

A G E N D A

REGULAR MEETING OF THE LAWS AND ORDINANCES COMMITTEE TO BE HELD ON TUESDAY, AUGUST 6, 2019, AT 6:00 P.M. AT THE POLICE DEPARTMENT TRAINING ROOM, 7760 QUINCY STREET, IN THE VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS

Mayor

Frank A. Trilla

Village Clerk

Leroy R. Hansen

Village Trustees

Sue Berglund

Umberto Davi

Terrence Kelly

Michael Mistele

Gayle Neal

Paul Oggerino

Village Administrator

Brian Pabst

Chief of Police

Robert Schaller

Director of Finance

Carrie Dittman

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES – July 2, 2019 (Approve)
4. UPDATES -
 - a) Amend Section 9-3-15, 9-12-2 and 9-14-24 (c) to Remove Outdated Information and Bring the Zoning Code into Compliance with State and Federal Laws for the Recently Enacted Small Wireless Facilities Deployment Act, 50 ILCS 840/1 *et seq.* The Amendments will also Clarify the Application of Certain Bulk Regulations to the Permitted Accessory Use of Amateur Radio Antennas in Residential Districts - **August 12, 2019 Village Board**
 - b) Public Hearing 19-05: Consideration of a petition for a text amendment to amend Section 9-9-7, entitled "Fire and Explosion Hazard Standards," of the Willowbrook Municipal Code of the Village of Willowbrook (**Performance Standards**) - **August 12, 2019 Village Board**
 - c) An Ordinance Amending Section 9-2-2, Entitled "Definitions," of Chapter 2, Entitled "Definitions," of Title 9, Entitled "Zoning Title of the Village," of the Willowbrook Municipal Code of the Village of Willowbrook, DuPage County, Illinois (**Building Height Definition**) - **Passed at the July 22, 2019 Village Board**
 - d) Good Governance Suggestions
 - e) People v. Sterigenics Case Status
5. DISCUSSION – An Ordinance Amending Section 4-2-11 Entitled "Permit Fees:" and Section 4-2-48 Entitled "Fire Code Adopted:" of Chapter 2 Entitled "Building Code" of Title 4 Entitled "Municipal Services" of the Village Code of Ordinances of the Village of Willowbrook - **Hazardous Materials Reporting and Operational Permits – (Refer to Village Board for Consideration on August 12, 2019)**
6. DISCUSSION - Amendment to Clarify Water Bill Payment Responsibility Section 6-8-5 Bills and 6-8-8 Nonpayment (**Refer to Village Board for Consideration on August 12, 2019**)
7. COMMITTEE REPORTS
8. VISITOR'S BUSINESS (Public comment is limited to three minutes per person)
9. ADJOURNMENT



MINUTES OF THE REGULAR MEETING OF THE LAW AND ORDINANCES COMMITTEE OF THE VILLAGE OF WILLOWBROOK HELD ON TUESDAY, JULY 2, 2019 AT 6:00 PM AT THE WILLOWBROOK POLICE DEPARTMENT, 7760 QUINCY STREET, VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS.

1. CALL TO ORDER

The meeting was called to order at the hour of 6:00 p.m. by Trustee Kelly.

2. ROLL CALL

Those present at roll call were Trustee Davi, Trustee Kelly, Assistant Village Administrator Michael Mertens, Village Attorney Tom Bastion, Building Official Roy Giuntoli. Also present were Chris Drews from Tri-State Fire Protection District, Village Administrator Brian Pabst, Trustee Gayle Neal and Trustee Sue Berglund.

3. APPROVAL OF MINUTES

Minutes - June 4, 2019 meeting

Trustee Davi made a motion to approve the minutes from the June 4, 2019 Law and Ordinance Committee meeting, the motion was seconded by Trustee Kelly - motion carried (Approved).

4. UPDATE - Proposed Amendment to Clarify Water Bill Payment Responsibility Section 6-8-5 Bills and 6-8-8 Nonpayment

Village Attorney Bastion discussed the reason for the ordinance amendment. As there is often confusion in who is responsible for the payment of a water bill (e.g. tenant or owner). He discussed a Pre-Termination Hearing process, prior to water service being shut-off, requiring notices to be sent to both the property owner and tenant, advising them of the arrearage, the opportunity to have the Pre-Termination Hearing and other procedures. The Village Administrator will act as the Hearing Officer and will determine whether service will be shut off. He emphasized the importance of this type of hearing because in other villages he represents, there have been clerical errors (funds applied to wrong account, payments having been made when water service was discontinued when there may have been extenuating circumstances, for example people with disabilities or medical conditions.

Assistant Village Administrator Mertens added we will verify that fees are current and that the right lien coverage fees

are included. The remaining portion of the ordinance is ready, but some additional research is required.

Trustee Kelly asked when the ordinance would be ready and Assistant Village Administrator Mertens responded the estimated completion will be the second meeting in July or the first in August.

5. UPDATE - July 17, 2019 Plan Commission Text Amendments

Assistant Village Administrator Mertens stated that both items were discussed during the June 5th Plan Commission Meeting and moved forward to the Commissions July 17th meeting.

a) Amends Section 9-3-15, 9-12-2 and 9-14-24 (c) to Remove Outdated Information and Bring the Zoning Code into Compliance with State and Federal Laws for the Recently Enacted Small Wireless Facilities Deployment Act, 50 ILCS 840/1 et seq. The Amendments also Clarify the Application of Certain Bulk Regulations to the Permitted Accessory Use of Amateur Radio Antennas in Residential Districts

Assistant Village Administrator Mertens stated that the first item (a) involves regulations for the telecommunications matters, like antennas, antenna structures, small cell site antennas, etc. and alters staff titles.

b) Amends Section 9-9-7 (c) Regarding Performance Standards in the M-1 Light Manufacturing Zoning District

Assistant Village Administrator Mertens stated that the second item (b) was a bit more complicated in that it is an amendment to our performance standards in the M-1 Manufacturing district. He added that Building Official Giuntoli and Inspector Drews from Tri-State Fire Protection District were present. This ordinance has not been updated since 1997, and the amendment will update the ordinance to comply with the latest International Fire Code (IFC), adding many new definitions. The proposed amendment requires businesses involved in manufacturing, or storing, or utilizing hazardous materials to apply for a special use permit. The proposed ordinance incorporates the IFC for the Hazardous chemicals lists covers both underground and above ground storage, as well as indoor and outdoor storage.

6. DISCUSSION - Proposed Text Amendments to Clarify the Definition for Building Height - Section 9 - Chapter 2 (Recommend Referral to Plan Commission for its Consideration)

Assistant Village Administrator Mertens stated that after reviewing definitions in our code ambiguities in calculating a building height were found. The proposed amendment will clarify how height requirements should be calculated and when a variance will be required. Our attorneys are reviewing the proposed language to ensure it is grammatically correct. Staff is requesting the proposal be presented to the Plan Commission as a text amendment on July 17th.

Trustee Kelly: Discussion?

Trustee Davi asked what are the issues we are concerned about?

Assistant Village Administrator Mertens stated that staff researched nearby communities to compare their processes to calculate building height. Noting that some communities are silent when it comes to ancillary structures (i.e. chimney), and others use a multitude of criteria to calculate it. We are clarifying our calculation process.

Trustee Davi added if this was a fire code issue.

Assistant Village Administrator Mertens stated that it is not necessarily a Fire Code issue, however, there are building codes that do require a chimney to be a certain height over a portion of a roof.

The typical large footprint of a commercial building proved to be confusing to calculate this building height, this amendment will assist staff.

Trustee Kelly asked for a simple example of (an M-1 building) can be forty feet (40') and a max ten feet (10') more with ancillary equipment.

Assistant Village Administrator Mertens stated that if rooftop equipment would be greater than fifty feet (50') above grade they would have to obtain a variance for that installation, as HVAC equipment can get larger/taller. Staff also does not want to create too many non-conformities, nor do staff want everyone to have to obtain a variance for every piece of equipment. This applies to new developments. If existing structures were damaged by an act of God e.g.

lighting, they would be allowed to rebuild under the code that they were granted a permit under.

Trustee Davi made a motion to recommend the proposed changes to Title 9 of the Village Code: the motioned was seconded by Trustee Kelly - motion carried (Approved).

7. DISCUSSION - Code Enhancement to Require Hazardous Materials Reporting and Operational Permits

Assistant Village Administrator Mertens stated that the Village of Willowbrook (WB) uses the services of a company called TPI Building Code Consultants (TPI) for plan reviews and inspections. One of their current employees was the former Fire Marshall with the village of Lombard. Lombard has a "Operation Permit" (OP) program for the industrial areas that requires hazardous material reporting and a yearly permit. Willowbrook staff contacted current Lombard Village management and requested a copy of their Operational Permit documentation. Lombard's population ~43,000, the number of Operational Permits is ~30. Staff is requesting this modification to our Building Code to allow for an Operational Permit. Willowbrook is anticipating 10-15 Operational Permits, staff considers this not to be overly burdensome. Staff will send a letter to all businesses in the M-1 district to determine if their business will be required to obtain an Operational Permit. Tri-State Fire Protection District (Tri-State) personnel has offered assistance to Willowbrook staff in administering this program. There is some overlap in Tri-State's annual duties (annual Life Safety inspections) in the district that can assist Willowbrook with this program. The intent of this program is to obtain information from business regarding what materials (type, quantity, locations, etc.) that they have onsite. This information can assist First Responders in dealing with any potentially hazardous condition that can arise. Staff is currently tentatively scheduled to start meeting with TPI, Tri-State to start working on this program, should this committee approve it. this program should link with the prior Title 9 changes made recently.

Trustee Kelly asked will this program allow the Village to inspect Sterigenics?

Assistant Village Administrator Mertens stated if they met the criteria that they would. Other possible businesses would likely apply to this as well. He reiterated that this program

is separate from the annual life safety inspection that Tri-State currently performs.

Trustee Kelly asked if it was the Village's intentions to inspect every business with an Operational Permit?

Assistant Village Administrator Mertens stated yes. adding that staff may utilize the services of a 3rd party inspectional service for them, possibly TPI or others and fees will be assessed as a pass-through fee.

Trustee Kelly requested if Trustee Davi had any questions? He did not. Trustee Kelly stated he thought it was a good idea.

Trustee Kelly asked staff what they needed. Assistant Village Administrator Michael Mertens stated that this was slated to be in front of the Board on July 22nd.

Staff is requesting a recommendation to proceed, Trustee Kelly and Trustee Davi approved.

8. DISCUSSION - Code Enhancement to Require Third Party Alarm Notification for Hazardous Chemicals

Assistant Village Administrator Mertens stated that this was an interesting one topic. Countless meetings have been held with Tri-State and TPI since becoming Home Rule and he thanked Chris Drews and Tri-State for attending tonight. Currently two business in Willowbrook have a 3rd party Alarm Notification system, Highline Auto and the Willowbrook Ice Arena. These companies were required to connect the systems as part of their initial Occupancy Inspections that were prompted from the field inspectors identifying a potential risk. Staff thinks this is a good idea to codify the requirement for any applicable company. The system would detect the problem, the alarm would notify their monitoring company, the monitoring company would notify Tri-State. Sterigenics currently has detection systems in their buildings, and this ordinance would require them to notify Tri-State of any problems or incidents.

Trustee Kelly asked if the Village could be directly notified as well as Tri-State.

A male audience visitor asked if for example a business was under negative pressure, if that system failed, would it be a notifiable matter?

Assistant Village Administrator Mertens stated that this was a matter that will be researched.

Staff is requesting a recommendation to proceed, Trustee Kelly and Trustee Davi approved.

9. COMMITTEE REPORT - VISITOR'S BUSINESS

Per Trustee Kelly, the committee did not have a report. Trustee Kelly did ask Village Attorney Bastion for an update of what they were working on.

Per Village Attorney Tom Bastion:

- 1) Adoption of a recent state legislation, the Matt Haller Act includes reporting requirements to the state, we are proposing to amend Title 6 Chapter 7, "open burning" to be re-titled "air pollution", allowing the village to impose the same, reporting requirements as to the state. For example, Companies must report negative pressure failures to the state, the proposed ordinance would require companies to notify village as well.
- 2) To determine whether or not the village has the authority to regulate the transportation of hazardous chemicals, there is not an express preemption. Determine if there is a state wide concern, states such as Texas have determined non-hazardous chemical routes. If passes, non-reporting could result in citations and fines. It will remain to be determined if the village has any jurisdiction over the state routes. Research just started.

Trustee Kelly, RE topic Item 9/1 is topic broad enough to require plans or reports filed with the IEPA/USEPA to be filed with us as well? Tom added that it can be added and researched.

10. VISITOR'S BUSINESS

(Public comment is limited to three minutes per person)

Q1) A male visitor: Many ordinances have been discussed, do any of these limits the amount of hazardous storage?

A) Per Village Attorney Bastion: Yes, Building Code Title 4 amendment passed last month, limits the storage of Ethylene Oxide (E/O) to one hundred (100) pounds, also the current amount cannot increase, if quantities voluntary drop, they cannot be increased (an act of God does not constitute / initiate a voluntary drop). Assistant Village Administrator Mertens added that the topics discussed at

this meeting were not focused on reducing any one business operations or specific materials or quantities. We referred to the International Fire Code (IFC) that lists many chemicals and allowed quantities. He discussed what the Title 9 amendment was written and intended to do, narratively stated what the ordinance indicates, locations, quantities, etc.

Building Official Giuntoli stated references to the IFC in that a propane cylinder for a fork lift is regulated thought the IFC. The IFC allows for control areas and maximum quantities. Willowbrook is not further limiting these products. Assistant Village Administrator Mertens added that the IFC charts are quite comprehensive in that we will refer to them for quantities. However, feeding off the IFC, is the Operations Permit program. Whereas the annual permit is updated to current materials and quantities and if a business process is modified throughout the year, the Operational Permit is in place to record that - over the annual fire district inspection.

A male visitor continues: That the IFC boiler plate maximum quantities can be further reduced. Per Assistant Village Administrator Mertens, the ordinances brought forth in this meeting do not further limit quantities, it is possible that future ordinances can look into that.

Building Official Giuntoli added that the only chemical that was limited in the current code was E/O.

A male visitor continues: "rephrasing his question": "When will an ordinance that keeps Sterigenics shut down be coming up for a trustee vote, and when will it be effective?"

Trustee Kelly stated: That is an impossible question to answer.

A male visitor: Of any of the ordinances that we have on the table, do any of those do that?

Village Attorney Tom Bastion responded: No, they do not. They cannot because 1) it would not be enforceable and 2) it would be a taking, a condemnation - they were a permitted use 30 years ago and if we were to single them out to shut the business down, it is a taking, a condemnation.

A male visitor: You are not necessarily singling them out, they might be the only one using anything that dangerous.

Village Attorney Bastion responded: they were a permitted use that is being adversely affected. They could be amortized out over years; we do not want to do that. But to limit their storage or process would be a taking.

A female visitor asked: If drunk driver laws were to change, would drunk driving be grandfathered in?

So, I have a question for you: So, you're telling me that if we have someone driving drunk for thirty-five years, ok, and we changed the laws saying you can't drive drunk anymore they would be grandfathered in?

Both Village Attorney Bastion responded and Trustee Davi responded:

Davi: No, driving drunk is not a permitted use.
Bastion: That is a criminal offense.

A female visitor continues: Is there anything you can do to be effective?

Assistant Village Administrator Mertens stated that at this time Zoning does not affect past businesses. They would be a legal non-conforming use and they can operate until they stop operating whereas at that time they would have to come up to the current code. We are trying to make adjustments/amendments to tighten up to get a better understanding of what there is out there and get control of what we can (current materials and quantities). Everyone would like to make that happen - unfortunately we cannot. A legal non-conforming fence example was offered. Only if an existing building/business was damaged to a certain extent (a certain percentage) would said business need to conform to a current code.

A male visitor asked: So, back in the early 2000's, the State of Illinois banned smoking indoors, in restaurants. There were 10's, if not 100's of thousands of restaurants operating in the State of Illinois that allowed smoking. They were not allowed to continue that practice, that business practice, the very next day. So, there are instances in our laws, in the in the State of Illinois, and it was done by Home Rule Cities, Schaumburg, City of Chicago, before the State did it - of local municipalities passing laws in regards to emissions of substances that weren't immediately enforceable upon existing businesses. Is that correct?

Village Attorney Bastion responded: Depending on the Smoking is for example an express grant of authority to regulate smoking and so forth. However, this is a Zoning code with an ongoing business.

A male visitor continues: There was no express granting regarding smoking when those laws were passed.

Village Attorney Bastion continues: There is no preemption saying villages can't do it.

A male continues: Correct, which means that they can.

Village Attorney Bastion continues: But this is shutting down a business that is a legal conforming use.

A male visitor continues: No, it doesn't mean that, it doesn't mean that at all. You can definitely operate your business however you like, that doesn't mean that you can't set emission standards, because there is no preemption for that.

Village Attorney Bastion continues: Okay, but each village there is a matter of statewide concern. You're saying set an emission standard, are you suggesting that the village can set its own emission standard? Every village can?

A male visitor continues: Right, every village with Home Rule, yes.

Village Attorney Bastion continues: And what would that emission standard be?

A male visitor continues: Whatever the village chose to make it.

Village Attorney Bastion continues: If it was that, in my opinion, they would say it would be an unconstitutional taking.

A male visitor continues: Interesting that you would say that, because it has been challenged in the courts. It was challenged in a case against Des Plaines, IL. In regards to water pollution, not air pollution. And it was found that the village, uh. It was an interesting ruling because the village determined, or the judges determined, that that the town that was polluted was next door do that Des Plaines could not regulate what they did, but that Home Rule powers

would have given Des Plaines powers to regulate pollution within their own borders. And if you also look at the most recent case regarding the road builders, vs the state of IL, vs, or, Cook county.

Village Attorney Bastion continues: Sri, I have read that. Sri: Yeah, and what did it say? That was a circuit court decision on a motion to dismiss motion for motion summary judgment, and it was immediately appealed. It was appealed on April 4th and the circuit court; there were two issues, whether or not the builders had standing to bring the action and the court said: well that that particular constitutional amendment which reported to have monies raised to build safe roads said there was no preemption in that particular event.

A male visitor continues: Correct. Just like there is no preemption, in regards to... (unknown...)

Trustee Kelly: This has been a very informative legal discussion. Does anyone else have any questions?

A male visitor asked: I have a question in terms of penalties. In terms of, if a company does not conform to the new storage standards or any other new rule that are passed with alarm systems or whatever, what are the penalties that any such company refuses to comply with these standards?

Village Attorney Bastion responded: Absolute penalty under the state statute of \$750.00 per day. For an ordinance violation. You can declare to be a business offense that could be higher, could be up to a couple thousand.

A male visitor continues: Is it, in the State of Illinois, this is a general question, it could be for anything they do, is a company allowed to violate an ordinance daily and then pay the fine in infinity or is there a certain point?

Village Attorney Bastion responded: Depending on what the violation is. If it's an ongoing violation, the court can enter an injunction enjoining them from the business from any future violations.

A male visitor asked: But they can just continue to violate?

Village Attorney Bastion responded: If the court enters an order an injunction then those operators are subject to contempt.

A female visitor asked: Any of these ordinances that are being drafted, um, are, is the ability, is it the ability for the village to include in there that if you are a company that does pollute the air, or has a chemical that is hazardous, that you have to pay the village for testing and monitoring? Village Attorney: Retesting? Monitoring the air?"

Village Attorney Bastion responded: That is already included in the state statute.

A female visitor continues: Well the state statute requires them to do it picking their own person every quarter of a year.

Village Attorney Bastion responded: That we will look into this matter.

