

## **TITLE IX: GENERAL REGULATIONS**

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## CHAPTER 90: ANIMALS

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***DOGS*****§ 90.01 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***AT LARGE.*** Any dog shall be deemed ***AT LARGE*** when he or she is off the property of his or her owner and not under the control of a responsible person.

***DEPARTMENT OF AGRICULTURE.*** The Department of Agriculture of the state.

***DOG.*** Includes a female as well as a male dog.

***INOCULATION AGAINST RABIES.*** The injection subcutaneously or otherwise, as approved by the Department of Agriculture of the state of canine anti-rabic vaccine, approved by the Department of Agriculture.

***OWNER.*** A person having a right of property in a dog or who keeps or harbors a dog, who has a dog in his or her care, who acts as its custodian or who knowingly permits a dog to remain on or about any premises occupied by him or her.

**RESTRAINT.** A dog is **UNDER RESTRAINT**, within the meaning of this subchapter, if he or she is controlled by a leash, at “heel” beside a responsible person, obedient to that person’s commands, within a vehicle being driven or parked on the streets or within the property limits of his or her owner or keeper.

(Prior Code, § 14-101)

#### **§ 90.02 DOGS TO BE INOCULATED AND TO HAVE NAME TAGS AFFIXED TO COLLARS.**

(A) Each calendar year, or at such intervals as may hereafter be promulgated by the Department of Agriculture, every owner or keeper of a dog four months or more of age shall cause such dog to be inoculated against rabies. Such owner or keeper of such dog shall cause a serially-numbered tag evidencing such inoculation to be attached to a collar or harness worn by the dog.

(B) Every owner or keeper of a dog, regardless of age, shall cause said dog to wear a collar or harness and shall affix thereto a metallic or other suitable tag inscribed with the name, address and phone number, if any, of the owner or keeper of the dog.

(Prior Code, § 14-102) Penalty, see § 90.99

#### **§ 90.03 INOCULATION TO BE PERFORMED BY LICENSED VETERINARIAN; ISSUANCE OF CERTIFICATE.**

The inoculation of dogs required by § 90.02(A) of this chapter shall be performed by a veterinarian duly-licensed to practice his or her profession in the state. Upon performing such inoculation, such veterinarian shall issue to the owner or keeper a certificate showing such fact and shall also deliver to such owner or keeper a metallic or other suitable tag to be attached to the collar or harness of such dog, which tag shall also certify to the fact of inoculation against rabies.

(Prior Code, § 14-103)

#### **§ 90.04 DURATION OF INOCULATION.**

The inoculation performed under the provisions of § 90.03 of this chapter shall be effective until the expiration of the calendar year in which the vaccination was performed or the expiration of such period of time as may be promulgated by the Department of Agriculture.

(Prior Code, § 14-104)

**§ 90.05 SPECIFICATIONS FOR TAG.**

The tag issued under the provisions of § 90.03 of this chapter shall be in such form as shall be determined by the Department of Agriculture.  
(Prior Code, § 14-105)

**§ 90.06 EXHIBITION OF CERTIFICATE UPON REQUEST.**

At any reasonable time upon request of any member of the Police Department, the owner or keeper of any un-muzzled dog shall exhibit his or her certificate, issued under the provisions of § 90.03 of this chapter, showing the inoculation against rabies of any dog owned or controlled by him or her.  
(Prior Code, § 14-106) Penalty, see § 90.99

**§ 90.07 RESTRAINT OF DOGS.**

(A) The owner or keeper of a dog shall keep the dog under restraint at all times and shall not permit such dog to be at large off the premises of the property of the owner or keeper, unless the dog is under complete control, as defined in § 90.01 of this chapter.

