEWOGUE

HINTON

BRUCE

BOUSE



HATCH

VACANT

WALSH

#4  
Callieview

#3  
Callieview

IWANOWSKI

DZIAK

5-14-30

**VILLAGE OF LA GRANGE**  
**Finance Department**

**BOARD REPORT**

**TO:** Village President and Board of Trustees, Village Clerk and  
Village Attorney

**FROM:** Robert J. Pilipiszyn, Village Manager  
Lou Cipparrone, Finance Director

**DATE:** December 3, 2007

**RE:** **ORDINANCE – ABATEMENT OF 2007 TAX LEVY / 2005 STREET  
LIGHT REFUNDING BONDS**

---

During the early 1990's, the Village initiated the Residential Streetlight Program. The program was originally being funded on a pay-as-you-go basis over a twenty five year period. In response to an overwhelming and positive response by residents to the annual installation of streetlights in the residential neighborhoods, the Village Board approved the issuance of \$3.9 million of general obligation, alternate revenue bonds in 1998 to complete the remaining sections of the Village over a three year period.

In December 2005, the Village Board adopted an ordinance authorizing the refunding of the remaining outstanding bonds from the 1998 Streetlight issue. By refunding the outstanding bonds, the Village will realize a net interest savings in excess of \$100,000 over the remaining life of the issue which matures on December 1, 2017.

The Series 2005 refunding bond issue is a general obligation, alternate revenue source issue, backed by the full faith and credit of the Village. This type of bond issue is payable from pledged alternate revenues with the full faith and credit of the Village acting as back-up security. The full faith and credit pledge by the Village authorizes Cook County to annually levy taxes for the bonds unless an abatement for a specific tax levy year is received. For the refunding issue, the Village Board has identified revenues derived from utility taxes as the alternative revenues pledged to pay for principal and interest expenditures relating to this issue. Sufficient monies are budgeted and available within the General Fund from utility tax revenues in FY 2008-09 to pay for this expenditure. Therefore, it is appropriate to abate the portion of the bonds maturing during FY 2008-09 from the 2007 tax levy.

It is our recommendation that the Village Board adopt the attached ordinance abating taxes levied for the year 2007 with respect to the \$2,785,000 General Obligation Refunding Bonds, Alternate Revenue Source, Series 2005, in the amount of \$295,853.

VILLAGE OF LA GRANGE

ORDINANCE NO. O-07- \_\_\_\_

ABATEMENT OF 2007 TAX LEVY - GENERAL OBLIGATION REFUNDING BONDS,  
ALTERNATE REVENUE SOURCE, SERIES 2005

WHEREAS, the Village has funds on hand derived from sources other than the levy of taxes provided in Ordinance No. O-05-41, and which funds can be made available for the purpose of paying interest on and principal of said bonds and, accordingly, it is advisable and necessary to provide for abatement of the tax heretofore levied for the year 2007 with respect to the \$2,785,000 General Obligation Refunding Bonds (Alternate Revenue Source) Series 2005.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County, State of Illinois, as follows:

Section 1: It shall be and it is found and determined that the Board of Trustees of the Village of La Grange has heretofore sold and delivered \$2,785,000 General Obligation Refunding Bonds, Series 2005, of said Village, dated December 22, 2005, and has provided for the levy of a direct annual tax upon all taxable property within the Village in and for each of the years 2005 to 2017, both years inclusive, in an amount sufficient to provide the funds to pay the principal of and interest on said bonds when due. It is further found and determined that the sum of \$295,853.00 is now available from funds derived from sources other than such tax levy, which sum is hereby appropriated for the purpose of paying a portion of such principal and interest.

The Village Treasurer is hereby authorized and directed to deposit such sum of \$295,853.00 with First National Bank of La Grange, to pay interest only in the amount of \$45,426.50 due June 1, 2008, and principal and interest in the amount of \$250,426.50 due December 1, 2008.

Section 2: The tax heretofore levied for the year 2007 regarding the General Obligation Bonds (Alternate Revenue Source) Series 2005, shall be and the same is hereby abated as follows:

Year of Levy	Tax Levied in Bond Ordinance	Amount of Tax to be Abated	Remainder of Tax Levied which is to be Extended for Year 2007 Regarding General Obligation Refunding Bonds, Series 2005
2007	\$295,853.00	\$295,853.00	\$0.00

5-B.1

Section 3: Forthwith, as soon as this Ordinance becomes effective, a copy hereof, certified by the Clerk of said Village, which certificate shall recite that this Ordinance has been passed by the Board of Trustees of said Village and is in full force and effect, shall be filed with County Clerk of Cook County, Illinois, and said Ordinance shall constitute authority for the County Clerk for the tax year 2007 to reduce the tax levy by the amount of \$295,853.00 as set forth in Section 2 of this Ordinance, which reduction shall apply to all the taxable property situated within said Village, in said County, in said year and as shown herein above on the General Obligation Bonds (Alternate Revenue Source) Series 2005, of the Village of La Grange.

Section 4: This Ordinance shall be in full force and effect ten (10) days after its passage, approval and publication in pamphlet form for review at the La Grange Village Offices and the La Grange Public Library.

PASSED AND APPROVED this 10<sup>th</sup> day of December, 2007.