11. ADJOURNMENT

Trustee Kelly made a motion to adjourn, the motion was seconded by Trustee Davi - motion carried (Approved). The meeting adjourned at 6:51 pm.

PRESENTED, READ and APPROVED

_____, 2019

CHAIRMAN

[DRAFT] Minutes transcribed by Building Official Giuntoli

VILLAGE OF WILLOWBROOK

BOARD MEETING AGENDA ITEM - HISTORY/COMMENTARY

ITEM TITLE:	AGENDA NO.
An Ordinance amending Sections 9-3-15, 9-12-2, and 9-12-4(C) of the Zoning Title of the Village of Willowbrook Municipal Code of the Village of Willowbrook, DuPage County, Illinois.	AGENDA DATE: 08/12/19

STAFF REVIEW: Ann Choi, Planning Consultant SIGNATURE: _____

LEGAL REVIEW: Tom Bastian, Village Attorney SIGNATURE: _____

RECOMMENDED BY: Brian Pabst, Village Administrator SIGNATURE: _____

REVIEWED & APPROVED BY COMMITTEE: YES NO N/A

ITEM HISTORY (PREVIOUS VILLAGE BOARD REVIEWS, ACTIONS RELATED TO THIS ITEM, OTHER HISTORY)

Village staff proposes text amendments to the Village Zoning Code to remove outdated information and to bring it into compliance with the recently enacted state laws. The proposed amendments to the Zoning Code will also clarify the application of certain bulk regulations to the permitted accessory use of amateur radio antennas in residential districts. Please see below for a timeline of actions related to the petition for Zoning Case No. 19-04:

May 15, 2019 The Village of Willowbrook submits an application for the proposed text amendment.
June 5, 2019 The Plan Commission held a public hearing for the petition.
July 17, 2019 The Plan Commission held a second public hearing for the petition. The Plan Commission made a positive recommendation of a unanimous vote of 5-0 of the members present, to the Village Board.

ITEM COMMENTARY (BACKGROUND, DISCUSSION, RECOMMENDATIONS, ETC.)

Pursuant to the proposed text amendment, Section 9-3-15 of the Village Zoning Code will be amended to remove references to the Director of Municipal Services, a position which no longer exists within the Village. Section 9-3-15 will also be amended to acknowledge that certain provisions contained therein are preempted by the Small Wireless Facilities Deployment Act, 50 ILCS 840/1 et seq. recently adopted by the State of Illinois. The Small Wireless Facilities Deployment Act sets forth certain bulk standards for right-of-way construction of Small Wireless Antenna Facilities and permits the installation of such antennas within Commercial and Industrial districts. The Village of Willowbrook previously amended Title 4 of the Village Code to comply with the recent state law, and the proposed amendment to the Zoning Code will clarify the relevant code sections to proposed small wireless service providers. The remaining proposed amendments to Section 9-3-15 will clarify the application of the height, setback and aesthetic standards contained therein to amateur radio antennas and uses. The proposed text amendment will revise Section 9-12-2 of the Zoning Code to remove outdated language regarding setbacks for amateur radio antennas. This is an administrative correction; as Section 9-12-2 of the Zoning Code had previously been preempted by the setback requirements of Section 9-3-15. The revised language will refer amateur radio users to the correct section of the Zoning Code. Likewise, Section 9-12-4 will be amended to clarify that the limitations on height of amateur radio antennas and support structures are governed by Section 9-3-15 and not by the 15' limitation imposed on other types of accessory uses. One member of the public came out in opposition to the proposed text amendment and recommended that the Village create an entirely separate ordinance for the regulation of amateur radio antennas. The Plan Commission found the proposed text amendment to be reasonable and voted a unanimous vote of 5-0 of the members present to forward a positive recommendation to the Village Board.

ACTION PROPOSED: Consideration of Attached Ordinance.

ORDINANCE NO. 19-0-_____

AN ORDINANCE AMENDING THE VILLAGE CODE OF
THE VILLAGE OF WILLOWBROOK
TITLE 9-Zoning Ordinance
(ANTENNA REGULATIONS FOR VILLAGE ZONING DISTRICTS)

WHEREAS, on or about May 17, 2019, the Village of Willowbrook, as applicant, filed an application for certain text amendments to the Zoning Ordinance of the Village of Willowbrook relating to the regulation of antenna installations in Village Zoning Districts; and,

WHEREAS, Notice of Public Hearing on said text amendments to the Village of Willowbrook Zoning Ordinance was published in the Chicago Sun-Times on or about July 1, 2019, all as required by the statutes of the State of Illinois and the ordinances of the Village of Willowbrook; and,

WHEREAS, a Public Hearing was conducted by the Plan Commission of the Village of Willowbrook on July 17, 2019, pursuant to said Notice, all as required by the statutes of the State of Illinois and the ordinances of the Village of Willowbrook; and,

WHEREAS, at said Public Hearing, the applicant provided testimony in support of the proposed amendments to the Village of Willowbrook Zoning Ordinance, and all interested parties had an opportunity to be heard; and,

WHEREAS, the Mayor and Board of Trustees of the Village of Willowbrook have received the recommendation of the Plan Commission pursuant to a memorandum dated July 22, 2019.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Willowbrook, DuPage County, Illinois, as follows:

SECTION ONE: That Title 9, Chapter 3, Section 9-3-15 of the Village Code of the Village of Willowbrook is hereby amended to read as follows:

9-3-15: ANTENNAS AND TOWERS FOR PERSONAL WIRELESS SERVICES:

Antennas and/or towers for personal wireless services shall not be installed without first obtaining a permit from the Village Administrator or his/her designee. The following regulations shall govern the installation of antennas and towers for personal wireless services facilities:

(A) For the purposes of this section, the following words and terms shall be construed as herein defined:

ANTENNA: Any exterior apparatus designed for the sending and/or receiving of electromagnetic waves, and used for personal wireless services.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

PERSONAL WIRELESS SERVICES: Commercial mobile services, common carrier wireless exchange access services, amateur radio communications, including shortwave, HAM, or CB Radio services, and unlicensed wireless services (i.e., telecommunications services using duly authorized devices which do not require individual licenses, but not including direct to home satellite services).

TOWER: Any structure designed and constructed primarily for, and used for, the purpose of supporting one or more antennas.

(B) The purpose and intention of this section is to provide for the installation of antennas and towers for personal wireless services so as to: encourage the location of commercial towers in nonresidential areas and minimize the total number of towers throughout the Village; encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the Village is minimal; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; to require location of towers and antennas a safe distance from adjacent property owners; and to comply with the requirements of Federal law.

(C) Antennas and towers for personal wireless services, complying with the requirements of this section, may be installed on lots, except parks, in the following districts:

B-1	Neighborhood Shopping District
B-2	Community Shopping District
B-3	General Business District
B-4	Highway and Service Business District
L-O-P	Limited Office Professional District
O-R	Office and Research District
L-O-R	Limited Office and Research District
M-1	Light Manufacturing District

Further, antennas for personal wireless services, complying with the requirements of this section, may be installed on lots in the R-5 Residential District, or lots owned by the Village, a unit of local government, the State, or the Federal government, in any residential district.

Antennas and towers for personal wireless services may be installed on lots with different existing principal structures and/or uses. Such antennas and towers, complying with the requirements of this section, shall not be deemed to be either principal or accessory structures or uses, but shall be permitted additional structures. Such antennas and towers, including all associated electrical and mechanical equipment, shall, however, be included for purposes of determining maximum lot coverages for the lots upon which they are located.

Notwithstanding the foregoing, antennas and towers used for amateur radio communications, including shortwave, CB, or HAM radio transmitting and receiving, are hereby deemed permitted accessory structures and uses in rear yards of all residential districts as described in Section 9-12-2 of the Willowbrook Municipal Code.

(D) Antennas and towers for personal wireless services may be installed on lots as provided at subsection (C) of this section, in accordance with the following:

1. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Village Administrator or his/her designee that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
 - (a) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
 - (b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause

interference with the applicant's proposed antenna.

- (e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

2. Each tower shall be of a monopole type (i.e., a cylindrical, tapering metal pole without guywires) and shall have a galvanized finish or be painted a neutral color so as to minimize visual obtrusiveness. The provisions of this paragraph shall not apply to amateur radio devices, including shortwave, HAM or CB radio antenna facilities.
3. Each tower shall be roof mounted, i.e., structurally attached to the roof of a building, or freestanding, i.e., structurally attached directly to the ground.
4. No freestanding tower shall exceed a total height of twenty feet (20') above the zoning district's maximum building height, and no roof mounted tower shall exceed a total height of twenty feet (20') above the building height, both as measured to the highest point of the tower, including the height of any antennas attached thereto, unless the applicant can demonstrate to the satisfaction of the Village Administrator or his/her designee that more height is physically necessary in order to permit the provision of personal wireless services and no alternative location or locations exist which would permit the provision of personal wireless services without a tower of such height; in which case, the tower shall not exceed the minimum height necessary to provide personal wireless services.
5. Each tower shall be installed, and at all times maintained, in accordance with the Village's Building Code, Title 4, Chapter 2 of this Code, and with all applicable Federal, State and local laws, ordinances, codes, rules, regulations and standards, including, but not limited to, those of the FAA and the FCC.

6. Each tower shall be equipped with an appropriate antclimbing device or devices; and shall feature security fencing and/or other security measures, unless the applicant can demonstrate to the satisfaction of the Village Administrator or his/her designee that such fencing and/or other security measures may be waived without a significant adverse impact on public safety.
7. Not more than one freestanding tower shall be installed on any zoning lot.
8. Each freestanding tower shall comply with all required setbacks for the zoning district in which such tower is located and, further, shall be setback from any adjacent property in the R-1, R-1A, R-2, R-3 and/or R-4 Residential Districts a distance not less than the height of such tower.
9. No freestanding tower shall be installed less than five hundred feet (500') from any other freestanding tower.
10. No tower shall be artificially illuminated, unless artificial illumination is required by the FAA or other regulatory agency having jurisdiction; in which case, such artificial illumination shall be limited to that which is so required.
11. Antennas may be installed by structurally attaching them to a tower which complies with the requirements of this section, or by structurally attaching them directly to a principal structure which complies with the requirements of the district in which such structure is located.
12. No antenna installed by direct structural attachment to an existing structure shall exceed a total height of ten feet (10') above the height of such structure.
13. No antenna installed by structural attachment to a roof mounted tower or directly to a building shall overhang, or project, more than twenty four inches (24") beyond the plane of any exterior wall of such building.
14. Each antenna, including all associated electrical and mechanical equipment, shall be of a neutral color identical to, or closely compatible with, the color of the supporting structure so as to minimize visual obtrusiveness.

15. All towers and antennas, including all associated electrical and mechanical equipment, shall be designed to the extent practicable to use materials, colors, textures, screening and landscaping which visually blend with the surrounding property.

(E) Each applicant for a permit pursuant to this section shall provide to the Village Administrator or his/her designee an inventory of its existing towers within the Village and within one-half (1/2) mile of the corporate limits of the Village, including specific information detailing the location, height and design of each such tower.

(F) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within thirty (30) days of receipt of notice from the Village Administrator or his/her designee notifying the owner of such abandonment.

(G) To the extent that this section is in conflict with the Small Wireless Facilities Deployment Act, 50 ILCS 840/1 et seq. or the provisions of Section 4-6-3 of the Willowbrook Municipal Code, this section shall not apply to the deployment of small wireless facilities in Village Zoning Districts.

SECTION TWO: That the section of the table contained in Title 9, Chapter 12, Section 9-12-2 referring to "Antenna, shortwave radio, transmitting and receiving, citizen band radio, transmitting and receiving, broadcast band radio, receiving, and television, receiving" is hereby amended to read as follows:

Antenna, shortwave radio, transmitting and receiving, citizen band radio, transmitting and receiving, broadcast band radio, receiving	Subject to bulk and setback regulations set forth in Section 9-3-15 of this Title.	-	-	X	-
Antenna, television, receiving	Within 15' of lot line, not more than 2 antennae on any 1 structure	-	-	X	-

SECTION THREE: That Title 9, Chapter 12, Section 9-12-4(c) is hereby amended to read as follows:

(c) All detached accessory structures shall not exceed fifteen feet (15') in height except:

1. The height of signs shall be regulated by Chapter 11 of this title.
2. The height of any flagpole shall not exceed thirty feet (30'). The length of the flag shall not exceed one-third (1/3) of the height of the flagpole to which it is attached.
3. The height of detached canopies shall not exceed eighteen feet (18') with a minimum clearance above grade of fourteen feet (14').
4. The height of antenna for use in shortwave radio, transmitting and receiving, citizen band radio, transmitting and receiving, broadcast band radio, receiving shall be regulated by Section 9-3-15 of this Title.

SECTION FOUR: All ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

SECTION FIVE: That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED and APPROVED this August 12, 2019.

APPROVED:

Mayor

ATTEST:

Village Clerk

ROLL CALL VOTE: AYES: _____

 NAYS: _____

 ABSTENTIONS: _____

 ABSENT: _____

M E M O R A N D U M

MEMO TO: Frank A. Trilla, Mayor
Board of Trustees

MEMO FROM: Dan Kopp, Chairman, Plan Commission

DATE: July 22, 2019

SUBJECT: **Zoning Hearing Case 19-04: Village of Willowbrook, 835 Midway Drive, Willowbrook, Illinois.** Consideration of a petition for a text amendment to amend Sections 9-3-15, 9-12-2, and 9-12-4(C) of the Zoning Title of the Village of Willowbrook regarding regulation of telecommunications antennas and antenna support structures.

At the regular meeting of the Plan Commission held on July 17, 2019, the above referenced application was discussed and the following motion was made:

MOTION: Made by Kaucky and seconded by Walec that based on the submitted petition and testimony presented, I move that the Plan Commission recommend to the Village Board approval of the text amendments presented on Pages 1 to 5 of the Staff Report for PC Case Number 19-04 to amend Sections 9-3-15, 9-12-2 and 9-12-4(C) of the Zoning Title of the Village of Willowbrook. The proposed text amendments will remove outdated information, bring the zoning code into compliance with the recently enacted state laws, and clarify the application of certain bulk regulations to the permitted accessory use of amateur radio antennas in residential districts.

ROLL CALL: AYES: Chairman Kopp, Commissioners Kaucky, Remkus, Soukup, and Walec;
NAYS: None.
ABSENT: Vice Chairman Wagner and Commissioner Ruffalo.

MOTION DECLARED CARRIED

Should any member of the Board have any questions regarding this matter, please do not hesitate to contact me.

DK:jp



Village of Willowbrook

Staff Report to the Village Board

Public Hearing Date:	June 5, 2019
Second Public Hearing Date:	July 17, 2019
Village Board (Receive):	July 22, 2019
Prepared By:	Ann Choi, Planning Consultant
Case Title:	PC 19-04: Text Amendments to amend Sections 9-3-15, 9-12-2 and 9-12-4(C) of the Zoning Title of the Village of Willowbrook regarding regulation of telecommunications antennas and antenna support structures.
Petitioner:	Village of Willowbrook
Action Requested by Applicant:	Consideration and recommendation of text amendments to the Zoning Ordinance of the Village of Willowbrook.
Code Sections to be Amended or Added:	Title 9 – Zoning Sections: 9-3-15 Antennas and Towers for Personal Wireless Services 9-12-2 Permitted Accessory Buildings, Structures and Uses 9-12-4(C) Bulk Regulations
Necessary Action by Village Board:	Receive Plan Commission Recommendation.



History & Discussion of Request

Village staff proposes text amendments to the Village Zoning Code to remove outdated information and to bring it into compliance with the recently enacted state laws. The proposed amendments to the Zoning Code will also clarify the application of certain bulk regulations to the permitted accessory use of amateur radio antennas in residential districts.

Pursuant to the proposed text amendment, Section 9-3-15 of the Village Zoning Code will be amended to remove references to the Director of Municipal Services, a position which no longer exists within the Village. Section 9-3-15 will also be amended to acknowledge that certain provisions contained therein are preempted by the Small Wireless Facilities Deployment Act, 50 ILCS 840/1 et seq. recently adopted by the State of Illinois. The Small Wireless Facilities Deployment Act sets forth certain bulk standards for right-of-way construction of Small Wireless Antenna Facilities and permits the installation of such antennas within Commercial and Industrial districts. The Village of Willowbrook previously amended Title 4 of the Village Code to comply with the recent state law, and the proposed amendment to the Zoning Code will clarify the relevant code sections to proposed small wireless service providers. The remaining proposed amendments to Section 9-3-15 will clarify the application of the height, setback and aesthetic standards contained therein to amateur radio antennas and uses.

The proposed text amendment will revise Section 9-12-2 of the Zoning Code to remove outdated language regarding setbacks for amateur radio antennas. This is an administrative correction; as Section 9-12-2 of the Zoning Code had previously been preempted by the setback requirements of Section 9-3-15. The revised language will refer amateur radio users to the correct section of the Zoning Code. Likewise, Section 9-12-4 will be amended to clarify that the limitations on height of amateur radio antennas and support structures are governed by Section 9-3-15 and not by the 15' limitation imposed on other types of accessory uses.

Amend Sections 9-3-15, 9-12-2 and 9-12-4(C) as follows:

Pursuant to the proposed text amendment, Sections 9-3-15, 9-12-2 and 9-12-4(C) of the Village Zoning Code will be amended to remove references to the Director of Municipal Services, a position which no longer exists within the Village. All instances of "Director of Municipal Services" will be replaced with "**Village Administrator or his/her designee**".

Amend Section 9-3-15(A) as follows:

Add to the definition of PERSONAL WIRELESS SERVICES "amateur radio communications, including shortwave, HAM, or CB Radio services," before "and unlicensed wireless services (i.e., telecommunications services using duly authorized devices which do not require individual licenses, but not including direct to home satellite services)."

Existing text:

"PERSONAL WIRELESS SERVICES: Commercial mobile services, common carrier wireless exchange access services, and unlicensed wireless services (i.e., telecommunications services using duly authorized devices which do not require individual licenses, but not including direct to home satellite services)."

Proposed text:

"PERSONAL WIRELESS SERVICES: Commercial mobile services, common carrier wireless exchange access services, **amateur radio communications, including shortwave, HAM, or CB Radio services**, and unlicensed wireless services (i.e., telecommunications services using duly authorized devices which do not require individual licenses, but not including direct to home satellite services)."



Amend Section 9-3-15(B) as follows:

Add "to require location of towers and antennas a safe distance from adjacent property owners;" before "and to comply with the requirements of Federal Law".

Existing text:

"The purpose and intention of this section is to provide for the installation of antennas and towers for personal wireless services so as to: encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Village; encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the Village is minimal; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and to comply with the requirements of Federal law."

Proposed text:

"The purpose and intention of this section is to provide for the installation of antennas and towers for personal wireless services so as to: encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Village; encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the Village is minimal; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; **to require location of towers and antennas a safe distance from adjacent property owners;** and to comply with the requirements of Federal law."

Amend Section 9-3-15(C) as follows:

Add "Notwithstanding the foregoing, antennas and towers used for amateur radio communications, including shortwave, CB, or HAM radio transmitting and receiving, are hereby deemed permitted accessory structures and uses in rear yards of all residential districts as described in Section 9-12-2 of the Willowbrook Municipal Code." as the last paragraph of this section.

Proposed text:

Antennas and towers for personal wireless services, complying with the requirements of this section, may be installed on lots, except parks, in the following districts:

B-1	Neighborhood Shopping District
B-2	Community Shopping District
B-3	General Business District
B-4	Highway and Service Business District
L-O-P	Limited Office Professional District
O-R	Office and Research District
L-O-R	Limited Office and Research District
M-1	Light Manufacturing District



Further, antennas for personal wireless services, complying with the requirements of this section, may be installed on lots in the R-5 Residential District, or lots owned by the Village, a unit of local government, the State, or the Federal government, in any residential district.