(B) The owner or keeper of a dog who is in a public park or on a public trail will be required to keep the dog on a leash. The leash shall not exceed more than six feet in length. A *LEASH*, per this division (B), is defined as any rope, cord, chain or similar item which is capable of restraining a dog.  
(Prior Code, § 14-107) (Ord. 1679, passed 6-17-2013) Penalty, see § 90.99

**§ 90.08 IMPOUNDMENT OF DOGS RUNNING AT LARGE OR UNLICENSED DOGS;  
CITATION OF OWNER OR KEEPER.**

It shall be the duty of such employees and officers of the Police Department as shall be designated for that purpose by the Chief of Police to take up and impound in such place as may be designated and set apart for that purpose, any dog found running at large or unlicensed in the village contrary to any of the provisions of this chapter or other ordinances of the village.  
(Prior Code, § 14-108)

**§ 90.09 NOTICE AND CITATION TO OWNER OR KEEPER OF IMPOUNDMENT.**

In case of impounding and where the owner or keeper of such dog is disclosed by any license tag worn by it, or is otherwise known to the officers impounding same, the Police Department shall, at once, give notice by mail to such owner or keeper, informing him or her of the impounding of his or her dog and may cite the owner or keeper of such dog to answer charges of violation of this chapter.  
(Prior Code, § 14-109)

**§ 90.10 REDEMPTION OF IMPOUNDED DOGS.**

(A) Any dog impounded under the provisions of this chapter, except such as may have bitten any person as specified in § 90.11 of this chapter, shall, unless sooner redeemed, shall be taken to the St. Clair County Animal Control.

(B) In case such dog has not been inoculated against rabies for the current year, such owner shall also advance the fee required to have such dog inoculated by a duly-licensed veterinarian as he or she shall elect and the pound keeper shall forthwith cause the dog to be duly-inoculated against rabies. No dog shall be released without having been inoculated for the current calendar year, or in accordance with the requirements of the Department of Agriculture. Upon payment of the required charges, the dog shall thereon be released to the owner or keeper.  
(Prior Code, § 14-110)

**§ 90.11 IMPOUNDMENT OF DOGS WHICH HAVE BITTEN PERSONS.**

Any dog which shall have bitten or otherwise injured any person so as to cause an abrasion of the skin shall be immediately taken to St. Clair County Animal Control.  
(Prior Code, § 14-112)

**§ 90.12 POUND DESIGNATED.**

The County Animal Services Department is hereby designated as the village pound.  
(Prior Code, § 14-113)

**§ 90.13 DISPOSITION OF DOGS DEEMED NUISANCES.**

Any dog which may, in any manner, continually disturb the quiet of any person's or neighborhood's property, or shall destroy or in any manner injure any animal, plant, shrub or other property not on the premises of its owner or keeper, is hereby declared to be a nuisance, and such dog shall be taken up and impounded and may be redeemed.  
(Prior Code, § 14-114)

***Cross-reference:***

*Keeping barking dogs and crying cats, see § 90.32*

**§ 90.14 ANIMAL SERVICES WARDEN.**

The President, with the advice and consent of the Village Board of Trustees, may appoint an Animal Services Warden, the salary of whom shall be established in the annual municipal budget. (Prior Code, § 14-117)

***COMMUNITY CATS*****§ 90.20 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***COMMUNITY CAT.*** Any free-roaming, feral, or barn cat that may be cared for by one or more residents of the immediate area and which has no discernible form of ownership identification. ***COMMUNITY CAT*** includes a domesticated cat that an owner has forsaken entirely or neglected or for which an owner has refused to provide care and support.

***COMMUNITY CAT CAREGIVER.*** A person who provides care, including food, water, shelter or medical care to a community cat. A ***COMMUNITY CAT CAREGIVER*** shall not be considered to be the owner, custodian, harbinger, controller, or keeper of a community cat.

***EARTIPPING.*** The removal of the one-fourth-inch tip of community cat's ear, performed while the cat is under anesthesia, under the supervision of a licensed veterinarian and designed to be an indication that the community cat has been sterilized and vaccinated for rabies.

***FERAL CAT.*** A cat that:

- (1) Is born in the wild or is the offspring of an owned or feral cat and is not socialized; or
- (2) Is a formerly owned cat that has been abandoned and is no longer socialized; or
- (3) Lives on a farm.