ADOPTED this 10<sup>th</sup> day of December, 2007, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

APPROVED by me this 10<sup>th</sup> day of December, 2007.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

5-8.2

**VILLAGE OF LA GRANGE**  
**Finance Department**

**BOARD REPORT**

**TO:** Village President and Board of Trustees, Village Clerk and  
Village Attorney

**FROM:** Robert J. Pilipiszyn, Village Manager  
Lou Cipparrone, Finance Director

**DATE:** December 3, 2007

**RE:** **RESOLUTION – LEVYING A TAX FOR LIBRARY OPERATING  
PURPOSES**

---

The La Grange Library Board of Trustees' 2007 tax levy request for operating purposes is \$1,697,566 which is a 3.88 percent increase over last year's tax levy. This amount reflects the allowable increase under the Property Tax Limitation Act and is equal to the increase of the Village tax levy request. The Property Tax Limitation Act limits the Library's increase in property tax extensions, exclusive of debt service, to new property growth and voter approved increases, to the lesser of five percent or the percent of increase in the national Consumer Price Index (CPI). The consumer price index rate for the 2007 levy determined as of December 2006 was 2.5 percent. The percentage increase in the tax levy over the 2.5 percent CPI represents new growth from estimated construction during the next fiscal year.

The La Grange Library is a "municipal library" rather than a separate "public library district" and as such must levy property taxes as part of the Village of La Grange tax levy. If it is necessary for Cook County to reduce the property tax levy as a result of the Property Tax Limitation Act, the Library tax levy will be reduced in the same proportion as the other Village tax levies, which does not affect the Village's taxing ability for the 2007 extension.

Representatives from the La Grange Library will be in attendance at the December 10, 2007 Village Board meeting to address any questions regarding the Library's levy request.

We recommend that the attached resolution approved by the Library Board be accepted.

5-2



**Build You Library; Build Your Future**

Friday, November 16, 2007  
Mr. Bob Pilipiszyn, Village Manager  
Village of LaGrange  
53 South La Grange Road  
LaGrange, IL 60525

Dear Mr. Pilipiszyn,

The Board of Library Trustees of the Village of La Grange, Illinois, in accordance with its Resolution No. R-11-A-2007, its annual appropriation determination to the corporate authorities, herein states its desire to accumulate and set apart the unexpended balances of the proceeds annually received from taxes not in excess of the statutory limits in its Special Building Fund and New Building Fund. The Library *Special Building Fund Plan, Long Range Plan and Technology Plan* are hereby amended and said fund will be used for the following purposes, over the next five years, in accordance with 75 ILCS 5/5-8.

- Unanticipated construction costs necessary to the successful completion, occupation, and operation of the new library building at 10 W. Cossitt Avenue.
- Furnishings, equipment, casework, fixtures and other capital items deemed necessary to complete the new library building at 10 W. Cossitt Avenue.
- Emergency repairs necessary to library operations at 10 W. Cossitt Avenue, La Grange.

All balances of general, undistributed funds as of 90 days following the end of the latest fiscal year shall be transferred by the Library Director, with the authorization of the Library Treasurer, to the Special Building Fund in accordance with 75 ILCS 5/4-15.

Very truly yours,

William N. Coffee  
President  
Board of Library Trustees

cc: Village President

2007 LEVY COVER LTR.doc

5-C.1

**SECRETARY' S CERTIFICATE**

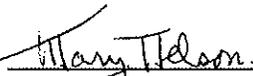
I Mary Nelson, Secretary of the Board of Library Trustees of the Village of La Grange, Cook County, Illinois, do hereby certify that the attached is a true copy of a resolution entitled:

A RESOLUTION OF THE BOARD OF LIBRARY TRUSTEES OF THE VILLAGE OF LA GRANGE, COOK COUNTY, ILLINOIS, PROVIDING A STATEMENT OF THE FINANCIAL REQUIREMENTS OF THE LIBRARY FOR THE ENSUING FISCAL YEAR BEGINNING MAY 1, 2008 AND ENDING IN APRIL 30, 2009 FOR INCLUSION IN THE APPROPRIATION OF THE CORPORATE AUTHORITY.

Duly adopted by said Board of Library Trustees at a meeting held on the 19<sup>th</sup> day of November 2007.

I do further certify that a quorum of members was present at the said meeting.

IN WITNESS WHEREOF I have hereunto set my hand this 19<sup>th</sup> day of November 2007.



---

Mary Nelson  
Secretary  
Board of Library Trustees  
Village of La Grange  
Cook County, Illinois

5-C.2

# LA GRANGE PUBLIC LIBRARY

## Resolution No. No. R-11-A-2007

A RESOLUTION OF THE BOARD OF LIBRARY TRUSTEES OF THE VILLAGE OF LA GRANGE, COOK COUNTY, ILLINOIS, PROVIDING A STATEMENT OF THE FINANCIAL REQUIREMENTS FOR THE ENSUING FISCAL YEAR BEGINNING MAY 1, 2008 AND ENDING IN APRIL 30, 2009 FOR INCLUSION IN THE APPROPRIATION OF THE CORPORATE AUTHORITY.

**WHEREAS**, Section 4-10 of the Illinois Local Library Act provides for an Annual Report, stating that "the board of trustees shall make a report of the condition of their trust on the last day of the fiscal year to the city council, board of trustees or board of town trustees, as the case may be. This report shall be made in writing and shall be verified under oath by the secretary, or some other responsible officer of the board of trustees. It shall contain (1) an itemized statement of the various sums of money received from the library fund and from other sources; (2) an itemized statement of the objects and purposes for which those sums of money have been expended; (3) a statement of the number of books and periodicals available for use, and the number and character thereof circulated; (4) a statement of the real and personal property acquired by legacy, purchase, gift, or otherwise; (5) a statement of the character of any extensions of library service which have been undertaken; (6) a statement of the financial requirements of the library for the ensuing fiscal year for inclusion in the appropriation of the corporate authority, and of the amount of money which, in the judgment of the board of trustees, will be necessary for library purposes in the next annual tax levy ordinance; (7) a statement as to the amount of accumulations and the reasons therefore; (8) a statement as to any outstanding liabilities including those for bonds still outstanding or amounts due for judgments, settlements, liability insurance, or for amounts due under a certificate of the board; (9) any other statistics, information and suggestions that may be of interest. A report shall also be filed, at the same time with the Illinois State Library. The Board of Trustees in a township shall also submit its appropriation and levy determinations to the Board of Township Trustees as provided in "The Illinois Municipal Budget Law", as amended...(footnote omitted);