Antennas and towers for personal wireless services may be installed on lots with different existing principal structures and/or uses. Such antennas and towers, complying with the requirements of this section, shall not be deemed to be either principal or accessory structures or uses, but shall be permitted additional structures. Such antennas and towers, including all associated electrical and mechanical equipment, shall, however, be included for purposes of determining maximum lot coverages for the lots upon which they are located.

Notwithstanding the foregoing, antennas and towers used for amateur radio communications, including shortwave, CB, or HAM radio transmitting and receiving, are hereby deemed permitted accessory structures and uses in rear yards of all residential districts as described in Section 9-12-2 of the Willowbrook Municipal Code.

Amend Section 9-3-15(D)(2) as follows:

Add "The provisions of this paragraph shall not apply to amateur radio devices, including shortwave, HAM or CB radio antenna facilities." as the last sentence of this paragraph.

Existing text:

"Each tower shall be of a monopole type (i.e., a cylindrical, tapering metal pole without guywires) and shall have a galvanized finish or be painted a neutral color so as to minimize visual obtrusiveness."

Proposed text:

"Each tower shall be of a monopole type (i.e., a cylindrical, tapering metal pole without guywires) and shall have a galvanized finish or be painted a neutral color so as to minimize visual obtrusiveness. **The provisions of this paragraph shall not apply to amateur radio devices, including shortwave, HAM or CB radio antenna facilities.**"

Amend Section 9-3-15 as follows:

Add "**(G) To the extent that this section is in conflict with the Small Wireless Facilities Deployment Act, 50 ILCS 840/1 et seq. or the provisions of Section 4-6-3 of the Willowbrook Municipal Code, this section shall not apply to the deployment of small wireless facilities in Village Zoning Districts.**"

Amend Section 9-12-2 as follows:

Delete "Within 15' of lot line, not more than 2 antennae on any 1 structure" from the "Permitted Encroachment" column under the following "Permitted Use/Obstruction" category: "Antenna, shortwave radio, transmitting and receiving, citizen band radio, transmitting and receiving, broadcast band radio, receiving and television, receiving".

Add "Subject to bulk and setback regulations set forth in Section 9-3-15 of this Title." under the "Permitted Encroachment" column in the following "Permitted Use/Obstruction" category: "Antenna, shortwave radio, transmitting and receiving, citizen band radio, transmitting and receiving, broadcast band radio, receiving and television, receiving".

Delete "and television, receiving" from the section of the table referring to "Antenna, shortwave radio, transmitting and receiving, citizen band radio, transmitting and receiving, broadcast band radio, receiving and television, receiving".

Add "Antenna, television, receiving" as its own category underneath same section of the table.



Existing text:

Permitted Use/Obstruction	Permitted Encroachment	F	S	R	C
Antenna, shortwave radio, transmitting and receiving, citizen band radio, transmitting and receiving, broadcast band radio, receiving and television, receiving	Within 15' of lot line, not more than 2 antennae on any 1 structure	-	-	X	-

Proposed text:

Permitted Use/Obstruction	Permitted Encroachment	F	S	R	C
Antenna, shortwave radio, transmitting and receiving, citizen band radio, transmitting and receiving, broadcast band radio, receiving	Subject to bulk and setback regulations set forth in Section 9-3-15 of this Title.	-	-	X	-
Antenna, television, receiving	Within 15' of lot line, not more than 2 antennae on any 1 structure	-	-	X	-

Note:

"X"-Denotes permitted obstruction in yard or court

"--"Denotes prohibited obstruction in yard or court

"F"-Denotes in front yards and exterior side yards adjoining a street

"S"-Denotes in interior side yards

"R"-Denotes in rear yards

"C"-Denotes in open court

2. Definitions of open systems

Amend Section 9-12-4(C) as follows:

Add "4. The height of antenna for use in shortwave radio, transmitting and receiving, citizen band radio, transmitting and receiving, broadcast band radio, receiving shall be regulated by Section 9-3-15 of this Title."



Staff Recommendation

Staff supports the proposed text amendments. If the Plan Commission concurs, the following sample recommendation is offered for consideration.

Plan Commission Public Hearing Summary

The Plan Commission conducted a public hearing on this petition at their July 17, 2019 meeting. The following members were in attendance: Chairman Dan Kopp, Commissioners Kaucky, Soukup, Remkus and Walec. One member from the public provided public comments and was generally opposed to the proposed text amendment. He recommended that the Village propose an entirely separate ordinance to address amateur radio antennas in lieu of proposing amendments to an existing section of the code that deals with small wireless facilities.

Motion

Following staff's report and the Plan Commission's discussion, the following motion by Commissioner Remkus was seconded by Commissioner Soukup and recommended approval by a unanimous roll call vote of the members present:

Based on the submitted petition and testimony presented, I move that the Plan Commission recommend to the Village Board approval of the text amendments presented on Pages 1 to 5 of the Staff Report for PC Case Number 19-04 to amend Sections 9-3-15, 9-12-2 and 9-12-4(C) of the Zoning Title of the Village of Willowbrook. The proposed text amendments will remove outdated information, bring the zoning code into compliance with the recently enacted state laws, and clarify the application of certain bulk regulations to the permitted accessory use of amateur radio antennas in residential districts.

VILLAGE OF WILLOWBROOK

BOARD MEETING AGENDA ITEM - HISTORY/COMMENTARY

ITEM TITLE:	AGENDA NO.
An Ordinance amending Section 9-7-7, entitled "Fire and Explosion Hazard Standards," of Chapter 9, entitled "Performance Standards," of Title 9, entitled "Zoning Title of the Village," of the Willowbrook Municipal Code of the Village of Willowbrook, DuPage County, Illinois	AGENDA DATE: <u>08/12/19</u>

STAFF REVIEW: Ann Choi, Planning Consultant SIGNATURE: _____

LEGAL REVIEW: Tom Bastian, Village Attorney SIGNATURE: _____

RECOMMENDED BY: Brian Pabst, Village Administrator SIGNATURE: _____

REVIEWED & APPROVED BY COMMITTEE: YES NO N/A

ITEM HISTORY (PREVIOUS VILLAGE BOARD REVIEWS, ACTIONS RELATED TO THIS ITEM, OTHER HISTORY)

Please see below for a timeline of actions related to the petition for Zoning Case No. 19-05:

May 15, 2019 The Village of Willowbrook submits an application for the proposed text amendment.
June 5, 2019 The Plan Commission held a public hearing for the petition.
July 17, 2019 The Plan Commission held a second public hearing for the petition. The Plan Commission made a positive recommendation of a unanimous vote of 5-0 of the members present, to the Village Board.
July 22, 2019 The Village Board receives the Plan Commission's positive recommendation.

ITEM COMMENTARY (BACKGROUND, DISCUSSION, RECOMMENDATIONS, ETC.)

The Village of Willowbrook has identified various sections of the Zoning Ordinance, specifically the Fire and Explosions Hazard standards that require clarification. This section was originally drafted in 1975 and amended in 1997. The current language is somewhat ambiguous and outdated, and these proposed amendments will eliminate inconsistencies, widen the scope of potential uses that would require a special use, reference the latest version of the International Fire Code, the ICC IFC-2018 (IFC), and require certain users to provide to the Village a copy of any permits that are required by State and Federal agencies in regards to hazardous materials. The Plan Commission has considered the proposed text amendment under Zoning Case No. 19-05 in conjunction with two additional text amendments as part of a Village-wide review of its current zoning code during the public hearing on July 17, 2019.

ACTION PROPOSED: Consideration of Attached Ordinance.

MEMORANDUM

MEMO TO: Frank A. Trilla, Mayor
Board of Trustees

MEMO FROM: Dan Kopp, Chairman, Plan Commission

DATE: July 22, 2019

SUBJECT: **Zoning Hearing Case 19-05:** Village of Willowbrook, 835 Midway Drive, Willowbrook, Illinois. Consideration of a petition for a text amendment to amend Section 9-9-7, entitled "Fire and Explosion Hazards Standards," of Title 9, entitled "Zoning Title of the Village," of the Willowbrook Municipal Code of the Village of Willowbrook, DuPage County, Illinois.

At the special meeting of the Plan Commission held on July 17, 2019, the above referenced application was discussed and the following motion was made:

MOTION: Made by Remkus and seconded by Soukup that based on the submitted petition and testimony presented, I move that the Plan Commission recommend to the Village Board approval of the text amendments presented on Pages 1 to 11 of the Staff Report for PC Case Number 19-05 to amend Section 9-9-7 of the Zoning Title of the Village of Willowbrook regarding fire and explosion hazard standards, with the following changes: Add the definitions of Volatility, Vapor Pressure, Boiling Point and Flashpoint to Section 9-9-7(B); revise the language to the proposed Section 9-9-7(D)3 to eliminate a requirement for the RCRA permit and replace with language requiring copies of any permit required by the EPA/IEPA to be provided to the Village; and revise Tables IV(a) and IV(b) so that the above ground storage of flammable liquid classes are ordered from the least volatile to most volatile class.

ROLL CALL: AYES: Chairman Kopp, Commissioners Kaucky, Soukup, Remkus, and Walec;
NAYS: None.
ABSENT: Vice Chairman Wagner, Commissioner Ruffalo.

MOTION DECLARED CARRIED

Should any member of the Board have any questions regarding this matter, please do not hesitate to contact me.

DK:jp

ORDINANCE NO. 19-0—

AN ORDINANCE AMENDING SECTION 9-7-7, ENTITLED “FIRE AND EXPLOSION HAZARD STANDARDS,” OF CHAPTER 9, ENTITLED “PERFORMANCE STANDARDS,” OF TITLE 9, ENTITLED “ZONING TITLE OF THE VILLAGE,” OF THE WILLOWBROOK MUNICIPAL CODE OF THE VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS

WHEREAS, on or about May 15, 2019, the Village of Willowbrook, as applicant, filed an application for a certain text amendment to the Zoning Title of the Village of the Willowbrook Municipal Code (the “Zoning Code) relating to the fire and explosion hazard standards set forth in the Zoning Code; and

WHEREAS, Notice of Public Hearing on said text amendment to the Zoning Code was published in the Chicago Sun-Times on or about July 1, 2019, all as required by the statutes of the State of Illinois and the ordinances of the Village of Willowbrook; and

WHEREAS, a public hearing was conducted by the Plan Commission of the Village of Willowbrook on July 17, 2019, pursuant to said Notice, all as required by the statutes of the State of Illinois and the ordinances of the Village of Willowbrook; and

WHEREAS, at said public hearing, the applicant provided testimony in support of the proposed text amendment to the Zoning Code, and all interested parties had an opportunity to be heard; and

WHEREAS, at said public hearing, the Plan Commission recommended that the Mayor and Board of Trustees of the Village of Willowbrook (the “Corporate Authorities”) approve the proposed text amendment; and

WHEREAS, the Corporate Authorities of the Village find that it is in the best interest of the Village of Willowbrook and its residents to amend the Zoning Code, as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Willowbrook, DuPage County, Illinois, as follows:

SECTION ONE. That the foregoing recital clauses to this Ordinance are adopted as the findings of the Corporate Authorities of the Village of Willowbrook and are incorporated herein by specific reference.

SECTION TWO. That Section 9-7-7, entitled "Fire and Explosion Hazard Standards," of Chapter 9, entitled "Performance Standards," of Title 9, entitled "Zoning Title of the Village," of the Willowbrook Municipal Code of the Village of Willowbrook be and is hereby amended by deleting the same in its entirety and inserting therefore the following:

9-9-7: HAZARDOUS MATERIALS STANDARDS:

(A) **Required Performance Level:** All operations, activities and uses shall be conducted so as to comply with the performance standards governing hazardous materials prescribed below.

(B) **Definitions.** The following terms as used in Section 9-9-7 shall have the meaning respectively ascribed to them in this section, unless the context otherwise requires.

BOILING POINT is the temperature at which the vapor pressure equals atmospheric pressure, such that the pressure of the atmosphere can no longer hold the liquid in a liquid state and bubbles begin to form. In general, a low boiling point (Class 1A) indicates a high vapor pressure and, possibly, an increased fire hazard.

CHEMICAL: An element, chemical compound or mixture of elements or compounds or both.

CONTAINER: A vessel of 60 gallons or less in capacity used for transporting or storing hazardous materials. Pipes, piping systems, engines and engine fuel tanks are not considered to be containers.

CYLINDER: A pressure vessel designed for pressures higher than 40 psia (275.6 kPa) and having a circular cross section. It does not include a portable tank, multiunit tank car tank, cargo tank or tank car.

ENVIRONMENTALLY DAMAGING SUBSTANCES: Any substance spilled or released into the environment in sufficient quantity so as to cause actual or potential human health problems if not dealt with by remedial action, or to contaminate air, land or water.

EXPLOSION: An effect produced by the sudden violent expansion of gases, which may be accompanied by a shock wave or disruption, or both, of enclosing materials or structures. An explosion could result from chemical changes such as rapid oxidation, deflagration, or detonation, decomposition of molecules and run-away polymerization (usually detonation).

FACILITY: Any building, structure, installation, equipment, pipe or pipeline including but not limited to any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or air craft or any site where hazardous materials or environmentally damaging substances have been deposited, stored, disposed of, placed or otherwise came to be located.

FLAMMABLE GAS: A material which is a gas at 68°F or less at 14.7 pounds per square inch atmosphere (psia) (101 kPa) of pressure [a material that has a boiling point of 68°F or less at 14.7 psia (101 kPa)] which:

1. Is ignitable at 14.7 psia (101 kPa) when in a mixture of 13 percent or less by volume with air; or
2. Has a flammable range at 14.7 psia (101 kPa) with air of not less than 12 percent, regardless of the lower limit.

The limits specified shall be determined at 14.7 psia (101 kPa) of pressure and a temperature of 68°F in accordance with ASTM E681.

FLAMMABLE LIQUID: A liquid having a closed cup flash point below 100°F. Flammable liquids are further categorized into a group known as Class I liquids. The Class I category is subdivided as follows:

Class IA. Liquids having a flash point below 73°F and having a boiling point below 100°F.

Class IB. Liquids having a flash point below 73°F and having a boiling point at or above 100°F.

Class IC. Liquids having a flash point at or above 73°F and below 100°F.

The category of flammable liquids does not include compressed gases or cryogenic fluids.

FLAMMABLE LIQUIFIED GAS: A liquefied compressed gas which, under a charged pressure, is partially liquid at a temperature of 68°F (20°C) and which is flammable.

FLAMMABLE MATERIAL: A material capable of being readily ignited from common sources of heat or at a temperature of 600°F or less.

FLAMMABLE SOLID: A solid, other than a blasting agent or explosive, that is capable of causing fire through friction, absorption of moisture, spontaneous chemical change or retained heat from manufacturing or processing, or which has an ignition temperature below 212°F or which burns so vigorously and persistently when ignited as to create a serious hazard. A chemical shall be considered a flammable solid as determined in accordance with the test method of CPSC 16 CFR Part 1500.44, if it ignites and burns with a self-sustained flame at a rate greater than 0.0866 inch per second along its major axis.

FLASHPOINT is the minimum temperature at which the vapor concentration near the surface of the liquid is high enough to form an ignitable mixture. Any liquid with a flashpoint less than 100°F (Class 1A) is considered to be a flammable liquid. A liquid with a flashpoint between 100°F and 200°F is combustible. In general, the relative hazard of a flammable liquid increases as the flashpoint decreases.

HAZARDOUS MATERIALS: Substances or materials in quantity and forms that may pose an unreasonable risk to health, safety or property when stored, transported or used in commerce. Such materials include but are not limited to: explosives, blasting agents, poisons, flammable and combustible liquids, flammable and non-flammable gases, corrosives, oxidizers, organic peroxides, flammable solids, radioactive materials, etiological agents. Hazardous materials also includes hazardous substances and hazardous wastes.

HAZARDOUS SUBSTANCES: Any substance designated under the Clean Water Act and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC Sec. 9601 et seq.), as now or hereafter amended, as posing a threat to the waterways and the environment when released.

HAZARDOUS WASTE: Discarded material under Resource Conservation and Recovery Act (RCRA) (42 USC Sec. 6901 et seq.) regulated by the United States Environmental Protection Agency because of public health and safety concerns.

RELEASE: Any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping, disposing, exploding or burning of hazardous materials or environmentally damaging substances into or on any land, air, water, well, stream, sewer, or pipe such that hazardous materials or any constituent or environmentally damaging substances thereof, that may enter the environment.

RESPONSIBLE PARTY or PARTIES include the following:

1. The owner and operator of a facility or vessel from which there is a fire or release or threatened release of hazardous materials or environmentally damaging substances;
2. Any person who at the time of disposal, transport, storage, or treatment of hazardous materials or environmentally damaging substances owned or operated the facility or vehicle used for such disposal, transport, treatment or storage from which there was a fire, release or threatened release of hazardous materials or environmentally damaging substances;
3. Any person who by contract, agreement or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous materials or environmentally damaging substances owned, controlled or possessed by

such person at a facility owned and operated by another party or entity from which there is fire, release or threatened release of such hazardous materials or environmentally damaging substances;

4. Any person who accepts or accepted any hazardous materials or environmentally damaging substances for transport to disposal, storage or treatment sites from which there is a fire, release or threatened release of hazardous materials or environmentally damaging substances;
5. In the case of an abandoned facility or vehicle any person owning or operating the abandoned facility or any person who owned or operated or otherwise controlled activities at the abandoned facility immediately prior to abandonment;
6. In the case of a land trust owning or operating a facility or vehicle the person owning the beneficial interest in the land trust.

TANK: A vessel containing more than 60 gallons.

VAPOR PRESSURE is a measure of a liquid's volatility. A high vapor pressure usually is an indication of a volatile liquid, or one that readily vaporizes.

VOLATILITY is the tendency or ability of a liquid to vaporize.

(C) General Requirements:

1. **Safe hazardous materials storage required.** Hazardous materials shall be stored in such a way that products which, when mixed, react violently or evolve toxic fumes, vapors or gases, or that, in combination, become hazardous by reason of toxicity, oxidizing power, flammability or other properties are not in close proximity. These materials shall be handled, stored, utilized or manufactured in accordance with the International Fire Code ("IFC"), as adopted by the Village, and shall be stored separately, segregated by distance, partitions, or other methods as required by the IFC.
2. **Unlawful releases prohibited.** No person shall cause, threaten, or allow the release of hazardous materials, unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency ("IEPA") or other State or Federal agency having primary authority over the release, as permitted by the IEPA, and such release is in such a place and manner as will not create a hazard to human health, property, or the environment. Any prohibited release is hereby declared a public nuisance. Any violation of this section shall be subject to the general penalty provisions of the Willowbrook Municipal Code and/or revocation of any special use permit issued.
3. Activities involving the manufacturing, processing, generation, storage or utilization, or any combination thereof, of the following materials or products are permitted only in accordance with the regulations of each zoning district. Such materials or products shall include, but are not limited to, the following:
 - a. Any material or product which contains a chemical compound, mixture or device, the primary or common purpose of which is to function by explosion including any material or product determined to be within the scope of the United States Code (USC) Title 18: Chapter 40 or any material or product

classified as an explosive by the International Fire Code ("IFC"), as adopted by the Village, other than consumer fireworks, 1.4G (Class C, Common) by the hazardous materials regulations of the Department of Transportation ("DOT") 49 CFR, Parts 100-185.

- b. Nuclear fuels, fissionable materials and products and reactor elements such as uranium 235 and plutonium 239.
- c. Any materials or products that constitute a physical or health hazard as identified by the IFC, as adopted by the Village, as High-Hazard Group H occupancies.
- d. Any chemicals governed by the Environmental Protection Agency ("EPA"), and regulated by the IEPA.