***FERAL CAT COLONY.*** A group of cats that congregates, more or less, together as a unit. Although not every cat in a colony may be feral, any nonferal cats that congregate with a colony shall be deemed to be a part of it. (Ord. 1798, passed 11-20-2017)



**§ 90.21 PURPOSE.**

The purpose of this subchapter is to permit implementation of a Community Cat Program (CCP) in the village for the purpose of reducing the population of feral and free roaming cats, benefitting public health, improving the quality of life for residents, and ensuring the humane treatment of community cats.

(Ord. 1798, passed 11-20-2017)

**§ 90.22 MANAGED CARE OF FERAL CATS/COMMUNITY CATS.**

(A) The Board of Trustees of the Village of Swansea hereby establishes the following community cat requirements:

(1) All community cats must be cared for on the private property of the caregiver or with the permission from the owner or property manager if cared for on the property of another.

(2) All community cat caregivers shall make reasonable efforts to have all free-roaming cats within their care sterilized, vaccinated against rabies, and ear-tipped for easy identification.

(3) All community cat caregivers are required to make reasonable efforts to provide certain necessities to each community cat under his or her care on a regular/ongoing basis, including, but not limited to, proper nutrition, adequate quantities of visibly clean and fresh water and medical care as needed. If medical care is unavailable or too expensive, the community cat caregiver must not allow the cat to suffer.

(4) Dumping on the ground or dispensing large quantities of food more than will be immediately eaten by the community cats present is prohibited. Feeding areas must be maintained in a clean and sanitary condition.

(5) Community cat caregivers shall make reasonable attempts to remove young kittens from the field for domestication.

(B) As long as St. Clair County continues to exempt community cats from licensing requirements, community cats within the Village of Swansea meeting the requirements of this section are exempt from any licensing requirements under Section 3-3-1 of Chapter 3 of the St. Clair County Code of Ordinances.

(C) The village shall have the right to remove or authorize the removal of any free-roaming cat or community cat because of immediate public health or safety concerns.

(D) No community cat shall be released at any governmentally owned or managed park, natural area, area deemed as environmentally sensitive land or on any easement adjacent to such lands without approval from the village.

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(E) (1) As long as St. Clair County continues to exempt healthy community cats from the holding period requirement, healthy community cats within the Village of Swansea that have been impounded are exempt from the holding period referenced in Section 3-4-4 of Chapter 3 of the St. Clair County Code of Ordinances and shall be immediately returned to the location at which they were found, released to a caregiver or adopted. Before being returned to the location at which they were found or released to a caregiver, community cats shall be sterilized, eartipped while under anesthesia under the supervision of a licensed veterinarian, and vaccinated for rabies.

(2) Notwithstanding the foregoing, whenever such cat is visibly injured or diseased and appears to be suffering and it reasonably appears that such cat cannot be expeditiously cured and returned to the field, transferred to a humane society or private animal nonprofit organization or placed in foster care, then St. Clair County, acting in good faith and upon reasonable belief, may humanely euthanize the cat upon the advice of a licensed veterinarian.

(F) As long as St. Clair County continues to exempt community cats from the requirements of Section 3-4-4(A) - (D) of its Code of Ordinances, community cats within the Village of Swansea released to a caregiver in accordance with division (E) above shall not be subject to the requirements of Section 3-4-4(A) - (D) of Chapter 3 of the St. Clair County Code of Ordinances.

(G) Community cat caregivers shall not be prohibited from placing or distributing cat food on vacant lots or in unoccupied structures in the village, provided that permission from the property owner has been obtained to care for community cats on the property.  
(Ord. 1798, passed 11-20-2017)

***GENERAL REGULATIONS*****§ 90.30 INJURY TO PROPERTY.**

It shall be unlawful for any person owning or possessing a dog, cat or other domestic animal to permit such animal to go upon any sidewalk, parkway or private lands or premises without the permission of the owner of such premises, and break, bruise, tear up, crush or injure any lawn, flower bed, plants, shrub, tree or garden in any manner whatsoever, or to defecate thereon. Any cat or other domestic animal injuring property, as described in this section, is hereby declared a nuisance and may be taken up and impounded in the same manner as provided by ordinance for dogs.  
(Prior Code, § 14-201) Penalty, see § 90.99

**§ 90.31 MANNER OF KEEPING.**

(A) *Pens, yards or runs.* All pens, yards or runs or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and kept in good repair.