**WHEREAS**, the La Grange Public Library filed the *Illinois Public Library Annual Report FY 2006-2007* dated May 15, 2007 as an electronic document with the Illinois State Library;

**WHEREAS**, the La Grange Public Library has previously made its annual report to the Village Board required by Section 4-10 of the Illinois Local Library Act;

**WHEREAS**, the staff and Board of Trustees of the La Grange Public Library have received additional information which will modify and render more accurate the information available to the Village Board;

**NOW, THEREFORE**, be it resolved by the Board of Library Trustees of the Village of La Grange, Cook County Illinois as follows:

Section 1: That the following sums of money or as much thereof as may be authorized by law and the same are hereby identified as financial requirements of the Board of Trustees of the Village of La Grange, for library purposes as hereinafter specified for said fiscal year:

INCOME	
PROPERTY TAXES - OPERATING	1,697,566
PROPERTY TAXES - DEBT SERVICE	684,949
PROPERTY TAXES - PRIOR YEAR	4,000
REPLACEMENT TAX	28,000
ALL OTHER INCOME	133,666
TOTAL INCOME	2,548,181
EXPENSE	
SALARIES & FRINGE BENEFITS	1,152,958
PRINT MATERIALS	157,075
NONPRINT MATERIALS	25,348
ALL OTHER OPERATING EXPENSE	353,304
CAPITAL OUTLAY, INTERFUND TRANSFERS & DEBT SERVICE	859,496
TOTAL EXPENSE	2,548,181

Section 2: That the Board of Library Trustees of the Village of La Grange hereby applies for a specific fund to be accumulated from the unexpended balance of the proceeds received from library taxes levied for the year 2007 and subsequent year, said fund to be accumulated and set aside as a reserve fund for the purpose of sites and construction and equipment of buildings for library purposes of remodeling, repairing, or improving the newly constructed building to be completed in November 2007 in accordance with 75 ILCS 5/5-8.

Section 3: that the Board of Library Trustees of the Village of La Grange hereby identifies a specific fund known as the Local Library Working Cash Fund which was created for the fiscal year beginning May 1, 1987 and ending April 30, 1988 and based upon a .05% tax levied upon all taxable property in the village in the fiscal year beginning May 1, 1988 and ending April 30, 1989. This fund is not a current asset available for library purposes; however the principal proceeds of this fund, which is set apart in a special fund, may be transferred to the general library fund and disbursed therefrom in anticipation of the collection of taxes lawfully levied for general library purposes or in anticipation of such taxes. The interest generated by the fund's principal may be transferred to the general library fund and disbursed therefrom. The proceeds of the fund may be carried over from year to year without in any manner reducing or abating a future annual library tax levy.

Section 4: That the Secretary is hereby directed to file a certified copy of this resolution with the Board of Trustees of the Village of La Grange within the time specified by law for inclusion in the next annual appropriation ordinance and levy ordinance of the Village of La Grange.

Headings: Headings of any sections and paragraphs are for convenience only and do not define, limit or construe the contents of the sections or paragraphs.

Adopted the 19<sup>th</sup> of November 2007 pursuant to a roll call vote as follows:

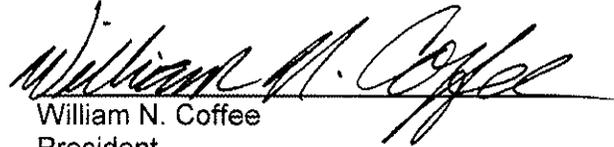
5-6.4

**AYES:**

**NAYES:**

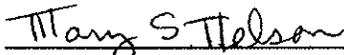
**ABSENT:**

**APPROVED** by me this 19<sup>th</sup> day of November 2007



William N. Coffee  
President  
Board of Library Trustees

**ATTEST:**



Mary Nelson  
Secretary  
Board of Library Trustees

2007 LEVY RESOLUTION.doc

5-0.5



**VILLAGE OF LA GRANGE**  
**Finance Department**

**BOARD REPORT**

**TO:** Village President and Board of Trustees, Village Clerk and  
Village Attorney

**FROM:** Robert J. Pilipiszyn, Village Manager  
Lou Cipparrone, Finance Director

**DATE:** December 3, 2007

**RE:** **ORDINANCE – 2007 PROPERTY TAX LEVY FOR VILLAGE  
OPERATIONS**

---

The preliminary 2007 property tax levy was reviewed and discussed in detail at the October 22, 2007 Village Board meeting. As part of this review, it was determined the increase in the levy would not exceed Truth in Taxation requirements and therefore a public hearing is not required prior to adoption of the final levy. The final tax levy includes an increase of 3.88 percent, exclusive of debt service, over the prior year's tax extension. The increase in the property tax levy reflects the allowable increase under the Property Tax Limitation Act of 2.5 percent (CPI as of December, 2006). The remaining levy increase represents new growth from estimated construction during the next fiscal year. If such new growth does not occur, the property tax levy will automatically be lowered by Cook County.

Cook County uses actual bond ordinances on file to calculate required levies for debt service. As such, the levy requests for debt service included as part of this report are being presented for informational purposes only. By including the debt service levies with the operating levy request, we can then estimate the change in property taxes resulting from the 2007 levy request. The effect the 2007 levy will have on average home with a selling price of \$400,000 (assessed property value of \$250,000) is an increase of \$17.36 from the Village levy and an increase of \$4.75 from the Library levy.