4. Liability for costs. Each responsible party or parties shall be liable to the Village of Willowbrook for all costs incurred by the Village resulting from a fire, release or threatened release involving hazardous materials. This section shall not limit any fines or penalties resulting from a successful prosecution for violation of the Willowbrook Municipal Code.

(D) Standards In The M-1 Light Manufacturing District:

1. The use of a facility, building or structure, or a portion thereof, that involves the manufacturing, processing, generation, storage or utilization, or any combination thereof, of any of the materials or products identified under Section 9-9-7(C)3 shall be allowed only as a special use.

Exceptions: hazardous materials that are utilized for the following on-site activities: yard and building maintenance, custodial services, forklift operations, and other ancillary purposes as authorized by the Building Official.

2. The use of a facility, building or structure, or a portion thereof, that involves the manufacturing, processing, generation, storage or utilization, or any combination thereof, of materials or products that constitute a physical or health hazard as identified in the IFC, as adopted by the Village, as High-Hazard Group H occupancies shall require you to make an application for a Village of Willowbrook issued Operational Permit for the purpose of assisting facilities in correctly reporting chemicals, their quantities, locations, and hazards for the benefit of alerting emergency response agencies to chemical hazards at a facility should an emergency occur. Having properly informed emergency responders allows a more effective and well-organized response and can limit liability and injuries during a response effort due to one or more of the following issues:
 - a. Hazardous or flammable materials or processes
 - b. High fire loads
 - c. Materials or processes that have unique fire management characteristics, as determined by the authority having jurisdiction over the matter.

Exceptions: hazardous materials that are utilized for the following on-site activities: yard and building maintenance, custodial services, forklift operations, and other ancillary purposes as authorized by the Building Official.

3. The use of a facility, building or structure, or a portion thereof, that involves the manufacturing, processing, generation, utilization or storage, or any combination thereof, of hazardous materials or products that require a permit or reporting by the United States Environmental Protection Agency ("EPA") or the Illinois Environmental Protection Agency ("IEPA"), shall, prior to commencement of operations, provide a copy of any permit(s) or report(s) required by the EPA or IEPA to the Village.
4. The manufacturing, processing, generation, storage or utilization, or any combination thereof, of flammable liquids or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with Table IV of this section, except that the storage of finished products in original sealed containers as defined in this section shall be-permitted.

TABLE IV
TOTAL CAPACITY OF FLAMMABLE
MATERIALS PERMITTED, GALLONS

(a) Industries engaged in storage for resale:

-	<u>Above Ground</u>	Below Ground
Class IC	Prohibited	100,000
Class IB	Prohibited	100,000
Class IA	Prohibited	<u>100,000</u>
Total	-	300,000

(b) Industries engaged in utilization or manufacture, or a combination thereof, of flammable materials where storage is an ancillary use:

-	<u>Above Ground</u>	Below Ground
Class IC	50,000	100,000
Class IB	25,000	100,000
Class IA	<u>Prohibited</u>	<u>100,000</u>
Total	75,000	300,000

SECTION THREE. That the remaining terms and provisions of the Zoning Title of the Village of the Willowbrook Municipal Code of the Village of Willowbrook remain in full force and effect and are not amended, altered or modified except as set forth in this Ordinance.

SECTION FOUR. This Ordinance shall be in full force and effect from and after its passage, approval and publication, in pamphlet form, in the manner provided by law.

PASSED and APPROVED this 12th day of August, 2019.

APPROVED:

Frank A. Trilla, Mayor

ATTEST:

Leroy Hansen, Village Clerk

ROLL CALL VOTE: AYES: _____

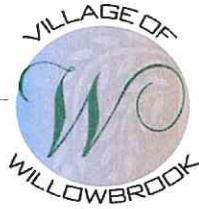
 NAYS: _____

 ABSTENTIONS: _____

 ABSENT: _____

Published in pamphlet form
this ____ day of _____, 2019.

Leroy Hansen, Village Clerk



Village of Willowbrook Staff Report to the Village Board

Public Hearing Date: June 5, 2019

Second Public Hearing Date: July 17, 2019

Village Board (Receive): July 22, 2019

Prepared By: Ann Choi, Planning Consultant

Case Title: PC 19-05: Text Amendments to amend Section 9-9-7 of Title 9 - Zoning Title of the Village of Willowbrook Municipal Code regarding fire and explosion hazard standards.

Petitioner: Village of Willowbrook

Action Requested by Applicant: Consideration and recommendation of text amendments to the Zoning Ordinance of the Village of Willowbrook.

Code Sections to be Amended or Added: Title 9 – Zoning Sections:
9-9-7 FIRE AND EXPLOSION HAZARD STANDARDS

Documents Attached:

- Attachment 1:** Section 9-9-7 (current version of the Village of Willowbrook Municipal Code)
- Attachment 2:** EPCRA Sections 311-312 (3 Pages)
- Attachment 3:** Appendix A To Part 355—The List Of Extremely Hazardous Substances And Their Threshold Planning Quantities (6 Pages)
- Attachment 4:** Appendix B To Part 355—The List Of Extremely Hazardous Substances And Their Threshold Planning Quantities (6 Pages)

Necessary Action by Village Board: Receive Plan Commission Recommendation.



History & Discussion of Request

The Village of Willowbrook has identified various sections of the Zoning Ordinance, specifically the Fire and Explosions Hazard standards of the M-1 Light Manufacturing Zoning District that require clarification. This section was originally drafted in 1975 and amended in 1997. The current language is somewhat ambiguous and outdated, and these proposed amendments will eliminate inconsistencies, widen the scope of potential uses that would require a special use, reference the latest version of the International Fire Code, the ICC IFC-2018 (IFC), and require certain users to file inventory reports of hazardous substances.

Follow-up Items from June 5, 2019 Plan Commission Meeting

The Plan Commission posed a number of questions at the June 5, 2019 Plan Commission meeting and requested responses for review and discussion for the July 17, 2019 Plan Commission. These questions are outlined below:

1. Will the proposed text amendment affect any residents who have propane on their property for household use (for example: lawnmower)?

Staff Response: No. The proposed Section 9-9-7(D), which talks about the special use requirement, only applies to the M-1 zoning district so it would not apply to any residents.

2. What theoretical problems exist with the current code?

Staff Response: The current code is outdated as the last update was in 1997, and that update applied to only certain portions of the code. Some portions have not been updated since 1975. The current code does not refer to the latest version of the International Fire Code. The latest version is ICC IFC-2018 (IFC).

Under the current code, a special use only required when a facility is involved in all three of the following activities: manufacturing, storage, utilization of materials or products which decompose by detonation. The amended code would require a special use involving one of the following activities: manufacturing, processing, generation, storage, or utilization of any materials listed in the proposed Section 9-9-7(C)3.

The current code, as the title indicates, is limited to operations, activities and uses that present fire and explosion hazards, but does not address the scope of hazardous materials conditions (storage and use) that could be present in many of Willowbrook's current facilities in the M-1 light manufacturing district. Additionally, the charts listed under Section 9-9-7(C)4 do not have a clear reference back to any known source and it is unknown how the temperature ranges were determined.

3. What triggers a special use requirement?

Staff Response:

- Manufacturing	- Utilization
- Processing	- Storage
- Generation	- Or any combination thereof



Of any materials or products identified under the proposed Section 9-9-7(C)3, except for materials used for the following on-site activities: yard maintenance, custodial services, forklift operations, or other ancillary purposes as authorized by the Building Official.

4. Do you have to request a special use simply to have propane storage for vehicles on-site?

Staff Response: No. Propane for forklift operations would be excluded from requiring a special use.

5. How many businesses would be directly impacted by the proposed text amendments?

Staff Response: Since a special use permit cannot be applied retroactively, the number of existing businesses that would be impacted is zero.

However, an operational permit would affect any business having the following:

- Hazardous or flammable materials or processes
- Hire Fire Loads
- Materials or processes that have unique fire management characteristics

The purpose of an operational permit is to assist facilities in correctly reporting chemicals, their quantities, locations, and hazards for the benefit of alerting emergency response agencies to chemical hazards at a facility should an emergency occur. Having properly informed emergency responders allows a more effective and well-organized response and can limit liability and injuries during a response effort due to one or more of the above stated issues.

6. Are the proposed text amendments adopting the standards that are already set by the federal government or the EPA?

Staff Response: Yes, the proposed amendments reference current federal and EPA standards.

7. Are the proposed text amendments creating new reporting requirements that the EPA doesn't require?

Staff Response: The special use permit would not create new reporting requirements. The operational permit would create new reporting requirements. The Operational Permit would be reviewed and approved under the building code amendments.

8. Have we compared this to ordinances that are acceptable in other communities right now? Is this far off of what everyone else is doing? Is Willowbrook far more restrictive in what's being written or being proposed than in neighboring communities?

Staff Response: Other communities have adopted IFC 2018 such as Naperville, Barrington, Addison, Tinley Park, and Orland Park. Every community has their own needs, assesses their own community needs differently, and therefore there is no straightforward comparison of each community's codes.



Proposed Amendments

The following sections are to be amended. New language is highlighted in the color **red**. Language to be eliminated is indicated with a ~~strikethrough~~. The italicized **blue** text provides an explanation for the change and is intended for informational purposes only. (The blue text is not part of the actual text amendment).

Amend Section 9-9-7 as follows:

9-9-7: FIRE AND EXPLOSION HAZARD HAZARDOUS MATERIALS STANDARDS:

(The title of the section is changed to broaden the scope of materials to include all hazardous materials.)

(A) Required Performance Level: All operations, activities and uses shall be conducted so as to comply with the performance standards governing ~~fire and explosion hazards~~ hazardous materials prescribed below.

(B) Definitions. The following terms as used in Section 9-9-7 shall have the meaning respectively ascribed to them in this section, unless the context otherwise requires.

BOILING POINT: The temperature at which the vapor pressure equals atmospheric pressure, such that the pressure of the atmosphere can no longer hold the liquid in a liquid state and bubbles begin to form. In general, a low boiling point (Class 1A) indicates a high vapor pressure and, possibly, an increased fire hazard.

CHEMICAL: An element, chemical compound or mixture of elements or compounds or both.

CONTAINER: A vessel of 60 gallons or less in capacity used for transporting or storing hazardous materials. Pipes, piping systems, engines and engine fuel tanks are not considered to be containers.

CYLINDER: A pressure vessel designed for pressures higher than 40 psia (275.6 kPa) and having a circular cross section. It does not include a portable tank, multiunit tank car tank, cargo tank or tank car.

ENVIRONMENTALLY DAMAGING SUBSTANCES: Any substance spilled or released into the environment in sufficient quantity so as to cause actual or potential human health problems if not dealt with by remedial action, or to contaminate air, land or water.

EXPLOSION: An effect produced by the sudden violent expansion of gases, which may be accompanied by a shock wave or disruption, or both, of enclosing materials or structures. An explosion could result from chemical changes such as rapid oxidation, deflagration, or detonation, decomposition of molecules and runaway polymerization (usually detonation)

FACILITY: Any building, structure, installation, equipment, pipe or pipeline including but not limited to any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or air craft or any site where hazardous materials or environmentally damaging substances have been deposited, stored, disposed of, placed or otherwise came to be located.

FLAMMABLE GAS: A material which is a gas at 68°F or less at 14.7 pounds per square inch atmosphere (psia) (101 kPa) of pressure [a material that has a boiling point of 68°F or less at 14.7 psia (101 kPa)] which:



1. Is ignitable at 14.7 psia (101 kPa) when in a mixture of 13 percent or less by volume with air; or
2. Has a flammable range at 14.7 psia (101 kPa) with air of not less than 12 percent, regardless of the lower limit.

The limits specified shall be determined at 14.7 psia (101 kPa) of pressure and a temperature of 68°F in accordance with ASTM E681.

FLAMMABLE LIQUEFIED GAS: A liquefied compressed gas which, under a charged pressure, is partially liquid at a temperature of 68°F (20°C) and which is flammable.

FLAMMABLE LIQUID: A liquid having a closed cup flash point below 100°F. Flammable liquids are further categorized into a group known as Class I liquids. The Class I category is subdivided as follows:

Class IA. Liquids having a flash point below 73°F and having a boiling point below 100°F.

Class IB. Liquids having a flash point below 73°F and having a boiling point at or above 100°F.

Class IC. Liquids having a flash point at or above 73°F and below 100°F.

The category of flammable liquids does not include compressed gases or cryogenic fluids.

FLAMMABLE MATERIAL: A material capable of being readily ignited from common sources of heat or at a temperature of 600°F or less.

FLAMMABLE SOLID: A solid, other than a blasting agent or explosive, that is capable of causing fire through friction, absorption of moisture, spontaneous chemical change or retained heat from manufacturing or processing, or which has an ignition temperature below 212°F or which burns so vigorously and persistently when ignited as to create a serious hazard. A chemical shall be considered a flammable solid as determined in accordance with the test method of CPSC 16 CFR Part 1500.44, if it ignites and burns with a self-sustained flame at a rate greater than 0.0866 inch per second along its major axis.

FLASHPOINT: The minimum temperature at which the vapor concentration near the surface of the liquid is high enough to form an ignitable mixture. Any liquid with a flashpoint less than 100°F (Class 1A) is considered to be a flammable liquid. A liquid with a flashpoint between 100°F and 200°F is combustible. In general, the relative hazard of a flammable liquid increase as the flashpoint decreases.

HAZARDOUS MATERIALS: Substances or materials in quantity and forms that may pose an unreasonable risk to health, safety or property when stored, transported or used in commerce. Such materials include but are not limited to: explosives, blasting agents, poisons, flammable and combustible liquids, flammable and non-flammable gases, corrosives, oxidizers, organic peroxides, flammable solids, radioactive materials, etiological agents. Hazardous materials also include hazardous substances and hazardous wastes.

HAZARDOUS SUBSTANCES: Any substance designated under the Clean Water Act and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC Sec. 9601 et seq.), as now or hereafter amended, as posing a threat to the waterways and the environment when released.



HAZARDOUS WASTE: Discarded material under Resource Conservation and Recovery Act (RCRA) (42 USC Sec. 6901 et seq.) regulated by the United States Environmental Protection Agency because of public health and safety concerns.

RELEASE: Any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping, disposing, exploding or burning of hazardous materials or environmentally damaging substances into or on any land, air, water, well, stream, sewer, or pipe such that hazardous materials or any constituent or environmentally damaging substances thereof, that may enter the environment.

RESPONSIBLE PARTY or PARTIES include the following:

1. The owner and operator of a facility or vessel from which there is a fire or release or threatened release of hazardous materials or environmentally damaging substances;
2. Any person who at the time of disposal, transport, storage, or treatment of hazardous materials or environmentally damaging substances owned or operated the facility or vehicle used for such disposal, transport, treatment or storage from which there was a fire, release or threatened release of hazardous materials or environmentally damaging substances;
3. Any person who by contract, agreement or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous materials or environmentally damaging substances owned, controlled or possessed by such person at a facility owned and operated by another party or entity from which there is fire, release or threatened release of such hazardous materials or environmentally damaging substances;
4. Any person who accepts or accepted any hazardous materials or environmentally damaging substances for transport to disposal, storage or treatment sites from which there is a fire, release or threatened release of hazardous materials or environmentally damaging substances;
5. In the case of an abandoned facility or vehicle any person owning or operating the abandoned facility or any person who owned or operated or otherwise controlled activities at the abandoned facility immediately prior to abandonment;
6. In the case of a land trust owning or operating a facility or vehicle the person owning the beneficial interest in the land trust.

TANK: A vessel containing more than 60 gallons.

VAPOR PRESSURE: A measure of a liquid's volatility. A high vapor pressure usually is an indication of a volatile liquid, or one that readily vaporizes.

VOLATILITY: The tendency or ability of a liquid to vaporize.

(Definitions from the IFC 2018 and Occupational Safety and Health Administration "OHSA" have been added to provide clarity and ease for users who may not have access to the IFC 2018 Manual).

{B} {C} General Requirements:

1. Activities involving the storage, utilization or manufacture of materials or products which decompose by detonation are permitted only in accordance with the regulations of each zoning district. Such materials shall include, but are not limited to: all primary explosives such as lead azide, lead



~~styphnate, fulminates and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid, propellants and components thereof, such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles and ozonides; strong oxidizing agents such as perchloric acid, perchlorates, chlorates and hydrogen peroxide in concentrations greater than thirty five percent (35%); and nuclear fuels, fissionable materials and products and reactor elements such as uranium 235 and plutonium 239.~~ *(Hazardous materials are listed in greater detail under the proposed Section 9-9-7(C)4 below. Reference to unstable organic compounds has been deleted because these materials are regulated by the IFC.)*

Safe hazardous materials storage required. Hazardous materials shall be stored in such a way that products which, when mixed, react violently or evolve toxic fumes, vapors or gases, or that, in combination, become hazardous by reason of toxicity, oxidizing power, flammability or other properties are not in close proximity. These materials shall be handled, stored, utilized or manufactured in accordance with the **International Fire Code ("IFC")**, as adopted by the Village, and shall be stored separately, segregated by distance, partitions, or other methods as required by the IFC.

2. ~~Where materials or products which decompose by detonation are permitted, these materials shall be handled, stored, utilized or manufactured in accordance with the National Fire Codes published by the National Fire Protection Association. (Ord. 75 O 3, 3-10-1975)~~

Unlawful releases prohibited. No person shall cause, threaten, or allow the release of hazardous materials, unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency ("IEPA") or other State or Federal agency having primary authority over the release, as permitted by the IEPA, and such release is in such a place and manner as will not create a hazard to human health, property, or the environment. Any prohibited release is hereby declared a public nuisance. Any violation of this section shall be subject to the general penalty provisions of the Willowbrook Municipal Code and/or revocation of any special use permit issued.

3. Activities involving the manufacturing, processing, generation, storage or utilization, or any combination thereof, of the following materials or products are permitted only in accordance with the regulations of each zoning district. Such materials or products shall include, but are not limited to, the following:

- a. Any material or product which contains a chemical compound, mixture or device, the primary or common purpose of which is to function by explosion including any material or product determined to be within the scope of the **United States Code (USC) Title 18: Chapter 40** or any material or product classified as an explosive **by the International Fire Code ("IFC")**, as adopted by the Village, other than consumer fireworks, 1.4G (Class C, Common) by the hazardous materials regulations of the **Department of Transportation ("DOTn") 49 CFR, Parts 100-185**.



- b. Nuclear fuels, fissionable materials and products and reactor elements such as uranium 235 and plutonium 239. *(These materials are not addressed by the IFC 2018.)*
- c. Any materials or products that constitute a physical or health hazard as identified by the IFC, as adopted by the Village, as High-Hazard Group H occupancies.
- d. Any chemicals governed by the Environmental Protection Agency ("EPA"), and regulated by the IEPA.

4. Liability for costs. Each responsible party or parties shall be liable to the Village of Willowbrook for all costs incurred by the Village resulting from a fire, release or threatened release involving hazardous materials. This section shall not limit any fines or penalties resulting from a successful prosecution for violation of the Willowbrook Municipal Code.

(C) (D) Standards In The M-1 Light Manufacturing District:

- 1. ~~Uses involving the manufacture, storage and utilization of materials and products which decompose by detonation may be allowed only as a special use.~~
The use of a facility, building or structure, or a portion thereof, that involves the manufacturing, processing, generation, storage or utilization, or any combination thereof, of any of the materials or products identified under Section 9-9-7(C)3 shall be allowed only as a special use.