(B) *Fences*. Fences which are intended as enclosures for any animal shall be securely constructed, shall be adequate for the purpose, kept in good repair and shall not be allowed to become unsightly.  
(Prior Code, § 14-202) Penalty, see § 90.99

**§ 90.32 KEEPING BARKING DOGS AND CRYING CATS.**

(A) *Harboring*. It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood, or in such manner as to materially disturb or annoy persons in the neighborhood or ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance.

(B) *Petitions complaining of vicious or barking dogs or crying cats*. Whenever any person shall complain to the Police Department that a dog which barks, howls or yelps or a cat which cries or howls is being kept by any person in the village, the Police Department shall notify the owner of said dog or cat that a complaint has been received and that the person should take whatever steps necessary to alleviate the howling, yelping or crying.  
(Prior Code, § 14-203) Penalty, see § 90.99

***Cross-reference:***

*Disposition of dogs deemed nuisances, see § 90.13*



**§ 90.33 CRUELTY TO ANIMALS PROHIBITED.**

(A) *Cruelty to animals.* It shall be unlawful for any person to willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat, strike or abuse any animal, or by an act, omission or neglect cause or inflict any unnecessary or unjustifiable pain, suffering, injury or death to any animal whether such animal belongs to such person or to another; except that, reasonable force may be employed to drive away vicious or trespassing animals. Any unwanted animals should be delivered to the County Animal Control facility for proper disposal.

(B) *Food and shelter.* It shall be unlawful for any person in charge of any animal to fail, refuse or neglect to provide such animal with food, potable water, shade or shelter, or to cruelly or unnecessarily expose any such animal to hot, stormy, cold or inclement weather, or to carry any such animal in or upon any vehicle in a cruel or inhumane manner.

(1) For the purpose of this division (B), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**SHADE.** Protection from the direct rays of the sun during the months of June through September.

**SHELTER.** As it applies to dogs, a moisture-proof structure of suitable size to accommodate the dog and allow retention of body heat, made of durable material with a solid floor raised at least two inches from the ground with the entrance covered by a flexible, wind-proof material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.

(C) *Steel traps and the like.* It shall be unlawful for any person to utilize a steel-jawed trap, or any trap other than a cage or live trap, when attempting to snare game, fur-bearing animals or any other animal within the village; provided, however, that, the village may, by permit, allow the use of a water-set trap, upon application for same.  
(Prior Code, § 14-204) Penalty, see § 90.99

**§ 90.34 WILD OR VICIOUS ANIMALS.**

(A) *Keeping of wild and vicious animals.*

(1) It shall be unlawful for any person to keep or permit to be kept on his or her premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing-animal exhibitions or circuses.

(2) It shall be unlawful for any person to keep or permit to be kept any wild animal as a pet, unless a permit is granted by the Department of Natural Resources of the state.

(3) It shall be unlawful for any person to harbor or keep a vicious animal within the city. Any animal which is found off the premises of its owner may be seized by any police officer or humane officer and upon establishment, to the satisfaction of any court of competent jurisdiction, of the vicious character of said animal, it may be killed by a police officer or humane officer; provided, however, that, this section shall not apply to animals under the control of a law enforcement or military agency, nor to animals which are kept for the protection of property; provided that, such animals are restrained by a leash or chain, cage, fence or other adequate means from contact with the general public or with persons who enter the premises with the actual or implied permission of the owner or occupant.

(4) The State Department of Agriculture may issue a temporary permit for the keeping, care and protection of any infant animal native to this area which has been deemed to be homeless.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**VICIOUS ANIMAL.** Any animal which has previously attacked or bitten any person or which has behaved in such a manner that the person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons. An animal is not deemed **VICIOUS** if it bites, attacks or menaces a trespasser on its owner's property, or harms or menaces anyone who abuses it or torments it or if it is a professionally trained dog for law enforcement or guard duties.