As part of the annual property tax levy, a Special Service Area levy is filed with Cook County to fund on-going maintenance of the Central Business District. The Special Service Area tax levy is not subject to the Truth in Taxation requirements. The Special Service Area boundaries substantially follow that of the TIF District, with the exclusion of any single-family and multi-family properties. By ordinance, the Special Service Area levy is to be adjusted annually by the Consumer Price Index utilized as part of the Property Tax Limitation Act. Therefore, the 2007 Special Service Area levy of \$54,741 reflects an increase of 2.5 percent over last years levy of \$53,406. The Special Service Area levy is not included in the attached exhibits as it affects only a small percentage of commercial properties within the Village's Central Business District.

5-0

Exhibits 1, 2 and 3

Exhibit 1 shows the Village's Truth in Taxation calculation. The 2007 property tax levy request of \$6,792,632 represents an increase of \$253,962 or 3.88 percent from the 2006 tax levy of \$6,538,670.

Exhibit 2 presents historical data about the Village's assessed valuation, EAV and new growth.

Exhibit 3 is a comparison of the Village and Library 2006 and 2007 property tax rates on residential property.

Recommendation

We recommend that the Village Board adopt the attached ordinance requesting a 2007 property tax levy of \$6,792,632, exclusive of debt service, which is a 3.88 percent increase from the 2006 levy.

5-D.1

VILLAGE OF LAGRANGE  
LIMITING RATE AND

EXHIBIT 1

TRUTH IN TAXATION CALCULATIONS

(Proposed 2007 Tax Levy for the 2008-09 budget year with 2006 Extended Tax Levy.)

2007 LEVY PROJECTION

LIMITING RATE CALCULATION:

(2006 extension, excluding debt service)	(CPI increase)	=	6,704,640	=	<b>1.1732</b>
6,541,112 X	1.025		5,714,682		
( 578,968,189 -	7,500,000 )/100				
(2007 est. EAV)	(2007 est. new growth)				

TRUTH IN TAXATION CALCULATION:

2007 EAV 578,968,189 (EST.)  
2006 EAV 569,968,189

	EXTENDED 2006 LEVY FOR FY 07-08	EXT. 2006 LEVY RATES	PROPOSED 2007 LEVY FOR FY 08-09	DOLLAR CHANGE	% CHANGE	EST. 2007 LEVY RATES	MAXIMUM LEGAL RATES*
<b>GENERAL FUND LEVIES</b>							
CORPORATE FUND	464,524	0.0815	512,177	47,653	10.26%	0.0885	0.4375
FORESTRY TAX	149,901	0.0263	153,891	3,990	2.66%	0.0266	0.0500
CROSSING GUARDS	0	0.0000	0	0	0.00%	0.0000	0.0200
POLICE PROTECTION	1,198,643	0.2103	1,231,131	32,488	2.71%	0.2126	0.4000
FIRE PROTECTION	1,198,643	0.2103	1,231,131	32,488	2.71%	0.2126	0.4000
AUDITING	0	0.0000	0	0	0.00%	0.0000	0.0050
STREET & BRIDGE	259,335	0.0455	266,745	7,410	2.86%	0.0461	0.0600
AMBULANCE SERVICE	302,083	0.0530	300,000	-2,083	-0.69%	0.0518	0.2500
IMRF	179,539	0.0315	182,008	2,469	1.38%	0.0314	N/A
SOCIAL SECURITY	<u>186,379</u>	<u>0.0327</u>	<u>186,191</u>	<u>-188</u>	<u>-0.10%</u>	0.0322	N/A
SUBTOTAL GEN. FUND	3,939,047	0.6911	4,063,275	124,228	3.15%	0.7018	1.6225
<b>PENSION LEVIES</b>							
POLICE PENSION FUND	475,353	0.0834	488,890	13,537	2.85%	0.0844	N/A
FIRE PENSION FUND	<u>490,172</u>	<u>0.0860</u>	<u>542,901</u>	<u>52,729</u>	<u>10.76%</u>	<u>0.0938</u>	N/A
SUBTOTAL OTHER FUNDS	965,525	0.1694	1,031,791	66,266	6.86%	0.1782	
<b>TOTAL VILLAGE TAX LEVY W/O DEBT SERVICE</b>	4,904,572	0.8605	5,095,066	190,494	3.88%	0.8800	
<b>TOTAL LIBRARY TAX LEVY</b>	<u>1,634,098</u>	0.2867	<u>1,697,566</u>	<u>63,468</u>	3.88%	0.2932	0.4600
<b>TOTAL TAX LEVY-TRUTH IN-TAXATION PURPOSE</b>	<u>6,538,670</u>	1.1472	<u>6,792,632</u>	<u>253,962</u>	3.88%	<b>1.1732</b>	
<b>DEBT SERVICE LEVY</b>							
DEBT SERVICE - Village	331,013	0.0581	321,000	-10,013	-3.02%	0.0554	
DEBT SERVICE - Library	<u>685,299</u>	0.1202	<u>684,949</u>	<u>-350</u>	<u>-0.05%</u>	0.1183	
<b>TOTAL PROPERTY TAX LEVY</b>	<u>7,554,982</u>	1.3255	<u>7,798,581</u>	<u>243,599</u>	3.22%	1.3470	
<b>SPECIAL SERVICE AREA LEVY</b>	<u>53,406</u>	n/a	<u>54,741</u>	1,335	2.50%		