Exceptions: Hazardous materials that are utilized for the following on-site activities: yard and building maintenance, custodial services, forklift operations, and other ancillary purposes as authorized by the Building Official.

(The "or" and "or any combination thereof" eliminates any ambiguity, making special uses mandatory, not optional, that involve one or more of the categories listed. The text amendment broadens the scope of those uses which would require a special use. Exceptions have been added to allow businesses that use certain materials for daily on-site maintenance activities to be excluded from the special use requirement. These materials would still be regulated by the IFC 2018.)

- 2. ~~The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted.~~
The use of a facility, building or structure, or a portion thereof, that involves the manufacturing, processing, generation, storage or utilization, or any combination thereof, of materials or products that constitute a physical or health hazard as identified in the IFC, as adopted by the Village, as High-Hazard Group H occupancies shall require you to make an application for a Village of Willowbrook issued Operational Permit for the purpose of assisting facilities in correctly reporting chemicals, their quantities, locations, and hazards for the benefit of alerting



emergency response agencies to chemical hazards at a facility should an emergency occur. Having properly informed emergency responders allows a more effective and well-organized response and can limit liability and injuries during a response effort due to one or more of the following issues:

- a. Hazardous or flammable materials or processes
- b. High fire loads
- c. Materials or processes that have unique fire management characteristics, as determined by the authority having jurisdiction over the matter.

Exceptions: Hazardous materials that are utilized for the following on-site activities: yard and building maintenance, custodial services, forklift operations, and other ancillary purposes as authorized by the Building Official.

3. ~~The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted provided that said materials or products are stored, manufactured or utilized in fire-resistant and fire-protected buildings or spaces. Said materials or products shall be stored so that they are set back at least one hundred feet (100') from all lot lines. (This section has been deleted because it is already covered in the IFC 2018.)~~

3. ~~The use of a facility, building or structure, or a portion thereof, that involves the manufacturing, processing, generation, utilization or storage, or any combination thereof, of materials or products in quantities that equal or exceed the thresholds in amounts that have been determined by the Federal Emergency Planning and Community Right to Know Act ("EPCRA") Sections 311-312 under the following categories: Extremely Hazardous Substances (EHS) (40 CFR part 355 Appendix A and Appendix B), gasoline (all grade combined) at a retail gas station, diesel fuel (all grades combined) at a retail gas station, and all other hazardous chemicals, shall, prior to commencement of operations at or exceeding the thresholds, obtain a Resource Conservation and Recovery Act ("RCRA") permit and provide a copy of said permit to the Village and complete and file Tier II reports required by the Federal EPCRA or Toxic Release Inventory ("TRI") and provide copies of the same to the Village.~~

(This section is amended to broaden the scope of uses that must comply with Table IV(b) in the new Section 9-9-7(D), and requires a Resource Conservation and Recovery Act ("RCRA") permit for facilities that store, utilize or manufacture flammable liquids at or above the thresholds set by the EPA. The Village of Willowbrook will use the thresholds set by the EPA and the Emergency Planning and Community Right to Know Act ("EPCRA") Hazardous Chemical Inventory Reporting Requirements, included for reference only, as Attachments 2, 3 and 4, of this report. The EPA periodically makes updates to these documents; therefore, facilities shall use the most updated thresholds found on the EPA's website. The proposed text amendment also requires these facilities to file Tier II reports required by the EPCRA or Toxic Release Inventory ("TRI") and provide copies of the same to the Village. Tier II reports serve as an inventory of hazardous chemicals for certain users, and would assist emergency responders in identifying which facilities store potentially dangerous substances on-site.)



• The use of a facility, building or structure, or a portion thereof, that involves the manufacturing, processing, generation, utilization or storage, or any combination thereof, of hazardous materials or products that require a permit or reporting by the United States Environmental Protection Agency ("EPA") or the Illinois Environmental Protection Agency ("IEPA"), shall, prior to commencement of operations, provide a copy of any permit(s) or report(s) required by the EPA or IEPA to the Village.

(The reason for this change is that the Village's intent was not to impose any requirements beyond what the federal or state government requires but the modified amendment would require businesses to provide to the Village a copy of any permits that are required by the EPA/IEPA in regards to hazardous materials.)

4. The ~~storage, utilization or manufacture~~ manufacturing, processing, generation, storage or utilization, or any combination thereof, of flammable liquids or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with table IV of this section, except that the storage of finished products in original sealed containers as defined in this section ~~of fifty five (55) gallons or less~~ shall be ~~unrestricted~~ permitted.

(The text amendment introduces new activities and clarifies that if any of the categories listed are present, it will be subject to the standards listed in Table IV. The text amendment revises the 55 gallon maximum to permit the storage of finished products in original sealed "containers". Containers, as defined by the IFC 2018, have a maximum capacity of 60 gallons or less. The text amendment also replaces the term "unrestricted" with the term "permitted" because the Village would still defer to the IFC 2018 to determine how these materials shall be handled, stored, etc.)

TABLE IV
TOTAL CAPACITY OF FLAMMABLE
MATERIALS PERMITTED, GALLONS

(a) Industries engaged in storage for resale:

	<u>Above Ground</u>	<u>Below Ground</u>
Materials having a closed cup flash point over 187°F but less than 350°F Class IA	Prohibited	100,000
Materials having a closed cup flash point from and including 105°F to and including 187°F Class IB	Prohibited	100,000
Materials having a closed cup flash point of less than 105°F Class IC	Prohibited	<u>100,000</u>
Total	-	300,000



(Table IV(a) defines the maximum quantities (in gallons) of certain for resale materials that are permitted to be stored above ground and below ground. The text amendment gives the Village additional oversight in regulating these potentially hazardous materials by requiring that they comply with Table IV. The IFC 2018 does not specifically limit the quantities of above ground or below ground storage of hazardous materials. The IFC 2018 regulates the use, handling and storage of these materials in indoor and outdoor environments.)

(b) Industries engaged in utilization and or manufacture, or a combination thereof, of flammable materials where storage is an ancillary use:

	<u>Above Ground</u>	Below Ground
Materials having a closed cup flash point over 187°F but less than 350°F Class IA	50,000	100,000
Materials having a closed cup flash point from and including 105°F to and including 187°F Class IB	25,000	100,000
Materials having a closed cup flash point of less than 105°F Class IC	Prohibited	<u>100,000</u>
Total	75,000	300,000

~~When flammable gases are stored, utilized or manufactured and measured in cubic feet, the quantity in cubic feet at standard temperature and pressure permitted shall not exceed thirty (30) times the quantities listed above. (Ord. 97-0-05, 1-27-1997)~~

(Table IV(b) defines the maximum quantities (in gallons) of certain materials that are permitted to be stored above ground and below ground where storage is an ancillary use. The text amendment clarifies that if any (or a combination thereof) of the categories listed are present, it will be subject to the standards listed in Table IV(b). Tables IV(a) and IV(b) should be revised so that the order of classes from top to bottom reads as follows: Class 1C, Class 1B and lastly Class 1A. These would align with the temperature ranges from least volatile to most volatile class of flammable liquids.)

Staff Recommendation

The last update to Section 9-9-7 was in 1997, and that update applied to only certain portions of the code. Some portions have not been updated since 1975 and is outdated as it has not been updated in over 20 years. The proposed text amendment will clarify some inconsistencies in the current code, refer to the latest version of the International Fire Code ICC IFC-2018, broadens the scope of those uses which would require a special use, and includes exceptions to allow businesses that use certain materials for daily on-site maintenance activities to be excluded from the special use requirement. Staff supports the proposed text amendment.



Plan Commission Public Hearing Summary

The Plan Commission conducted a public hearing on this petition at their July 17, 2019 meeting. The following members were in attendance: Chairman Dan Kopp, Commissioners Kaucky, Soukup, Remkus and Walec.

Staff requested to modify the proposed text amendment as it was presented in the staff report for the July 17, 2019 Plan Commission meeting to incorporate the following changes:

1. Include the following definitions under the proposed Section 9-9-7(B):

VOLATILITY is the tendency or ability of a liquid to vaporize.

VAPOR PRESSURE is a measure of a liquid's volatility. A high vapor pressure usually is an indication of a volatile liquid, or one that readily vaporizes.

BOILING POINT is the temperature at which the vapor pressure equals atmospheric pressure, such that the pressure of the atmosphere can no longer hold the liquid in a liquid state and bubbles begin to form. In general, a low boiling point (Class 1A) indicates a high vapor pressure and, possibly, an increased fire hazard.

FLASHPOINT is the minimum temperature at which the vapor concentration near the surface of the liquid is high enough to form an ignitable mixture. Any liquid with a flashpoint less than 100°F (Class 1A) is considered to be a flammable liquid. A liquid with a flashpoint between 100°F and 200°F is combustible. In general, the relative hazard of a flammable liquid increase as the flashpoint decreases.

2. Revise Section 9-9-7(D)3 to read:

The use of a facility, building or structure, or a portion thereof, that involves the manufacturing, processing, generation, utilization or storage, or any combination thereof, of hazardous materials or products that require a permit or reporting by the United States Environmental Protection Agency ("EPA") or the Illinois Environmental Protection Agency ("IEPA"), shall, prior to commencement of operations, provide a copy of any permit(s) or report(s) required by the EPA or IEPA to the Village.

3. Revise Tables IV(a) and IV(b) so that the order of classes from top to bottom reads as follows: Class 1C, Class 1B and lastly Class 1A. These would align with the temperature ranges from least volatile to most volatile class of flammable liquids. The maximum number of gallons shall remain the same as the current code. See revised tables on the following page:



(a) Industries engaged in storage for resale:

	<u>Above Ground</u>	Below Ground
Materials having a closed cup flash point over 187°F but less than 350°F Class IC	Prohibited	100,000
Materials having a closed cup flash point from and including 105°F to and including 187°F Class IB	Prohibited	100,000
Materials having a closed cup flash point of less than 105°F Class IA	Prohibited	<u>100,000</u>
Total	-	300,000

(b) Industries engaged in utilization and or manufacture, or a combination thereof, of flammable materials where storage is an ancillary use:

	<u>Above Ground</u>	Below Ground
Materials having a closed cup flash point over 187°F but less than 350°F Class IC	50,000	100,000
Materials having a closed cup flash point from and including 105°F to and including 187°F Class IB	25,000	100,000
Materials having a closed cup flash point of less than 105°F Class IA	Prohibited	<u>100,000</u>
Total	75,000	300,000

Additionally, various members of the public provided comments and urged the Village to enact regulations that are stricter than what state and federal laws currently impose to protect the community. The Plan Commission acknowledged the concerns of the residents and communities and assured the audience that the proposed text amendment would be a vast improvement to the current code and should be thought of as a first step to addressing the problems with the current code.



Motion

Following staff's report and the Plan Commission's discussion, the following motion by Commissioner Remkus was seconded by Commissioner Soukup and approved by a unanimous roll call vote of the members present:

Based on the submitted petition and testimony presented, I move that the Plan Commission recommend to the Village Board approval of the text amendments presented on Pages 1 to 11 of the Staff Report for PC Case Number 19-05 to amend Section 9-9-7 of the Zoning Title of the Village of Willowbrook regarding fire and explosion hazard standards, with the following changes: Add the definitions of Volatility, Vapor Pressure, Boiling Point and Flashpoint to Section 9-9-7(B); revise the language to the proposed Section 9-9-7(D)3 to eliminate a requirement for the RCRA permit and replace with language requiring copies of any permit required by the EPA/IEPA to be provided to the Village; and revise Tables IV(a) and IV(b) so that the above ground storage of flammable liquid classes are ordered from the least volatile to most volatile class.



Attachment 1
Current Version of Section 9-9-7
(2 pages)



Attachment 2
EPCRA Sections 311-312, Facilities That Are Covered
(3 pages)



Attachment 3
Appendix A To Part 355
The List Of Extremely Hazardous Substances And Their Threshold Planning Quantities
(6 pages)



Attachment 4
Appendix B To Part 355
The List Of Extremely Hazardous Substances And Their Threshold Planning Quantities
(6 pages)

ORDINANCE NO. 19-0-_____

**AN ORDINANCE AMENDING SECTION 9-2-2, ENTITLED “DEFINITIONS,”
OF CHAPTER 2, ENTITLED “DEFINITIONS,” OF TITLE 9, ENTITLED
“ZONING TITLE OF THE VILLAGE,” OF THE WILLOWBROOK MUNICIPAL
CODE OF THE VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS**

WHEREAS, on or about June 15, 2019, the Village of Willowbrook, as applicant, filed an application for a certain text amendment to the Zoning Title of the Village of the Willowbrook Municipal Code relating to the definition of “building height”; and

WHEREAS, Notice of Public Hearing on said text amendment to the Zoning Title of the Village of the Willowbrook Municipal Code was published in the Chicago Sun-Times on or about July 1, 2019, all as required by the statutes of the State of Illinois and the ordinances of the Village of Willowbrook; and

WHEREAS, a public hearing was conducted by the Plan Commission of the Village of Willowbrook on July 17, 2019, pursuant to said Notice, all as required by the statutes of the State of Illinois and the ordinances of the Village of Willowbrook; and

WHEREAS, at said public hearing, the applicant provided testimony in support of the proposed text amendment to the Zoning Title of the Village of the Willowbrook Municipal Code, and all interested parties had an opportunity to be heard; and

WHEREAS, at said public hearing, the Plan Commission recommended that the Mayor and Board of Trustees of the Village of Willowbrook (the “Corporate Authorities”) approve the proposed text amendment; and

WHEREAS, the Corporate Authorities of the Village find that it is in the best interest of the Village of Willowbrook and its residents to amend the Zoning Title of the Village of the Willowbrook Municipal Code, as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Willowbrook, DuPage County, Illinois, as follows:

SECTION ONE. That the foregoing recital clauses to this Ordinance are adopted as the findings of the Corporate Authorities of the Village of Willowbrook and are incorporated herein by specific reference.

SECTION TWO. That Section 9-2-2, entitled "Definitions," of Chapter 2, entitled "Definitions," of Title 9, entitled "Zoning Title of the Village," of the Willowbrook Municipal Code of the Village of Willowbrook be and is hereby amended by deleting the term "Building Height" as set forth therein and inserting therefore the following in the appropriate alphabetical location:

BUILDING HEIGHT: The height in feet shall be taken as the vertical distance from the average grade adjacent to the building to the highest point of the building. In determining height, parapet walls not exceeding three feet (3') in height from the roof surface, roof tanks, bulkheads, chimneys and similar roof structures shall not be included in calculating building height. Parapet walls shall not exceed three feet (3') from the roof surface. Roof tanks, bulkheads, chimneys and similar roof structures shall not exceed the greater of ten feet (10') or twenty-five percent (25%) of the maximum height of a structure in the relevant zoning district.

SECTION THREE. That the remaining terms and provisions of the Zoning Title of the Village of the Willowbrook Municipal Code of the Village of Willowbrook remain in full force and effect and are not amended, altered or modified except as set forth in this Ordinance.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

SECTION FOUR. This Ordinance shall be in full force and effect upon its passage and approval in the manner provided by law.

PASSED and APPROVED this 22nd day of July, 2019.

APPROVED:

Frank A. Trilla, Mayor

ATTEST:

Leroy Hansen, Village Clerk

ROLL CALL VOTE: AYES: _____

 NAYS: _____

 ABSTENTIONS: _____

 ABSENT: _____

LAW AND ORDINANCES COMMITTEE MEETING
AGENDA ITEM SUMMARY SHEET

AGENDA ITEM DESCRIPTION	COMMITTEE REVIEW
<p>DISCUSSION – AN ORDINANCE AMENDING SECTION 4-2-11 ENTITLED “PERMIT FEES:” AND SECTION 4-2-48 ENTITLED “FIRE CODE ADOPTED:” OF CHAPTER 2 ENTITLED “BUILDING CODE” OF TITLE 4 ENTITLED “MUNICIPAL SERVICES” OF THE VILLAGE CODE OF ORDINANCES OF THE VILLAGE OF WILLOWBROOK</p>	<p><input type="checkbox"/> Finance/Administration <input type="checkbox"/> Municipal Services <input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Law & Ordinances</p> <p><u>Meeting Date:</u> August 6, 2019</p>

<input type="checkbox"/> Discussion Only	<input checked="" type="checkbox"/> Approval of Staff Recommendation (for consideration by Village Board at a later date)
<input type="checkbox"/> Seeking Feedback	<input type="checkbox"/> Approval of Staff Recommendation (for <u>immediate</u> consideration by Village Board)
<input type="checkbox"/> Regular Report	<input type="checkbox"/> Report/documents requested by Committee

BACKGROUND

The Village of Willowbrook utilizes TPI Building Consultants, Inc (TPI) for our Village building plan review and building inspection services. Representatives from TPI worked with the Village of Lombard on the development of a Hazardous Materials Reporting and Operational Permit System. Staff would recommend that the Village of Willowbrook consider a similar program for our community. As a comparison the Village of Lombard issued 30 Operational Permits in 2018 for a community of 43,745 people. Staff would recommend amending our code and establishing a yearly Operational Permit with the associated reporting and fee requirements. Section 430 ILCS 45 / Illinois Chemical Safety Act allows for the establishment of an orderly system to assure that responsible parties are adequately prepared to respond to the release of chemical substances into the environment and improves the ability of State and Local authorities to respond to such releases.

The Village of Willowbrook's Fire Code would be modified to require that any firm that maintains, stores, or handles hazardous materials, or conduct processes which produce conditions hazardous to life and property, apply for and be issued an Operational Permit with associated fees. This would allow the Village to gather information on the identified chemicals so that the requirements for the use and storage of hazardous materials, as defined by the International Fire Code, can be met. The Village of Willowbrook's Fire Code would require an Operational Permit to be issued and renewed annually for those occupancies that exceed the allowable quantities of identified hazardous materials at their facility.

This situation would require firms to make application for a Village issued Operational Permit for the sole purpose of making preparations to manage a heightened safety risk in your facility due to one or more of the following issues:

- Hazardous or flammable materials or processes
- High Fire Loads
- Materials or processes that have unique fire management characteristics

A supplemental exhibit is attached to clarify the process of establishing an Operational Permit, review the right of entry, inspection authority, inspection scenarios, violations and violation penalties.

STAFF RECOMMENDATION

Recommended for formal Village Board consideration on August 12, 2019.

The Village of Willowbrook is establishing / proposing an Operational Permit program.

Section 430 ILCS 45/ Illinois Chemical Safety Act, as amended, purposed the establishment of an orderly system to assure that responsible parties are adequately prepared to respond to the release of chemical substances into the environment and improves the ability of State and local authorities to respond to such releases.

As such, Village of Willowbrook has proposed to amend amended the International Fire Code (IFC), Section 105.6, (WB 4-2-28(B)(6)) (Title 4, Chapter 2, Section 28, B, 6) to require any firm that maintains, stores, or handles hazardous materials; or conduct processes which produce conditions hazardous to life and property; apply for and be issued an "Operational Permit".

This program allows the 'Authority Having Jurisdiction' (AHJ) (the AHJ is the Village of Willowbrook) to gather information on the business' operations, chemical inventories, personnel, emergency contact information, etc. An Operational permit will be issued and renewed annually, the fees for this program are detailed in both 4-2-28(B)(6) & 4-2-11.

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International Fire Code (4-2-28) Proposed Amendment:

Section 105.1.2 Types of Permits. Operational Permit. Delete in its entirety and in lieu thereof substitute with the following new Section 105.1.2:

Section 105.1.2 Types of Permits. Operational Permit. An operational permit allows an applicant to conduct an operation(s) for which a permit is required by Section 105.6 in accordance with the schedule as outlined in the fee ordinances. A permit fee shall be charged annually for each type of operational permit in accordance with the schedule as outlined in the fee ordinances (see Product Description and Fee Table below). A permit shall constitute permission to maintain, store or handle materials; or to conduct processes which produce conditions hazardous to life or property.