5-0.2

**VILLAGE OF LAGRANGE  
COMPARATIVE EQUALIZED ASSESSED VALUATIONS (EAV)  
AND EAV GROWTH (NEW AND OTHER)**

EXHIBIT 2

LEVY YEAR	ASSESSED VALUATION	X	STATE EQUALIZER FACTOR	=	(EAV)	EAV GROWTH INCREASE/ (DECREASE)	% INCR-/DCR	NEW GROWTH	OTHER GROWTH
1991	100,926,777	X	2.0523	=	207,132,024	2,256,348	1.10%	922,718	1,333,630
1992	100,690,430	X	2.0897	=	210,412,791	3,280,767	1.58%	1,002,086	2,278,681
1993	110,172,321	** X	2.1407	=	235,845,887	25,433,096	12.09%	2,145,359	23,287,737
1994	110,094,531	X	2.1135	=	232,684,791	-3,161,096	-1.34%	1,202,720	-4,363,816
1995	115,678,873	X	2.1243	=	245,736,629	13,051,838	5.61%	11,861,094	1,190,744
1996	135,027,644	** X	2.1517	=	290,538,982	44,802,353	18.23%	15,663,453	29,138,900
1997	134,771,687	X	2.1489	=	289,610,878	-928,104	-0.32%	941,208	-1,869,312
1998	135,041,788	X	2.1799	=	294,377,593	4,766,715	1.65%	1,584,900	3,181,815
1999	147,451,925	** X	2.2505	=	331,840,558	37,462,965	12.73%	2,611,861	34,851,104
2000	136,689,081	X	2.2235	=	303,928,172	-27,912,386	-8.41%	658,319	-28,570,705
2001	137,556,750	X	2.3098	=	317,728,581	13,800,409	4.54%	1,903,529	11,896,880
2002	172,617,977	** X	2.4689	=	426,176,523	108,447,942	34.13%	7,078,569	101,369,373
2003	172,869,731	X	2.4598	=	425,224,964	-951,559	-0.22%	3,135,222	-4,086,781
2004	171,946,272	X	2.5757	=	442,882,014	17,657,050	4.15%	4,162,575	13,494,475
2005	209,260,588	** X	2.7320	=	571,699,926	128,817,912	29.09%	12,971,996	115,845,916
2006	210,506,792	X	2.7076	=	569,968,189	-1,731,737	-0.30%	9,787,889	-11,519,626
2007*	<b>213,830,769</b>	X	<b>2.7076</b>	=	<b>578,968,189</b>	<b>9,000,000</b>	<b>1.27%</b>	<b>7,500,000</b>	<b>1,500,000</b>

Notes:

- NEW GROWTH INCLUDES IMPROVEMENTS OR ADDITIONS THAT INCREASE THE EAV OF THE PROPERTY
- OTHER GROWTH INCLUDES REASSESSMENTS (TRIENNIAL/SALE OF PROPERTY), REMODELING, AND INCREASE OR DECREASE IN THE STATE MULTIPLIER.
- EAV IS COMPUTED BY MULTIPLYING THE ASSESSED VALUATION BY THE STATE EQUALIZER FACTOR.

\* ESTIMATED EAV, NEW AND OTHER GROWTH  
\*\* TRIENNIAL REASSESSMENT

5-D.3

VILLAGE OF LA GRANGE / PUBLIC LIBRARY  
TAX LEVY SUMMARY

WHAT EFFECT WILL THIS HAVE ON MY TAXES?

	<u>2006 RATE</u>	<u>2007 RATE</u>
ASSESSED PROPERTY VALUE (As determined by Cook County Assessor's Office)	\$250,000	\$250,000
X (TIMES)		
CLASSIFICATION FACTOR	<u>16%</u>	<u>16%</u>
= (EQUALS)		
ASSESSED VALUATION	\$40,000	\$40,000
X (TIMES)		
STATE EQUALIZER	2.7076	2.7076
- (MINUS)		
HOMEOWNERS' EXEMPTION	<u>(\$5,000)</u>	<u>(\$5,000)</u>
= (EQUALS)		
EQUALIZED ASSESSED VALUATION	\$103,304	\$103,304
/ (DIVIDED BY)	<u>100</u>	<u>100</u>
	\$1,033.04	\$1,033.04
X (TIMES)		
VILLAGE TAX RATE	<u>0.919</u>	<u>0.935</u>
= (EQUALS)		
VILLAGE TAX BILL	\$948.95	\$966.31
<b>DIFFERENCE IN VILLAGE RATE</b>	<b><span style="border: 1px solid black; padding: 2px;">\$17.36</span></b>	
LIBRARY TAX RATE	<u>0.407</u>	<u>0.412</u>
= (EQUALS)		
LIBRARY TAX BILL	\$420.34	\$425.10
<b>DIFFERENCE IN LIBRARY RATE</b>	<b><span style="border: 1px solid black; padding: 2px;">\$4.75</span></b>	
TOTAL VILLAGE/PUBLIC LIBRARY TAX BILL	<u>\$1,369.29</u>	<u>\$1,391.40</u>
<b>DIFFERENCE IN TOTAL TAX RATE</b>	<b><span style="border: 1px solid black; padding: 2px;">\$22.11</span></b>	

5-0.4

ORDINANCE NO. \_\_\_\_\_

ANNUAL TAX LEVY ORDINANCE - 2007 LEVY YEAR

AN ORDINANCE PROVIDING FOR THE ANNUAL TAX LEVY FOR THE VILLAGE OF LA GRANGE,  
COOK COUNTY, ILLINOIS, FOR THE FISCAL YEAR MAY 1, 2007 TO APRIL 30, 2008.

Published in pamphlet form by authority of the Board of Trustees of the Village of La Grange, County of Cook,  
State of Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2007.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF  
THE VILLAGE OF LA GRANGE, COUNTY OF COOK, STATE OF ILLINOIS:

SECTION 1:

That for the purpose of paying certain corporate expenses of said Village of La Grange, Cook County, for the fiscal year beginning the first day of May, 2007 and ending the thirtieth day of April, 2008, as set forth in the Annual Budget passed and approved by the Board of Trustees on the 9th day of April, 2007, there is hereby levied upon all of the real and taxable property of every name, nature, and description within the corporate limits of the Village of La Grange, Cook County, Illinois, the following sums of money for the following purposes and objects hereinafter described.