Operational Permit / Product Description and Fee Table				
	Description	Permit Required (Yes or No)	Administrative Permit Fee	IFC Code Reference
A	Compressed Gases. Section 105.6.8: An operational permit is required: Compressed gas. Storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of amounts listed in Table 105.6.8 Exception: Vehicles equipped for and using compressed gas as a fuel to propel the vehicle.	Yes	\$150.00	105.6.8

B	Cryogenic Fluids. Section 105.6.10: An operational permit is required: To produce, store, transport onsite, use, handle or dispense cryogenic fluids in excess of the amount listed in Table 105.6.10	Yes	\$150.00	105.6.10
C	Hazardous Materials. Section 105.6.20: An operational permit is required to: Store, transport onsite, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20	Yes	\$150.00	105.6.20
D	Flammable and Combustible Liquids. Section 5701.4: An operational permit is required:	-	-	-
D 1	To use or operate a pipeline for the transportation with facilities or flammable or combustible liquids. This requirement shall not apply to the offsite transportation (DOTn) (see section 3501.1.2) nor does it apply to piping systems (see section 3503.6)	Yes	\$150.00	5701.4
D 2	To store, handle or use of Class I liquids in excess of 5 gallons (19L) in a building or in excess of 10 gallons (37.9L) outside of a building, except that a permit is not required for the following:	Yes	\$150.00	5701.4
D 2.1	The storage or use of Class I liquids in the fuel tanks of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant unless such storage, in the opinion of the Fire Official would cause an unsafe condition.	No	-	-
D 2.2	The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.	No	-	-
D 3	To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95L) in a building or in excess of 60 gallons (227L) outside a building, except for fuel oil used in connection with oil-burning equipment.	Yes	\$150.00	5701.4

D 4	To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by means other than the approved, stationary on-site pumps normally used for dispensing purposes.	Yes	\$150.00	5701.4
D 5	To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.	Yes	\$150.00	5701.4
D 6	To install, alter, remove, abandon, place temporarily out of service (for more than 90 days) or otherwise dispose of an underground, protected above-ground or above-ground flammable or combustible tank.	Yes	\$150.00	5701.4
D 7	To change the type of contents stored in a flammable or combustible liquid tank to a material which poses a greater hazard than for which the tank was designed and constructed.	Yes	\$150.00	5701.4
D 8	To manufacture, process, blend, or refine flammable or combustible liquids.	Yes	\$150.00	5701.4
E	Inspection Fees:		See 4-2-11(G)(5)	

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Once the Operational Permit is applied for both Willowbrook Building Department (WB) staff and Tri-State Fire Protection District (TS) will review the application. Section 105.2.2 Inspections authorized does allow WB & TS to inspect the premises prior to Permit Approval. Submittal shall be reviewed within ~ten (10) business days. Depending on the completeness of the application, the Permit can be either approved and issued, or deficiency comments will be returned to the applicant within the ~ten (10) business days.

[A] 105.2.2 Inspection authorized. Before a new operational permit is *approved*, the *fire code official* is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used to determine compliance with this code or any operational constraints required.

Once an Operational Permit is Issued, an inspection will be scheduled at the facility. The inspections will be performed by both a member of the Willowbrook Building Department staff as well as personnel from the Tri-State Fire Protection District. An inspection will be scheduled by WB & TS staff within five (5) business days.

If a mutually agreed upon inspection date cannot be coordinated with the applicant within the first five (5) days after permit approval and issuance, a mandatory inspection will be scheduled with ten (10) business days regardless of any delay on the part of the applicant.

The IFC, Section 104.3 Right of Entry, allows for the "Right of Entry" for our Inspectors. If a Permit holder does not allow access to the building, the code also provides a means to gain access through legal means. IFC Section 104.3.1 Warrant essentially allows a municipality to obtain a 'Administrative/Inspection Warrant' to gain access, whereas where a WB Police Officer will accompany Inspectional staff to the site to procure access.

[A] 104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the *fire code official* has reasonable cause to believe that there exists in a building or on any premises any conditions or violations of this code that make the building or premises unsafe, dangerous or hazardous, the *fire code official* shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed on the *fire code official* by this code. If such building or premises is occupied, the *fire code official* shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the *fire code official* shall first make a reasonable effort to locate the *owner*, the *owner's* authorized agent or other person having charge or control of the building or premises and request entry. If entry is refused, the *fire code official* has recourse to every remedy provided by law to secure entry.

[A] 104.3.1 Warrant. Where the *fire code official* has first obtained a proper inspection warrant or other remedy provided by law to secure entry, an *owner*, the *owner's* authorized agent or occupant or person having charge, care or control of the building or premises shall not fail or neglect, after proper request is made as herein provided, to permit entry therein by the *fire code official* for the purpose of inspection and examination pursuant to this code.

During the Operation Permit Inspection process, WB & TS staff will be substantiating all matters contained in the Permit, verifying 'onsite' quantities against the 'listed' quantities and code's 'allowable' quantities. Any other observed non-compliance will be addressed at that time.

Inspection Scenario 1: No violations observed: Staff will write up documentation stating all matters listed in the OP are in compliance with the terms and conditions listed in the OP. No further action will be required on the part of either party, AHJ or applicant, until the OP annual renewal date.

Inspection Scenario 2: Violations observed: Staff will write up documentation stating all observed violations. Whereas a "Re-Inspection shall be mandatory. Said Re-Inspection timeframe shall be determined based upon the site conditions observed; however, in no case shall the re-inspection be later than 10 business days from the initial Inspection. (Note: There are no code minimum or maximum requirements for a re-inspection timeframe; once again, the site conditions observed shall dictate.)

Inspection Scenario 3: Violations observed & "No Remedial Action Taken" on the part of the OP Holder: Since staff considers this matter a matter of health & life safety, on the eleventh (11th) day after "No Remedial Action Taken", long form citations will be issued by WB Staff to the OP holder in accordance with IFC Sections 110 - 110.4; subsequently WB 4-2-28(B)(7); subsequently Title 1, Chapter 4, Section 1 (1-4-1) .

SECTION 110 VIOLATIONS

[A] 110.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

[A] 110.2 Owner/occupant responsibility. Correction and abatement of violations of this code shall be the responsibility of the *owner* or the owner's authorized agent. Where an occupant creates, or allows to be created, hazardous conditions in violation of this code, the occupant shall be held responsible for the abatement of such hazardous conditions.

[A] 110.3 Notice of violation. Where the *fire code official* finds a building, premises, vehicle, storage facility or outdoor area that is in violation of this code, the *fire code official* is authorized to prepare a written notice of violation describing the conditions deemed unsafe and, where compliance is not immediate, specifying a time for reinspection.

[A] 110.3.1 Service. A notice of violation issued pursuant to this code shall be served on the *owner*, the owner's authorized agent, operator, occupant or other person responsible for the condition or violation, either by personal service, mail or by delivering the same to, and leaving it with, some person of responsibility on the premises. For unattended or abandoned locations, a copy of such notice of violation shall be posted on the premises in a conspicuous place at or near the entrance to such premises and the notice of violation shall be mailed by certified mail with return receipt requested or a certificate of mailing, to the last known address of the *owner*, the owner's authorized agent, or occupant.

[A] 110.3.2 Compliance with orders and notices. A notice of violation issued or served as provided by this code shall be complied with by the *owner*, the owner's authorized agent, operator, occupant or other person responsible for the condition or violation to which the notice of violation pertains.

[A] 110.3.3 Prosecution of violations. If the notice of violation is not complied with promptly, the *fire code official* is authorized to request the legal counsel of the jurisdiction to institute the appropriate legal proceedings at law or in equity to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant hereto.

[A] 110.3.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *fire code official* shall not be mutilated, destroyed or tampered with, or removed, without authorization from the *fire code official*.

[A] 110.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] 110.4.1 Abatement of violation. In addition to the imposition of the penalties herein described, the *fire code official* is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

(Continued Next Page)

4-2-28: FIRE CODE ADOPTED: (B)

7. Section 109.3 Violation Penalties. Delete this section in its entirety and in lieu thereof substitute the following new section 109.3:

Section 109.3 Violation Penalties. Any person who shall violate any provision of this code shall, upon conviction thereof, be subject to a fine of an amount as provided in title 1, chapter 4, of the village code of the village of Willowbrook. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

1-4-1: GENERAL PENALTY:  

Whenever in this Code or in any ordinance of the Village any act is prohibited or is made or declared to be unlawful, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no other penalty is expressly set forth, a violation of this Code or of any ordinance shall be punished by a fine of not less than seventy five dollars (\$75.00) and no more than seven hundred fifty dollars (\$750.00). Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense. In addition to a fine, the court may impose a period of conditional discharge as defined in 730 Illinois Compiled Statutes 5/5-1-4 or court supervision as defined in 730 Illinois Compiled Statutes 5/5-1-21 of the Criminal Code for a period of up to six (6) months, an order of restitution, an order to perform community service, an order to complete an education program and/or any other appropriate penalties or conditions authorized in any section of this Code or ordinance or any conditions for conditional discharge set forth in 730 Illinois Compiled Statutes 5/5-6-3 or for court supervision in 730 Illinois Compiled Statutes 5/5-6-3.1 as the foregoing are amended from time to time. (Ord. 12-O-04, 2-13-2012)

At the anniversary date of the annual Operational Permit, repeat.

ORDINANCE NO. 19-0-__

AN ORDINANCE AMENDING SECTION 4-2-11 ENTITLED "PERMIT FEES:" AND SECTION 4-2-48 ENTITLED "FIRE CODE ADOPTED:" OF CHAPTER 2 ENTITLED "BUILDING CODE" OF TITLE 4 ENTITLED "MUNICIPAL SERVICES" OF THE VILLAGE CODE OF ORDINANCES OF THE VILLAGE OF WILLOWBROOK

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Willowbrook, DuPage County, Illinois, that the Village Code of the Village of Willowbrook be amended as follows:

SECTION ONE. Section 4-2-11 entitled "Permit Fees:" of Chapter 2 entitled "Building Code:" of Title 4 entitled "Municipal Services" as amended is hereby further amended in its entirety to read as follows:

"4-2-11: PERMIT FEES: The permit fees applicable to all development, building or construction within the village shall be those fees and charges as set forth herein.

(A) Building Permit Fees:

1. Single-Family Residential Structures:

(a) Building Architectural Plan Examination and review fee (In-House):

(1) Initial: Four hundred fifty dollars (\$450.00)

(2) In situations where the building plans are required to be subjected to additional reviews, an additional examination and review fee of Two hundred seventy-five dollars (\$275.00) shall be charged for each additional examination and review.

(b) Grading plan examination and review fee:

(1) Five hundred dollars (\$500.00).

(2) Grading plan examination and review fee: In situations where the grading plan plans are required to be subjected to additional reviews, an additional examination and review fee of two hundred fifty dollars (\$250.00) shall be charged for each additional examination and review.

(c) Building Permit Fee, Residential:

(1) Interior habitable areas, including, but not limited to, all floors including basement, crawl space, attic, etc. All residential building permit fees shall be incorporated within a cubical content fee calculated as follows: Eight cents (\$0.08) per cubic foot.

(2) Exterior roofed over and open areas that are contiguous with the SFR structure, including, but not limited to, porches, entry ways, etc.: All residential building

permit fees shall be incorporated within a cubical content fee calculated as follows: Two cents (\$0.02) per cubic foot.

(d) Alterations, remodeling and repairs not requiring architectural plans or detailed drawings: One hundred and twenty-five dollars (\$125.00).

(e) Foundation Only Permit Fee:

- (1) A fee of sixty cents (\$0.60) per square foot based on foundation lot coverage dimensions (in conjunction with a new single-family residence building permit).
- (2) Plan examination and review fee: Three hundred dollars (\$300.00)
- (3) In situations where the 'foundation only' plans are required to be subjected to additional reviews, an additional examination and review fee of one hundred seventy-five dollars (\$175.00) shall be charged for each additional examination and review.

(f) Outside Agency Reviews: The plan review for Single-Family Residential structures, including additions thereto, may be performed by a 3rd party plan review agency. All fees and charges related to the performance of this service shall be borne by the permittee.

(g) Permit Applications: All New Single-Family Residential Structure permit applications shall be accompanied by a cash deposit of one thousand dollars (\$1000.00).

(h) Should a permit be issued, the deposit shall be credited to the entire building permit fee. Should the Building Official or his/her designee determine not to issue the requested permit, or should the permit not be issued for any other reason, the entire deposit shall be retained by the Village as liquidated damages for the purpose of compensating the Village for costs incurred in the examination and review of the building permit application.

(Ord. 02-O-10, 5-13-2002; amd. Ord. 05-O-32, 11-14-2005)

2. Multi-Family/Nonresidential Buildings, Including Parking Garages and Parking Decks:

(a) Permit Applications: All permit applications shall be accompanied by a cash deposit of an amount in accordance with the following table to secure the payment of all costs incurred by the village in processing and reviewing such applications:

<u>Gross Floor Area Of Proposed Structure (In Square Feet):</u>	<u>Required Plan Review Cash Deposit Amount:</u>
(1) 1 to 1000	\$1,000.00
(2) 1,001 to 5,000	\$2,500.00
(3) 5,001 to 20,000	\$5,000.00
(4) 20,001 to 100,000	\$7,500.00
(5) 100,001 to 200,000	\$10,000.00
(6) Over 200,000	\$12,500.00

(Ord. 02-O-10, 5-13-2002)

Should a permit be issued, the deposit shall be credited to the entire building permit fee. Should the Building Official or his/her designee determine not to issue the requested permit, or should the permit not be issued for any other reason, the entire

deposit shall be retained by the village as liquidated damages for the purpose of compensating the village for costs incurred in the examination and review of the building permit application.

(Ord. 02-O-10, 5-13-2002; amd. Ord. 05-O-32, 11-14-2005)

(b) Multi-Family/Nonresidential Buildings Building plan examination and review fee shall be determined based on the project. Minimum fees apply (In-House):

<u>(Square Feet):</u>	<u>Review Fee:</u>
(1) 1 to 1000	\$750.00
(2) 1,001 to 5,000	\$1,750.00
(3) 5,001 to 20,000	\$3,500.00
(4) 20,001 to 100,000	\$7,000.00
(5) 100,001 to 200,000	\$9,000.00
(6) Over 200,000	\$11,000.00

(c) Additional [In-House] Reviews: In situations where plans are required to be subjected to additional reviews, an additional examination and review fee of one half (1/2) of the amount listed in (A)(2)(b)(1) shall be charged for each additional examination and review.

(d) Outside Agency Reviews: The plan review for multi-family and nonresidential buildings, including additions thereto, may be performed by a 3rd party plan review agency. All fees and charges related to the performance of this service shall be borne by the permittee.

(e) Building Permit Fees, Cubical Content: All commercial building permit fees shall be incorporated within a cubical content fee calculated as follows:

- (1) First 100,000 cubic feet: \$0.10 per cubic foot
- (2) Each cubic foot in excess of 100,000 cubic feet up to and including 200,000 cubic feet: \$0.0775 per cubic foot
- (3) Each cubic foot in excess of 200,000 cubic feet up to and including 500,000 cubic feet: \$0.055 per cubic foot
- (4) Each cubic foot in excess of 500,000 cubic feet: \$0.0325 per cubic foot

(f) Building Permit Fees, Mechanical Content (where Applicable):

- (1) Electrical permit fee add 0.25 x building permit fee calculated in Section (A)(2)(e).
- (2) Plumbing permit fee add 0.25 x building permit fee calculated in Section (A)(2)(e).
- (3) Mechanical permit fee add 0.25 x building permit fee calculated in Section (A)(2)(e).

(g) Multi-Family and Nonresidential Uses: For new construction, a minimum building permit and inspection fee of three thousand dollars (\$3,000.00) shall apply.

(h) Foundation Only Permit:

- (1) A fee of eighty cents (\$0.80) per square foot based on foundation lot coverage dimensions (in conjunction with a building permit).
- (2) Plan examination and review fee: Four hundred dollars \$400.00).

- (3) In situations where the foundation only plans are required to be subjected to additional reviews, an additional examination and review fee of two hundred dollars \$200.00 shall be charged for each additional examination and review.
 - (i) Multi-Family and Nonresidential Uses:
 - (1) Building Permit fees for alterations, conversions, remodeling, structural repairs, tenant completions, Build-Outs, etc., (Whereas a "Certificate of Occupancy" Issued after Final Construction Inspection is Approved by all Parties, shall be charged as follows: shall be charged as follows: Each cubic foot: \$0.055 per cubic foot
 - (2) Building Permit fees for alterations, Vanilla Boxes (No Build-out Plan(s) (Whereas a "Certificate of Completion" Issued after Final Construction Inspection is Approved by all Parties, shall be charged as follows: Each cubic foot: \$0.0325 per cubic foot
- 3. Off Street Parking, Parking Lots & Driveways:
 - (a) Resurfacing or Reconstruction: The resurfacing or reconstruction of any private roadway, parking area, driveway, etc., or the modification of the surface of any watercourse or ponding area shall require a permit.
 - (b) Multi-Family and Nonresidential/Commercial Uses:
 - (1) Newly Constructed: A permit fee of seven cents (\$0.07) per square foot of pavement surface.
 - (2) All permit applications for an existing parking lot overlay or reconstruction shall be accompanied by a proposed striping plan which indicates the size, layout and number of regular and disabled/accessible parking spaces and the location of all required above grade signs designating parking spaces which are reserved for disabled individuals and the indicated fines signage. The fee for such permit shall be in accordance with the following: Three hundred fifty dollars (\$350.00)
 - (3) Commercial Sealcoating: The sealcoating and restriping of any parking area shall require a permit signed by the Building Official. The fee for such permit shall be one hundred dollars \$100.00. The permit application for sealcoating shall be accompanied by a proposed striping plan which indicates the size, layout and number of both regular and disabled accessible/handicapped parking spaces and the location of all required above grade signs designating parking spaces which are reserved for disabled individuals.
 - (c) Residential (Single Family, Attached & Detached):
 - (1) Newly Constructed Driveways:
 - (a) Without a Culvert: One Hundred twenty-five Dollars (\$125.00).
 - (b) With a Culvert: One Hundred Fifty Dollars (\$150.00).
 - (2) Existing, Re-Constructed/Re-Surfaced Driveways:
 - (a) Without a Culvert: One Hundred Dollars (\$100.00).
 - (b) With a Culvert: One Hundred Fifty Dollars (\$125.00).
- 4. Accessory Structures: (Including but not limited to: Garages, Shed, Gazebos, etc.)
 - (a) In Single-Family Residential, building permit fee:
 - (1) Structures equal to or under 60 Square Feet: Thirty-five dollars (\$35.00)
 - (2) Structures greater than 60 square feet and under 125 Square Feet: Seven cents (\$0.07) per cubic foot of cubical content.
 - (a) With a Minimum fee of: Fifty dollars (\$50.00)

- (3) Structures greater than 126 Square Feet and under 200 Square Feet: Seven cents (\$0.07) per cubic foot of cubical content.
 - (a) With a Minimum fee of: Seventy-five dollars (\$75.00)
- (4) Structures greater than 200 Square Feet: Seven cents (\$0.07) per cubic foot of cubical content.
 - (a) With a Minimum fee of: One hundred and seventy-five dollars (\$175.00)
- (b) In Non-Residential & Multi-Family, building permit fee:
 - (1) Per 4-2-11(A)(2)
 - (a) With a Minimum fee of: Three hundred and fifty dollars (\$350.00)
- 5. All Attached or Detached Decks:
 - (a) Single-Family, Attached/Detached (Townhouses, Duplexes): Fifty dollars (\$50.00).
 - (b) MFR New or Rehab (Condo Unit), Per Unit: Fifty dollars (\$50.00).
 - (c) MFR (Common Area): Seventy-five dollars (\$75.00).
 - (d) Non-Res / Commercial: one hundred dollars (\$100.00).
- 6. Miscellaneous Flatwork (Concrete, paver, etc.), Patios, Service Walks, Stoops/Steps, etc.:
 - (a) Single-Family, Attached/Detached (Townhouses, Duplexes): Walkways, Stoops only (Public or Private/Service): Fifty dollars (\$50.00).
 - (b) SFR, Patios only (Concrete, Pavers, etc.) Sixty dollars (\$60.00).
 - (c) SFR, Patios & Walk on one Permit. Eighty-five dollars (\$85.00).
 - (d) MFR/Non-Residential, Patios & walks (Condo Unit) (Concrete, Pavers, etc.) Fifty dollars (\$50.00).
 - (e) Multi-Family Residential (Common Area)/Non-Residential: Patios, Walkways, Stoops - Concrete, Pavers, etc.: Seventy-five dollars (\$75.00).
- 7. Private Street Re-Construction:
 - (a) Single Family Residential: One Hundred Fifty dollars (\$150.00).
 - (b) Multi-Family Residential: Two Hundred Fifty dollars (\$250.00).
 - (c) Non-Residential / Commercial: Three Hundred Fifty dollars (\$350.00).
- 8. Exterior Structural Alterations:
 - (a) Residential districts: A permit fee of six cents (\$0.06) per cubic foot of cubical content of the area which is the subject of the alteration.
 - (1) A minimum fee of two hundred fifty dollars (\$250.00) shall apply.
 - (b) Nonresidential districts: A permit fee of eight cents (\$0.08) per cubic foot of cubical content of the area which is the subject of the alteration.
 - (1) A minimum fee of five hundred fifty dollars (\$500.00) shall apply.
- 9. Existing Structure Moving:
 - (a) Single Family Residential "House" Moving: One Thousand dollars (\$1000.00) shall apply.
 - (b) Single Family Residential "Garage" Moving: One hundred dollars (\$100.00) (New Section) shall apply.
 - (c) Single Family Residential "Shed" Moving: twenty-five dollars (\$25.00) (New Section) shall apply.
- 10. Fences:
 - (a) Residential R1-R4 districts: Fifty dollars (\$50.00).
 - (b) Residential R5 districts: Seventy-five dollars (\$75.00).
 - (c) Commercial Districts: One hundred twenty-five dollars (\$125.00).
- 11. Satellite Earth Stations:
 - (a) Residential R1-R4 districts: One hundred dollars (\$100.00).

- (b) Residential R5 districts: One hundred fifty dollars (\$150.00).
- (c) Commercial Districts: Two hundred dollars (\$200.00). (No Change)

12. Personal Communication Services (PCS) Antennas:

- (a) Freestanding Tower Mounted Devices:
 - (1) Residential, Amateur Radio Antenna/Equipment: Two hundred dollars (\$200.00).
 - (2) Non-Residential/Commercial Installations: Four thousand five hundred dollars (\$4,500.00).
- (b) Building Mounted Devices:
 - (1) Residential, Amateur Radio Antenna/Equipment: One hundred fifty dollars (\$150.00).
 - (2) Non-Residential/Commercial Installations: Three thousand seven hundred fifty dollars (\$3,750.00).
- (c) Alterations, modifications, additions to existing PCS equipment:
 - (1) Residential, Amateur Radio Antenna/Equipment: One hundred dollars (\$100.00).
 - (2) Non-Residential/Commercial Installations: Six hundred twenty-five dollars (\$625.00).

13. Swimming Pools:

- (a) Swimming pools having sides which are equal to or more than four feet (4') above surrounding grade: one hundred fifty dollars (\$150.00).
- (b) Swimming pools having sides less than four feet (4') above surrounding grade, including all pools constructed in ground:
 - (1) Residential: Three hundred dollars (\$300.00).
 - (2) Commercial: Five hundred dollars (\$500.00).
- (c) Mechanical Installations related to a Pool:
 - (1) Electric w/ pool (Single-Family Residential): Fifty dollars (\$50.00).
 - (2) Electric w/ pool (Multifamily/Non-Residential): One hundred twenty-five dollars (\$125.00).
 - (3) Plumbing w/ pool (Single-Family Residential): Fifty dollars (\$50.00).
 - (4) Plumbing w/ pool (Multifamily/Non-Residential): One hundred twenty-five dollars (\$125.00).
 - (5) Fuel Gas w/ pool (Single-Family Residential): Fifty dollars (\$50.00).
 - (6) Fuel Gas w/ pool (Multifamily/Non-Residential): One hundred twenty-five dollars (\$125.00).
- (d) Temporary Inflatable Pool: Fifty dollars (\$50.00).

14. Reroofing/Tear Offs Fees:

- (a) All permit application shall be accompanied by an affidavit indicating the exact number of roofing layers that are currently on the residence. Alternately, the proposal can indicate "Tear-off All Existing".
- (b) New Roof:
 - (1) Single-Family Residential (Detached/Attached), per residence: Seventy-five dollars (\$75.00).
 - (2) Single-Family Residential, Accessory Structure: Twenty-five dollars (\$25.00).
 - (3) Multi-Family Residential: Two hundred dollars (\$200.00).
 - (4) Non-Residential/Commercial: three hundred dollars (\$300.00).
- (c) Re-Roof:

- (1) Single-Family Residential (Detached/Attached), per residence: Fifty dollars (\$50.00).
- (2) Single-Family Residential, Accessory Structure: Fifteen dollars (\$15.00).
- (3) Multi-Family Residential (Per Building): One hundred Fifty dollars (\$150.00).
- (4) Non-Residential/Commercial (Per Building): Two hundred fifty dollars (\$250.00).

15. Remove & Replace Fenestration (windows, doors, skylights, etc.) Fees:

- (a) Single-Family Residential (Detached / Attached):
 - (1) One through five (1-5) openings: Fifty dollars (\$50.00).
 - (2) Over six (6) openings: Seventy-five dollars (\$75.00).
- (b) Multi-Family Residential:
 - (1) Condominiums: Fifty dollars (\$50.00).
 - (2) Common Area: One hundred dollars (\$100.00).
 - (3) If above no's 1 and 2 are over six (6) windows, add Twenty-five dollars (\$25.00).
- (c) Commercial:
 - (1) One through five (1-5) openings: One hundred dollars (\$100.00).
 - (2) Over six (6) openings: One hundred fifty dollars (\$150.00).

16. Plus, all applicable Review & Inspection Fees

(B) Plumbing Permit Fees:

1. Residential; Single-Family (Attached/detached), Townhouse, Condominium:
 - (a) Fourteen dollars (\$14.00) per fixture.
 - (b) One hundred twenty dollars (\$120.00) minimum.
2. Commercial, Multi-Family (Building):
 - (a) Twenty-four dollars (\$24.00) per fixture.
 - (b) One hundred eighty dollars (\$180.00) minimum.
3. Minor Plumbing Alterations:
 - (a) Residential: Seventy-five dollars (\$75.00).
 - (b) Commercial: One hundred twenty-five dollars (\$125.00)
4. Lawn Sprinkling Systems:
 - (a) Residential: One hundred dollars (\$100.00)
 - (b) Multi-Family Residential: One hundred twenty-five dollars (\$125.00)
 - (c) Commercial: One hundred fifty dollars (\$150.00)
5. Water Heater/Boiler, New, Each:
 - (a) Residential/Multi-Family Residential: Seventy-five dollars (\$75.00)
 - (b) Commercial/Non-Residential: One hundred twenty-five dollars (\$125.00)
6. Water Heater/Boiler, Replacement, Each:
 - (a) Residential/Multi-Family Residential: Sixty dollars (\$60.00)
 - (b) Commercial/Non-Residential: Seventy-five dollars (\$75.00)
7. Water Service Connection (Per Building, each) Fee: See Title 6-8-2 for applicable fee schedule,
8. Water Service Disconnection (Per Building, each):
 - (a) Residential, Single-family attached / detached: One hundred twenty-five dollars (\$125.00)
 - (b) Multi-Family Residential: One hundred fifty dollars (\$150.00)

- (c) Commercial: Two hundred dollars (\$200.00)
- 9. Plus, all applicable Review & Inspection Fees

(C) Electrical Permit Fees:

- 1. Residential (Single-Family, Duplex, Townhouse, Condominium (per unit))
 - (a) New Service:
 - (1) Each 200 Amp: One hundred Seventy-five dollars \$175.00.
 - (2) Plus \$12.00 per Circuit.
 - (3) Plus \$17.00 per Motor/Fan.
 - (b) Existing Service Upgrade
 - (1) From under 200 Amps up to 200 Amps: One hundred dollars \$100.00.
 - (2) From 200 Amps up to 400 Amps: One hundred twenty-five dollars \$125.00.
 - (3) From under 200 Amps up to 400 Amps: One hundred fifty dollars \$150.00.
 - (c) Remodels, Alterations, etc.:
 - (1) Minimum Fee: Seventy-five dollars \$75.00.
- 2. Commercial, Multi-Family Residential:
 - (a) New Service:
 - (1) Each 200 Amp, up to 1000 Amp: Two hundred fifty dollars \$250.00.
 - (2) Excess Services: Fees for services in excess of one thousand (1,000) amperes shall be computed on the basis of the rating of the service disconnects installed prorated according to the schedule above and shall include feeders, risers and all wiring and equipment up to the branch circuit distribution panels or motor power panels or control centers.
 - (3) Plus \$18.00 per Circuit.
 - (4) Plus \$20.00 per Motor/Fan.
 - (b) Existing Service Upgrade
 - (1) Each 200 Amps: One hundred seventy-five dollars (\$175.00).
 - (2) Plus \$18.00 per Circuit.
 - (c) Remodels, Alterations, Build-Outs, etc. (Commercial & Multi-Family Res. Common Area): Minimum Fee: One hundred twenty-five dollars (\$125.00).
- 3. Back-up Generators:
 - (a) Residential: Seventy-five dollars (\$75.00).
 - (b) Commercial: One hundred twenty-five dollars (\$125.00).
- 4. Electric Vehicle Charging Stations:
 - (a) Residential: Seventy-five dollars (\$75.00).
 - (b) Commercial
 - (1) First Controller Unit: One hundred twenty-five dollars (\$125.00).
 - (2) Each Controller Unit after first: twenty-five dollars (\$25.00).
- 5. Temporary Electrical Services:
 - (a) Residential: Seventy-five dollars (\$75.00).
 - (b) Commercial: One hundred twenty-five dollars (\$125.00).
- 6. Low Voltage Electrical Systems: Fee for the installation of low voltage electrical systems, including but not limited to, burglar alarms, fire alarms, camera, computer systems shall be:
 - (a) Residential (Single-Family, Duplex, Townhouse, Condominium (per unit)): Sixty dollars (\$60.00)
 - (b) Multi-Family Residential, Common Area: Seventy-five dollars (\$75.00)

- (c) Commercial:
 - (1) Single Condominium Unit: One hundred dollars (\$100.00).
 - (2) Entire Building and/or Common Areas: One hundred twenty-five dollars (\$125.00).
- 7. Solar Photovoltaic Systems:
 - (a) Residential (Single-Family, Duplex, Townhouse, Condominium (per unit): Fifty dollars (\$50.00).
 - (b) Multi-Family Residential - Common Area: One Hundred fifty dollars (\$150.00).
 - (c) Commercial, Multi-Family Residential - Common Area: Two-Hundred fifty dollars (\$250.00).
- 8. Plus, all applicable Review & Inspection Fees

(D) Heating, Ventilation, Air Conditioning (HVAC) Permit Fees:

- 1. Residential (Single-Family, Duplex, Townhouse, Condominium (per unit)):
 - (a) Each new Air conditioner condenser: One hundred dollars (\$100.00).
 - (b) Each new forced air furnace / boiler: One hundred dollars (\$100.00).
 - (c) Each replaced Air conditioner condenser: Seventy-five dollars (\$75.00).
 - (d) Each replaced forced air furnace / boiler: Seventy-five dollars (\$75.00).
- 2. Commercial, Non-Residential Condominium Unit:
 - (a) Each new Air conditioner condenser: One hundred dollars (\$100.00).
 - (b) Each new forced air furnace / boiler: One hundred dollars twenty-five (\$125.00).
 - (c) Each replaced Air conditioner condenser: One hundred dollars (\$100.00).
 - (d) Each replaced forced air furnace / boiler: One hundred dollars (\$100.00).
- 3. Commercial:
 - (a) Each New Roof Top Unit (RTU): Two hundred dollars (\$200.00).
 - (b) Each replaced Roof Top Unit (RTU): One hundred dollars twenty-five (\$125.00).
- 4. Plus, all applicable Review & Inspection Fees

(E) Sign Permit Fees: The fee to be charged for permits issued for the erection, construction or alteration of any sign, or advertising structure, marquee, canopy or awning, as defined in this subsection:

- 1. Non-Illuminated Signs:
 - (a) Flat fee, per sign: Ninety dollars (\$90.00)
 - (b) Plus, one dollar and seventy-five cents (\$1.75) per square foot of gross surface area of each face thereof.
- 2. Illuminated Signs:
 - (a) Flat fee, per sign: One hundred seventy-five dollars (\$175.00)
 - (b) Plus, six dollars (\$6.00) per square foot of gross surface area of each face thereof.
- 3. Marquees, Canopies and Awnings:
 - (a) Flat fee, per sign: Ninety dollars (\$90.00)
 - (b) Plus, one dollar and seventy-five cents (\$1.75) per square foot of gross surface area of each face thereof.

4. Existing Freestanding Sign Panel Change:
 - (a) Non-Illuminated:
 - (1) Flat fee, per sign: Fifty dollars (\$50.00)
 - (2) Plus, fifty cents (\$0.50) per square foot of gross surface area of each face thereof.
 - (b) Illuminated:
 - (1) Flat fee, per sign: Seventy-five dollars (\$75.00).
 - (2) Plus, one dollar and fifty cents (\$1.50) per square foot of gross surface area of each face thereof.
5. Temporary Signs, as regulated under the provisions of the Zoning Ordinance: Sixty dollars (\$60.00) per each two (2) week period, (eight (8) weeks maximum per calendar year).
6. Plus, all applicable Review Fees:
 - (a) Building Mounted: Ninety dollars (\$90.00)
 - (b) Free-Standing: One hundred eighty dollars (\$180.00)
 - (c) Temporary, per application: Twenty-five dollars (\$25.00)
 - (d) Each subsequent re-review fee shall be 50% of the initial review.
7. Plus, all applicable Inspection Fees.

(F) Conveyance Systems Permit Fees:

1. Review fee:
 - (a) Five (5) floors or less: Four hundred fifty dollars (\$450.00)
 - (b) Over five (5) floors: Six hundred dollars (\$600.00)
2. Initial Inspection/Re-Inspection fees, newly Installed:
 - (a) Initial (immediately after installation) One hundred fifty dollars (\$150.00)
 - (b) Re-Inspection, each: One hundred dollars (\$100.00)
3. Elevator, Escalators, Lifts (moves personnel):
 - (a) Five (5) floors or less: Five hundred dollars (\$500.00)
 - (b) Each additional floor over 5: One hundred dollars (\$100.00)
 - (c) Hand operated, 5 floors or less: One hundred fifty (\$150.00)
 - (d) Semiannual Inspection (per conveyance):
 - (1) First: One hundred seventy-five dollars (\$175.00)
 - (2) Re-inspection: One hundred seventy-five dollars (\$175.00), per re-inspection.
4. Dumbwaiter, conveyor, miscellaneous conveyance system fees (moves material):
 - (a) Five (5) floors or less: Five hundred dollars (\$500.00)
 - (b) Each additional floor over Five (5): Fifty dollars (\$50.00)
 - (c) Hand operated, Five (5) floors or less: (\$40.00)
 - (d) Semiannual Inspection (per conveyance):
 - (1) First: One hundred Twenty-five dollars (\$125.00)
 - (2) Re-inspection: One hundred dollars (\$100.00), per re-inspection
5. Modernization, modification: One hundred fifty dollars (\$150.00)
6. Plus, all applicable Review & Inspection Fees:

(G) Miscellaneous Permit Fees:

1. Final Inspections for "Certificate of Occupancy" (CO):
 - (a) Single-Family Residential:
 - (1) Architectural (Construction Final): Two hundred dollars (\$200.00).

- (2) Civil Engineering (As-Built/Final Topography Review & Site Visit): One hundred seventy-five dollars (\$175.00)
- (b) Multi-Family Architectural (Construction Final): One hundred dollars (\$100.00) Per dwelling unit.
- (c) Commercial/Nonresidential:
 - (1) Architectural (Construction Final):
 - (a) Individual Unit / Tenant Build-out: Two hundred dollars (\$200.00).
 - (b) New Building: Three hundred dollars (\$300.00).
 - (2) Civil Engineering (As-Built/Final Topography Review & Site Visit): Two Hundred fifty dollars (\$250.00).
- 2. Commercial Re-Occupancy Final Inspection for Certificate of Occupancy (CO):
 - (a) Equal to or under one thousand (1,000) square feet: Two hundred dollars (\$200.00).
 - (b) Over one thousand (1,000) square feet: Two hundred fifty dollars (\$250.00).
- 3. Final Inspections for Certificate of Completion (CC) (including but not limited to: remodel, rehab, flatwork, windows, accessory structures, fences, etc.):
 - (a) Single-family Residential & Multi Family Residential (Condo Unit): Forty dollars (\$40.00).
 - (b) Commercial/Nonresidential & Multi Family Res. (Common Area): Sixty dollars (\$60.00).
- 4. Temporary Occupancy Permits (TCO), fee per certificate issuance (predetermined time limits will apply, one-month term typical, 6 months maximum (weather based)):
 - (a) Residential, Per Dwelling Unit: One hundred twenty-five dollars (\$125.00).
 - (b) Nonresidential: Two hundred fifty dollars (\$250.00).
 - (c) It shall be the Temporary Occupancy Permit holder's responsibility to renew permit *prior* to expiration.
- 5. Operational Permit Inspections:
 - (a) Annual Inspection: One hundred dollars (\$100.00)
 - (b) Re-inspection: Seventy-five dollars (\$75.00), per re-inspection
- 6. National Pollutant Discharge Elimination System (NPDES) Inspections:
 - (a) Two hundred fifty dollars (\$250.00) each.
 - (b) Inspections may be performed by a 3rd party agency. All fees and charges related to the performance of this service shall be borne by the permittee.
- 7. Reinspection Fees:
 - (a) If an inspection is scheduled and the Inspector determines that the job has not progressed to a point where an Inspection can be made properly and is deemed "Not Approved", or access is not possible to perform the inspection, a one hundred dollar (\$100.00) reinspection fee, per discipline (including but not limited to: Rough/Final, Building/Framing, Electrical, Plumbing, Civil Engineering, Right-of-Way, Water, etc.), will be charged. No further inspections shall be made until such time as the reinspection fee has been paid.
 - (b) It shall be the "Permit Holder's" responsibility to pay all outstanding fees prior to the rescheduling of all subsequent inspections.
- 8. Work without benefit of a Permit:
 - (a) When work requiring a permit has been started prior to the issuance of such permit, the permit fee shall be "double" the amount of the standard permit fee. However, in no instance shall the fee for a permit issued under these circumstances exceed the standard permit fee by an amount in excess of:

- (b) Residential districts: Two hundred fifty dollars (\$250.00).
- (c) Nonresidential districts, Commercial projects associated with Multifamily Residential properties: Seven hundred fifty dollars (\$750.00).