The column headed "Total Budgeted" represents the sum budgeted for each particular purpose and the item opposite thereto. The sum or sums in the column headed "From Tax Levy" opposite each item represents the sum of money to be collected from the tax levy of the fiscal year to be levied. The balance, if any, from each sum budgeted shall be collected or be taken from any surplus on hand, and the other sources of revenue of the Village of La Grange, other than by taxation provided for by law.

5-D.5

BUDGETED FOR GENERAL CORPORATE FUND PURPOSES

BUDGETED FOR GENERAL ADMINISTRATION

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Salaries & Benefits	226,610	
2. Health Insurance	39,394	
3. Training and Membership	6,000	
4. Office Supplies	4,200	
5. Printing and Postage	3,200	
6. Gas & Oil	150	
7. Telephone	5,650	
8. Maintenance of Equipment	2,500	
9. Professional Services	5,000	
10. New Equipment - Furnishings/Computer	8,000	
11. Equipment Reserve	2,186	
	<hr/>	
Total Budget for General Administration	302,890	256,089

BUDGETED FOR FINANCE DEPARTMENT

1. Salaries & Benefits	191,310	
2. Health Insurance	49,614	
3. Training and Membership	2,200	
4. Office Supplies	2,500	
5. Printing and Postage	11,500	
6. Telephone	5,550	
7. Maintenance of General Equipment	9,400	
8. Professional Services	11,965	
9. Auditing	11,575	
10. New Equipment	2,500	
11. Equipment Reserve	2,250	
	<hr/>	
Total Budget for Finance Department	300,364	256,089

5-10.6

## BUDGETED FOR LEGAL DEPARTMENT

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Prosecutor-Traffic	13,000	
2. Prosecutor-Other	12,500	
3. Legal-Special	15,000	
4. Legal-Personnel	25,000	
5. Legal-Village Attorney Retainer	67,000	
	<hr/>	
Total Budget for Legal Department	<u>132,500</u>	<u>0</u>

## BUDGETED FOR COMMUNITY DEVELOPMENT DEPARTMENT

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Salaries & Benefits	425,927	
2. Health Insurance	25,620	
3. Training and Membership	4,000	
4. Supplies	3,500	
5. Printing and Postage	7,000	
6. Gasoline and Oil	2,000	
7. Telephone	4,300	
8. Maintenance of Equipment	3,000	
9. Contractual Services	15,510	
10 Professional Services	23,500	

5-0.7

BUDGETED FOR COMMUNITY DEVELOPMENT DEPARTMENT (Cont.)	<u>TOTAL BUDGETED</u>	<u>FROM TAX LEVY</u>
11. Engineering Services - Reimb.	130,000	
12. Elevator Inspections	7,800	
13. Zoning Cases - Reimbursable	10,000	
14. Economic Development	23,900	
15. New Equipment	2,500	
16. Equipment Reserve	7,959	
Total Budget for Community Development Dept.	<u>696,516</u>	<u>182,008</u>

BUDGETED FOR POLICE DEPARTMENT	<u>TOTAL BUDGETED</u>	<u>FROM TAX LEVY</u>
1. Salaries & Benefits	2,720,439	
2. Health Insurance	308,659	
3. Training and Membership	29,190	
4. Uniforms	21,500	
5. Supplies	12,500	
6. Printing and Postage	4,600	
7. Gasoline and Oil	54,000	
8. Telephone	16,200	
9. Maintenance of General Equipment	30,150	
10. Animal Control	2,000	
11. Prisoner Meals	1,200	
12. New Equipment	70,000	
13. Public Relations/Canine Unit/B.A.D.G.E./Community Policing	20,480	
14. Equipment Reserve	<u>102,959</u>	
Total Budget for Police Department	<u>3,393,877</u>	<u>1,231,131</u>

5-0.8

## BUDGETED FOR AUXILIARY POLICE DEPARTMENT

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Training and Membership	5,000	
2. Uniforms	6,500	
3. Supplies and Maintenance	600	
4. New Equipment	1,000	
Total Budget for Auxiliary Police Dept.	<u>13,100</u>	<u>0</u>

## BUDGETED FOR FIRE DEPARTMENT

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Salaries & Benefits	1,279,934	
2. Health Insurance	220,086	
3. Training and Membership	22,000	
4. Uniforms	15,250	
5. Supplies/Printing & Postage	12,250	
6. Gasoline and Oil	15,000	
7. Telephone	10,250	
8. Maintenance of General Equipment	34,990	
9. Fire Prevention	5,625	
10. West Suburban Special Operations	5,000	
11. Emergency Medical Supplies/C.E.R.T. Program	20,000	
12. New Equipment	13,150	
13. Equipment Reserve	74,357	
Total Budget for Fire Department	<u>1,727,892</u>	<u>1,231,131</u>

5-D.9

## BUDGETED FOR BUILDING AND GROUNDS DEPARTMENT

	<u>TOTAL BUDGETED</u>	<u>FROM TAX LEVY</u>
1. Supplies	9,500	
2. Water Fees	3,000	
3. Gas Fees	1,000	
4. Maintenance of Equipment	29,400	
5. Maintenance of Buildings	41,000	
6. Maintenance - Central Business District	41,000	
7. Maintenance - West End Business District	15,000	
8. Improvements	59,000	
9. Equipment Reserve	36,270	
	<hr/>	
Total Budget for Building and Grounds Dept.	235,170	0