9. Change of Contractor: There shall be a charge of thirty-five dollars (\$35.00), along with the resubmittal of all necessary applications, bonds, and certificates, etc. for approval whenever a contractor is changed after the building permit has been issued.

10. Demolition/Wrecking:

- (a) Residential:
 - (1) Principal Dwellings: One thousand five hundred dollars (\$1,500.00).
 - (2) Detached Garage Structures: One hundred seventy-five dollars (\$175.00).
 - (3) Other Accessory Structures: Fifty dollars (\$50.00).
- (b) Nonresidential/Multi-Family:
 - (1) Principal Structures: Three thousand dollars (\$3,000.00).
 - (2) Detached Garage Structures: One hundred seventy-five dollars (\$175.00).
 - (3) Other Accessory Structures: Fifty dollars (\$50.00).
- (c) Interior Demolition:
 - (1) Residential districts: Three hundred dollars (\$300.00), in conjunction with a building permit.
 - (2) Nonresidential districts: Six hundred dollars (\$600.00), in conjunction with a building permit.
- (d) In-Ground Pools:
 - (1) Residential districts: One hundred dollars (\$100.00).
 - (2) Nonresidential districts: One hundred fifty dollars (\$150.00).
- (e) Underground storage tanks / vessels (Not gasoline/service station related):
 - (1) Residential districts: One hundred dollars (\$100.00).
 - (2) Nonresidential districts: One hundred fifty dollars (\$150.00).

11. Accessory Structure / Temp Use (Commercial/Nonresidential) Review Fee:

- (a) Outdoor sales / tents, etc.: One hundred fifty dollars (\$150.00).
- (b) Outdoor seating, per year: Fifty dollars (\$50.00).

12. Foundation Stabilization:

- (a) Residential districts: One hundred dollars (\$100.00).
- (b) Nonresidential districts: One hundred fifty dollars (\$150.00).

13. Grading/Fill Permits:

- (a) Residential districts: One hundred dollars (\$100.00).
- (b) Nonresidential districts: One hundred fifty dollars (\$150.00).
- (c) Pond / Stream Bank Stabilization: One hundred dollars (\$100.00).

14. Minimum Permit Fee for any Permit (Not Otherwise Specified Above):

- (a) Residential districts, Attached/Detached (Townhouses, Duplexes, Condo Unit): One hundred dollars (\$100.00).
- (b) Residential districts, Including Multifamily Residential Common Areas: One hundred twenty-five dollars (\$125.00).
- (c) Nonresidential districts: One hundred fifty dollars (\$150.00).

15. Construction Water:

- (a) Residential: Two hundred dollars (\$200.00).
- (b) Commercial: Three hundred dollars (\$300.00).

16. Water Tap Final Inspection:

- (a) Residential:

- (1) Initial: One hundred twenty-five dollars (\$125.00).
- (2) Re-inspection: Seventy-five dollars (\$75.00).
- (b) Commercial / Non-Residential:
 - (1) Initial: Two hundred fifty dollars (\$250.00).
 - (2) Re-inspection: One hundred fifty dollars (\$150.00).
- 17. Public Right-of-Way and/or Easement Work: One hundred dollars (\$100.00).
- 18. Photometric Plan review:
 - (a) Residential: One hundred dollars (\$100.00).
 - (b) Commercial: One hundred fifty dollars (\$150.00)
- 19. Site Development Plans:
 - (a) An examination and review fee for the following categories of plans to be determined as follows:
 - (1) Site Plans:
 - (a) Six hundred dollars (\$600.00) per acre
 - (b) With a minimum fee of one thousand two hundred and fifty dollars (\$1,250.00).
 - (2) Landscape Plans, Including Tree Preservation Plans, Screening Plans, Etc.:
 - (a) Six hundred dollars (\$600.00) per acre
 - (b) With a minimum fee of one thousand two hundred and fifty dollars (\$1,250.00).
 - (3) Photometric Plans, Including Site Lighting Plans:
 - (a) Three hundred dollars (\$300.00) per acre,
 - (b) With a minimum fee of Six hundred dollars (\$600.00).
 - (4) Grading Plans, Not Including the Installation of Utilities or Any Other Site Improvements:
 - (a) Three hundred dollars (\$300.00) per acre,
 - (b) With a minimum fee of six hundred dollars (\$600.00) per acre.
 - (5) Utility Extension Plans, Including Water Mains, Sanitary Sewers or Storm Sewers:
 - (a) Two dollars and fifty cents (\$2.50) per lineal foot of pipe,
 - (b) With a minimum fee of Six hundred dollars (\$600.00).
 - (6) Site Engineering Plans:
 - (a) One thousand two hundred and fifty dollars (\$1,250.00) per acre.
 - (b) with a minimum fee of two thousand five hundred dollars (\$2,500.00).
 - (b) 2nd and subsequent plan reviews shall be assessed based upon 50% of the initial fee.
 - (c) All site development plan review submittals shall be accompanied by a fee calculated under the assumption that two (2) reviews will be performed. (Ord. 02-O-10, 5-13-2002)
- 20. Commercial Underground Gasoline Pumps:
 - (a) Install New U/G Tanks, Per tank: Six hundred dollars (\$600.00)
 - (b) Install New Gasoline Disp. Pumps, per: Three hundred dollars (\$300.00)
 - (c) Alterations to Existing Gasoline Disp. Pumps, per: Two hundred dollars (\$200.00)
 - (d) Alt's to Existing Gasoline Disp. Pump Base, per Island: Two hundred dollars (\$200.00)
 - (e) Alteration or replacement of underground gasoline pump lines: Two hundred fifty dollars (\$250.00).
 - (f) Removal & Replacement of Existing U/G Tanks: Two thousand dollars (\$2,000.00).

(g) Removal of U/G Tanks, per: Three hundred dollars (\$300.00)
 21. Plus, all Applicable Bonds (See 4-2-7 for Fees Schedule)
 22. Plus, all applicable Review & Inspection Fees”

SECTION TWO. That Section 4-2-28 entitled “Fire Code Adopted” of Chapter 2 entitled “Building Code” of Title 4 entitled “Municipal Services” of the Village Code of the Village of Willowbrook, as amended, is hereby further amended to read as follows:

Section 105.1.2 Types of Permits. Operational Permit. Delete in its entirety and in lieu thereof substitute with the following new Section 105.1.2:

Section 105.1.2 Types of Permits. Operational Permit. An operational permit allows an applicant to conduct an operation(s) for which a permit is required by Section 105.6 in accordance with the schedule as outlined in the fee ordinances. A permit fee shall be charged annually for each type of operational permit in accordance with the schedule as outlined in the fee ordinances (see Operational Permit / Product Description and Fee Table below). A permit shall constitute authority to maintain, store or handle materials; or to conduct processes which produce conditions hazardous to life or property.

Operational Permit / Product Description and Fee Table				
	Description	Permit Required (Yes or No)	Administrative Permit Fee	IFC Code Reference
A	Compressed Gases. Section 105.6.8: An operational permit is required: Compressed gas. Storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of amounts listed in Table 105.6.8 Exception: Vehicles equipped for and using compressed gas as a fuel to propel the vehicle.	Yes	\$150.00	105.6.8

B	Cryogenic Fluids. Section 105.6.10: An operational permit is required: To produce, store, transport onsite, use, handle or dispense cryogenic fluids in excess of the amount listed in Table 105.6.10	Yes	\$150.00	105.6.10
C	Hazardous Materials. Section 105.6.20: An operational permit is required to: Store, transport onsite, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20	Yes	\$150.00	105.6.20
D	Flammable and Combustible Liquids. Section 5701.4: An operational permit is required:	-	-	-
D 1	To use or operate a pipeline for the transportation with facilities or flammable or combustible liquids. This requirement shall not apply to the offsite transportation (DOTn) (see section 3501.1.2) nor does it apply to piping systems (see section 3503.6)	Yes	\$150.00	5701.4
D 2	To store, handle or use of Class I liquids in excess of 5 gallons (19L) in a building or in excess of 10 gallons (37.9L) outside of a building, except that a permit is not required for the following:	Yes	\$150.00	5701.4
D 2.1	The storage or use of Class I liquids in the fuel tanks of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant unless such storage, in the opinion of the Fire Official would cause an unsafe condition.	No	-	-
D 2.2	The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.	No	-	-
D 3	To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95L) in a building or in excess of 60 gallons (227L) outside a building, except for fuel oil used in connection with oil-burning equipment.	Yes	\$150.00	5701.4

D 4	To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by means other than the approved, stationary on-site pumps normally used for dispensing purposes.	Yes	\$150.00	5701.4
D 5	To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.	Yes	\$150.00	5701.4
D 6	To install, alter, remove, abandon, place temporarily out of service (for more than 90 days) or otherwise dispose of an underground, protected above-ground or above-ground flammable or combustible tank.	Yes	\$150.00	5701.4
D 7	To change the type of contents stored in a flammable or combustible liquid tank to a material which poses a greater hazard than for which the tank was designed and constructed.	Yes	\$150.00	5701.4
D 8	To manufacture, process, blend, or refine flammable or combustible liquids.	Yes	\$150.00	5701.4
E	Inspection Fees:		See 4-2-11(G)(5)	

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

SECTION TWO. This Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication, in pamphlet form, in the manner provided by law.

PASSED and APPROVED this _____ day of July 2019.

APPROVED:

Frank A. Trilla, Mayor

ATTEST:

Leroy Hansen,
Village Clerk

ROLL CALL VOTE: AYES: _____

NAYS: _____

ABSTENTIONS: _____

ABSENT: _____

LAW AND ORDINANCES COMMITTEE MEETING
AGENDA ITEM SUMMARY SHEET

AGENDA ITEM DESCRIPTION	COMMITTEE REVIEW
UPDATE – REVIEW CURRENT WATER BILLING CODE 6-8 FOR CLARIFICATION OF RENTER AND PROPERTY OWNER RESPONSIBILITIES	<input type="checkbox"/> Finance/Administration <input type="checkbox"/> Municipal Services <input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Law & Ordinances <u>Meeting Date:</u> August 6, 2019

<input type="checkbox"/> Discussion Only	<input checked="" type="checkbox"/> Approval of Staff Recommendation (for consideration by Village Board at a later date)
<input type="checkbox"/> Seeking Feedback	<input type="checkbox"/> Approval of Staff Recommendation (for <u>immediate</u> consideration by Village Board)
<input type="checkbox"/> Regular Report	<input type="checkbox"/> Report/documents requested by Committee

BACKGROUND

At the June 4, 2019 Law and Ordinance Committee staff and Village attorney presented the current Village of Willowbrook code, 6-8, for billing requirements for disconnection, final billing, new and existing users, non-payment and lien process. Staff proposed that the Committee consider enhancements to sections 6-8-5, 6-8-6, 6-8-6.1, 6-8-8 and 6-8-11 to clarify that the property owner has the underling responsibility for all water bills, regardless of any lease or renter private arrangement. Clarifications will help with the understanding of the code, the process and ensure that the Village receives full payment for services rendered.

Attorney Tom Bastion advised the Committee of a federal case that provides that an owner has a right to water and they should be afforded a hearing. Albeit one is not often requested, a hearing is offered to avoid litigation. A due process hearing can reveal various extenuating circumstance that would preclude the shut-off.

The code was reviewed by the Village Attorney and adjustments were made to clarify the payment responsibilities of the property owner. Additionally, the code was reviewed to verify that a process is in place for an owner to petition a review of a shut-off. A draft proposal of the updated code sections is attached.

Lastly, staff has provided a comparison of surrounding communities with respect to late fees, shut-off fees, as well as lien fees, to ensure the Village is covering all applicable costs associated with this subject. The survey finds that the Village rates are within the norm of our surrounding communities and no fee modifications are recommended at this time.

STAFF RECOMMENDATION

Staff recommends the Committee concur with the suggested changes as prepared by the Village Attorney. Should the Committee concur, the item would be presented to the Village Board at their August 12, 2019 board meeting for formal consideration.

Proposed:

6-8-5: BILLS; LIABILITY FOR SERVICE:

- A. All bills for residential water usage shall be rendered on a quarterly basis. The Director of Municipal Services shall cause the Village to be divided into three (3) districts having approximately the same number of residential water customers in each district. Each month, through the Office of the Director of Municipal Services, quarterly water bills shall be issued for one of the three (3) residential districts so established. All bills for nonresidential water usage shall be rendered on a monthly basis. All bills issued pursuant to this section shall be paid not later than thirty (30) days after the date of billing. If payment of the full amount of the bill is not made within said period, then a penalty of ten percent (10%) of the amount of the bill shall be added thereto. If the payment of the full amount of the bill, including any penalty thereon, is not made within forty-five (45) days after the date of billing, then an additional penalty of twenty-five (\$25.00) dollars shall be added thereto.
- B. The owner of the premises, any occupant thereof, and the user of the water service shall be jointly and severally liable to pay for such service to such premises, and such service is furnished to the premises by the Village only upon the condition that the owner of the premises, occupant and user of such service are jointly and severally liable therefor to the Village. The owner(s), occupant(s) and user(s) of the system shall be liable to pay for all water delivered to the premises and measured by the meter, including any water consumed due to a leak or faulty equipment on the user's property.

6-8-8: NON PAYMENT; DISCONTINUANCE OF SERVICE; HEARING

- A. Water service may be shut off to any premises for which the water bill, including any penalties thereon, remains unpaid any time after the period of forty-five (45) days after the date of billing. Water service shall not be reinstated until all past due bills, including penalties thereon, are paid in full together with payment of seventy dollars (\$70.00) to cover the costs of reinstating said water service.
- B. Prior to discontinuation of water service, a written notice of water service shut off shall be served, by personal service or first class mail, postage prepaid, upon the person(s) liable for the water bill. The notice shall contain the following information:
 1. The date by which payment or other action must be made to avoid discontinuation of water service, which discontinuation shall not be less than ten (10) days after service of the notice of discontinuation; and
 2. The name, address and phone number of the Village Administrator or his/her designee, to contact for a hearing on the discontinuation of water service. The person(s) liable for the water bill shall have ten (10) business days from the date the notice of discontinuation was mailed or personally served to request, in writing, a hearing to contest water service discontinuation. The written request for hearing shall state the reasons for contesting the discontinuation of water service. If no request for hearing is made as herein provided, water service may thereafter be discontinued. No service shall be discontinued on a holiday or weekend day. If a hearing is requested, water service shall be continued pending the outcome of the hearing. The hearing shall be convened within seven (7) business days of the date a request for hearing is received by the Village. The decision of the Village Administrator or his/her designee as to the discontinuation of water service shall be made at the hearing.

VILLAGE	BILLING FREQUENCY	LATE FEE / PAST DUE	SHUTOFF LETTER	SHUTOFF/TURN ON FEE	LIEN
BURR RIDGE	bi-monthly	10%	No	Mon-Fri 8-2pm \$75 Mon-Fri 2pm-8pm \$115 Weekends/Holidays \$115	
CLARENDON HILLS	bi-monthly	10% *ALL BILLING THROUGH DUPAGE COUNTY	\$75 red tag posting fee included in red tag fee	No charges if they lien. Just pay bill in full to turn on.	
DARIEN					
DUPAGE COUNTY	bi-monthly	8%	No	\$100	No charges if they lien. Just pay bill in full to turn on.
HINSDALE	bi-monthly	n/a	No	\$50 7:30-3:30 Mon-Fri \$100 after hours/weekends	No charges if they lien. Just pay bill in full to turn on.
WESTERN SPRINGS	bi-monthly	10%	No	\$25	Lien filed after 40 days past due No charges if they lien.
WESTMONT	bi-monthly			\$70	Just pay bill in full to turn on.
WILLOWBROOK	quarterly	10%	\$25	\$70	Lien can be filed 60 days after non-payment

Current:

6-8-5: BILLS:

All bills for residential water usage shall be rendered on a quarterly basis. The Director of Municipal Services shall cause the Village to be divided into three (3) districts having approximately the same number of residential water customers in each district. Each month, through the Office of the Director of Municipal Services, quarterly water bills shall be issued for one of the three (3) residential districts so established. All bills for nonresidential water usage shall be rendered on a monthly basis. All bills issued pursuant to this section shall be paid not later than thirty (30) days after the date of billing. If payment of the full amount of the bill is not made within said period, then a penalty of ten percent (10%) of the amount of the bill shall be added thereto. If the payment of the full amount of the bill, including any penalty thereon, is not made within forty five (45) days after the date of billing, then an additional penalty of twenty five dollars (\$25.00) shall be added thereto. (Ord. 03-O-20, 7-28-2003; amd. Ord. 05-O-32, 11-14-2005)

6-8-6: DISCONNECTION AND FINAL BILLING:

After proper notification to the Village, the Village will make a final reading of a customer's meter, shut off the water supply, if applicable, and submit a final bill to the customer.

All bills issued pursuant to this section shall be paid not later than thirty (30) days after the date of billing. If payment of the full amount of the bill is not made within said period, then a penalty of ten percent (10%) of the amount of the bill shall be added thereto and a delinquent notice shall be sent to the customer. If the payment of the full amount of the bill, including any penalty thereon, is not made within forty five (45) days after the date of billing, a notice shall be sent to the customer indicating that unless the full amount of the bill, including any penalty thereon, is paid within fifteen (15) days from the date of said notice, the delinquent account may be turned over to a collection agency. (Ord. 87-O-7, 2-23-1987)

The Director of Municipal Services is authorized to place delinquent water billing accounts with a collection agency approved by the President and Board of Trustees. (Ord. 87-O-7, 2-23-1987; amd. Ord. 05-O-32, 11-14-2005)

6-8-6.1: NEW USERS; INITIAL BILL, EXISTING ACCOUNTS; FINAL BILL, PRORATION; WAIVER OF CERTAIN BILLS:

(A) The initial bill for new users of the water system of the Village, whether for residential usage or nonresidential usage, shall be based upon the rates set forth in section 6-8-3 of this chapter. Notwithstanding any provision contained hereinabove to the contrary, if such initial bill shall be for the minimum charge as set forth in section 6-8-3 of this chapter, such initial bill shall be prorated based upon the number of days of service provided.

(B) The final bill for existing users of the water system of the Village, whether for residential usage or nonresidential usage, shall be based upon the rates set forth in section 6-8-3 of this chapter. Notwithstanding any provision contained hereinabove to the contrary, if such final bill shall be for the minimum charge as set forth in section 6-8-3 of this chapter, such final bill shall be prorated based upon the number of days of service provided.

(C) Any final bill of less than three dollars fifty cents (\$3.50) shall be waived. (Ord. 89-O-13, 3-27-1989)

6-8-8: NONPAYMENT:

Water service may be shut off to any premises for which the water bill, including any penalties thereon, remains unpaid any time after the period of forty five (45) days after the date of billing and the giving of any required notice and/or hearing as may be required by law. Water service shall not be reinstated until all past due bills, including penalties thereon, are paid in full together with payment of seventy dollars (\$70.00) to cover the costs of reinstating said water service. (Ord. 03-O-20, 7-28-2003)

6-8-11: LIEN:

Charges for water shall be a lien upon the premises as provided by statute. Whenever a bill for water service remains unpaid sixty (60) days after it has been rendered, the Clerk may file with the Recorder of DuPage County, a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the Village claims a lien for this amount as well as for all charges for water served subsequent to the period covered by the bill.

If the consumer of water whose bill is unpaid is not the owner of the premises, the Clerk has notice of this, then notice shall be mailed to the owner of the premises, if his address is known to the Clerk, whenever such bills remain unpaid for a period of sixty (60) days after it has been rendered.

The failure of the Clerk to record such lien claim or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for unpaid water bills as mentioned in the following section. (Ord. 68-O-10, 7-25-1968)