## BUDGETED FOR PUBLIC WORKS DEPARTMENT

	<u>TOTAL BUDGETED</u>	<u>FROM TAX LEVY</u>
1. Salaries & Benefits	682,292	
2. Health Insurance	124,710	
3. Training and Membership & Uniforms	11,000	
4. Supplies, Printing & Postage	7,100	
5. Gasoline, Oil and Telephone	61,000	
6. Utilities - Electric	48,000	
7. Maintenance of Equipment & Street Lights	147,000	
8. Leaf Disposal	42,000	
9. Street Repair & Cleaning	37,000	
10. Street Signs/Markers	25,000	
11. Snow and Ice Control	57,000	
12. New Equipment	49,500	
13. Equipment Reserve	103,806	
	<hr/>	
Total Budget for Public Works Department	1,395,408	452,936

5-0.10

## BUDGETED FOR PRESIDENT AND VILLAGE BOARD

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Salaries	4,489	
2. Training and Membership	11,420	
3. Professional Services	8,000	
4. Board and Commission Expenses	11,000	
5. Public and Employee Relations	34,500	
	<hr/>	
Total Budget for President and Village Board	69,409	0

## BUDGETED FOR CONTINGENT &amp; LIABILITY INSURANCE EXPENSE

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Professional Services	32,000	
2. Liability Insurance Premium	192,855	
3. Employee Activities	17,680	
4. Employer Contribution-Police Pension Fund	471,380	
5. Employer Contribution-Fire Pension Fund	486,327	
6. Flexible Spending Account	2,000	
7. Miscellaneous	3,300	
8. Transfers to Capital Projects Fund & Parking Fund	1,100,000	
	<hr/>	
Total Budget for Contingent & Emergency Exp	2,305,542	0

5-0.11

GRAND TOTAL FOR GENERAL CORPORATE FUND PURPOSES 10,572,668 3,609,384

References:

General Corporate Tax	512,178
Police Protection Tax	1,231,131
Fire Protection Tax	1,231,131
Street & Bridge Tax	266,745
Illinois Municipal Retirement Tax	182,008
Social Security & Medicare	<u>186,191</u>
Total Tax Levy	3,609,384

BUDGET FOR SPECIAL CORPORATE FUND PURPOSES

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
--	---------------------------------	--------------------------------

1. Special Service Area	54,741	54,741
2. Forestry Tax - Tree Service	153,891	153,891
3. Ambulance Service	300,000	300,000
4. Police Pension Fund	1,091,926	488,890
5. Fire Pension Fund	<u>839,552</u>	<u>542,901</u>

GRAND TOTAL FOR SPECIAL CORPORATE FUND PURPOSES 2,440,110 1,540,423

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
GRAND TOTAL FOR GENERAL AND SPECIAL CORPORATE PURPOSES	<u>13,012,778</u>	<u>5,149,807</u>

BUDGETED FOR OTHER FUNDS

BUDGETED FOR MOTOR FUEL TAX FUND

1. Bituminous Street Resurfacing & Construction	<u>1,059,334</u>	
Total Budget for Motor Fuel Tax Fund	<u>1,059,334</u>	<u>0</u>

5-0.12

## BUDGETED FOR FOREIGN FIRE INSURANCE TAX FUND

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. New Equipment	33,700	
2. Miscellaneous	800	
Total Budget for Foreign Fire Insurance Tax Fund	<u>34,500</u>	<u>0</u>

## BUDGETED FOR TAX INCREMENT FINANCING FUND

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Printing and Postage	100	
2. Professional Services & Legal Fees	15,000	
3. CBD Beautification / Parking Structure-Kelmar	360,000	
4. Facade Renovation	125,000	
5. Trf. to Debt Service Fund	930,900	
Total Budget for Tax Increment Fin. Fund	<u>1,431,000</u>	<u>0</u>

## BUDGETED FOR E.T.S.B. FUND

	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Training and Membership	2,000	
2. Supplies	500	
3. Printing and Postage	100	
4. Telephone	29,500	
5. Equipment Maintenance	47,000	
6. New Equipment	36,000	
7. Equipment Reserve	81,543	
Total Budget for E.T.S.B. Fund	<u>196,643</u>	<u>0</u>

5-10-13

BUDGETED FOR LIBRARY FUND	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Salaries & Benefits	1,121,975	
2. Supplies & Materials	24,204	
3. Books, Periodicals, Operational & Contractual	499,551	
4. Capital Outlay	106,042	
Total Budget for Library Fund	<u>1,751,772</u>	<u>1,697,566</u>

BUDGETED FOR CAPITAL PROJECTS FUND	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Cossitt - Brainard to East	62,000	
2. Manhole Replacement / Sewer Televising	35,000	
3. Sidewalk/Curb/Gutter	50,000	
4. Tree Planting	30,000	
5. CBD Paver Project	90,000	
6. Area Street Project	1,059,334	
7. Pavement Condition Survey	20,000	
8. Miscellaneous Projects	182,000	
9. Misc. Engineering/Crackfill Program/Thermoplastic St. Marking	66,500	
10. Transfer To Debt Service Fund	281,958	
Total Budget for Capital Projects Fund	<u>1,876,792</u>	<u>0</u>

5-0.14

BUDGETED FOR WATER FUND	<u>TOTAL</u> <u>BUDGETED</u>	<u>FROM</u> <u>TAX LEVY</u>
1. Salaries & Benefits	980,100	
2. Health Insurance	99,885	
3. Training and Membership	3,200	
4. Uniforms	5,000	
5. Supplies	3,300	
6. Printing and Postage	11,683	
7. Gas and Oil	12,000	
8. Telephone	9,246	
9. Utilities - Gas and Electric	45,000	
10. Maintenance - Equipment	85,000	
11. Professional Services	1,000	
12. Auditing	9,260	
13. Water Purchases from McCook	1,266,000	
14. Leak Study	10,000	
15. General Equipment	18,000	
16. Mains	636,545	
17. Meters	20,000	
18. Hydrant & Valves	15,000	
19. Misc./Lab Expenses	4,000	
20. Equipment Reserve	34,948	
	<hr/>	
Total Budget for Water Fund	3,269,167	0
	<hr/>	

5-P. 15

BUDGETED FOR PARKING FUND	TOTAL	FROM
	<u>BUDGETED</u>	<u>TAX LEVY</u>
1. Salaries & Benefits	550,768	
2. Health Insurance	22,739	
3. Uniforms	2,600	
4. Supplies	1,200	
5. Printing and Postage	10,000	
6. Gasoline and Oil	2,750	
7. Telephone	2,800	
8. Utilities - Electric	17,000	
9. Maintenance of Equipment	3,000	
10. Maintenance La Grange Road Depot	7,300	
11. Professional Services	5,000	
12. Audit Fees	1,158	
13. Maintenance-Parking Garage	51,000	
14. New Equipment	31,000	
15. Improvements	102,000	
16. Lot Replacement & Equipment Reserve	57,743	
Total Budget for Parking Meter Fund	<u>868,058</u>	<u>0</u>
BUDGETED FOR EQUIPMENT REPLACEMENT FUND	TOTAL	FROM
	<u>BUDGETED</u>	<u>TAX LEVY</u>
1. Equipment Replacement / Admin - Community Development	33,500	
2. Equipment Replacement / Police	136,000	
3. Equipment Replacement / Public Works - Building & Grounds	365,000	
4. Equipment Replacement / Water Fund	10,000	
5. Equipment Replacement / E.T.S.B Fund	115,000	
Total Budget for Equipment Replacement Fund	<u>659,500</u>	<u>0</u>

5-0.16

	<u>TOTAL</u>	<u>FROM</u>
BUDGETED FOR SEWER FUND	<u>BUDGETED</u>	<u>TAX LEVY</u>
1. Salaries & Benefits	206,095	
2. Health Insurance	22,620	
3. Training and Membership	500	
4. Uniforms	1,000	
5. Supplies	1,500	
6. Gas & Oil	2,500	
7. Telephone	2,800	
8. Equipment Maintenance	5,900	
9. Manhole and Sewer Maintenance	10,000	
10. Auditing	1,131	
11. New Equipment	4,000	
12. Sewers	187,816	
13. Equipment Reserve	33,925	
14. Manhole Replacement	35,000	
Total Budget for Sewer Fund	<u>514,787</u>	<u>0</u>

5-0.17

	<u>TOTAL</u>	<u>FROM</u>
BUDGETED FOR CORPORATE DEBT EXPENSES	<u>BUDGETED</u>	<u>TAX LEVY</u>
1. Principal & Interest - 1988 G.O. Bond Issue & Fiscal Charges	316,750	321,000
2. Principal & Interest - 2005 Street Light Refunding Bond Issue	281,958	
3. Principal & Interest - 2003 TIF Refunding Note	930,900	
4. Principal & Interest - 2005 Parking Structure	0	
5. Principal & Interest - 2004 Library Building	<u>685,299</u>	<u>684,949</u>
Total Budget for Corporate Debt Expenses	<u>2,214,907</u>	<u>1,005,949</u>
 GRAND TOTAL FOR OTHER FUNDS	 <u>13,876,460</u>	 <u>2,703,515</u>
 GRAND TOTAL FOR ALL FUNDS	 <u>26,889,238</u>	 <u>7,853,322</u>
 GRAND TOTALS - ESTIMATED REVENUES FROM SOURCES OTHER THAN TAX LEVY		 <u>19,035,916</u>
 GRAND TOTAL OF ALL TAX LEVIES		 <u>7,853,322</u>
 SECTION 2. TAX LEVY SUMMARY		
General Corporate	512,178	
Forestry Tax	153,891	
Police Protection	1,231,131	
Fire Protection	1,231,131	
Street & Bridge	266,745	
Ambulance Service	300,000	
Illinois Municipal Retirement Fund	182,008	
Social Security	186,191	
Police Pension Fund	488,890	
Fire Pension Fund	542,901	
Corporate Debt Service	321,000	
Library Fund	1,697,566	
Library Debt Service	684,949	
Special Service Area	<u>54,741</u>	
 GRAND TOTAL OF ALL TAX LEVIES		 <u>7,853,322</u>

5-0.18

SECTION 3:

The Village Clerk is hereby authorized and directed to certify this Ordinance and Levy herein made, to the Clerk of Cook County, Illinois, and said Clerk of Cook County, Illinois is hereby authorized and directed to extend said taxes and that the same may be collected in the manner other general taxes are collected, in the manner and form provided by law, and this shall be sufficient authorization to do so.

SECTION 4:

This Ordinance shall be in full force and effect ten (10) days after its passage, approval and publication in pamphlet form for review at the La Grange Village Offices and the La Grange Public Library.

ADOPTEED this \_\_\_\_\_ day of \_\_\_\_\_, 2007, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

5-0.19

**EXECUTIVE SESSION**

VILLAGE OF LA GRANGE  
Administrative Offices

**BOARD REPORT**

TO: Village Clerk, Board of Trustees and  
Village Attorney

FROM: Elizabeth M. Asperger, Village President

DATE: December 10, 2007

RE: **CLOSED SESSION — PERSONNEL MATTERS AND PURCHASE, SALE,  
OR LEASE OF REAL PROPERTY**

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It is requested that the Village Board meet in Closed Session, in accordance with Section 5 ILCS 120/2 of the Illinois Compiled Statutes, for the purpose of discussing matters of personnel and the purchase, sale, or lease of real property.

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