**WILD ANIMAL.** Any live monkey or ape, raccoon, skunk, fox, snake or other reptile, leopard, panther, tiger, lion, lynx or any other animal or any bird of prey which can normally be found in the wild state.

(Prior Code, § 14-205) Penalty, see § 90.99

### § 90.35 ANIMALS IN VILLAGE.

(A) *Certain prohibitions.* Except as otherwise provided in this chapter, no person shall keep within the village any cattle, cows, horses, sheep, swine, goats, ducks, turkeys, geese or other livestock.

(B) *Exceptions.* This section shall not apply in areas of the village that are zoned for agricultural purposes, nor shall this section apply to livestock brought into the village for the purpose of being shipped out of the village.

(C) *Powers of Enforcement Officer.* The Enforcement Officer shall have the power to issue an order prohibiting the keeping of any animal, fowl or bird which is deemed to pose a health hazard to the general public.

(Prior Code, § 14-206) Penalty, see § 90.99

**§ 90.36 KEEPING OF NUMEROUS DOGS AND CATS IN THE VILLAGE.****(A) Nuisance.**

(1) The keeping of an unlimited number of dogs and cats in the village for a considerable period of time detracts from and, in many instances, is detrimental to the healthful and comfortable life for which such areas were created. The keeping of an unlimited number of dogs and cats is, therefore, declared to be a public nuisance.

(2) For the purpose of this division (A), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CAT.** Any feline, regardless of age or sex.

**DOG.** Any canine, regardless of age or sex.

**(B) Number of dogs and cats limited.**

(1) It shall be unlawful for any person or persons to keep more than five dogs or five cats within the village, with the exception that a litter of pups, a litter of kittens or a portion of a litter may be kept for a period of time not exceeding five months from birth.

(2) The provisions of this section shall not apply to any establishment wherein dogs or cats are kept for breeding, sale, sporting purposes or boarding.

**(C) Keeping stray animals.** It shall be unlawful for any person in the village to knowingly and intentionally harbor, feed, keep in possession by confinement, or otherwise, any stray animal which does not belong to him or her unless he or she has, within 24 hours from the time such animal came into his or her possession, notified animal services of his or her intentions to either surrender the stray animal to animal services or advertise such stray animal in the local newspaper with the most circulations of five consecutive days. If the individual holding the stray animal selects to advertise the animal and the prior owner does not respond by the tenth day, the individual who has advertised shall be deemed the legal owner. If the advertisement has not started within 72 hours, animal services require that the animal be surrendered to an authorized representative of animal services. It shall be unlawful for any person to refuse to surrender any such stray animal.

(Prior Code, § 14-207) Penalty, see § 90.99

**URBAN CHICKENS****§ 90.50 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CHICKEN.** A member of the subspecies *gallus gallus domesticus*, a domesticated fowl.

**PERMITTED TRACT OF LAND.** The tract of land as identified by the application upon which a permit is granted for keeping chickens pursuant to this subchapter.

**PERMITTEE.** An applicant who has been granted a permit to raise, harbor or keep chickens pursuant to this subchapter.

**PERMITTING OFFICER.** The Mayor or his or her designee.

**TRACT OF LAND.** A property or a zoned lot that has one single-family dwelling located on that property or zoned lot.

**URBAN CHICKEN.** A chicken kept on a permitted tract of land pursuant to a permit issued under this subchapter.  
(Ord. 1765, passed 11-21-2016)

**§ 90.51 PERMIT REQUIRED.**

(A) *Permit required.* No person shall raise, harbor or keep chickens within the village limits without a valid permit obtained from the Permitting Officer under the provisions of this subchapter. Permits are issued for a period of one year and must be renewed annually.

(B) *Application.* In order to obtain a permit, an applicant must submit a completed application on forms provided by the Permitting Officer, and pay all fees required by this subchapter. The application fee is \$10.

(C) *Requirements.* The requirements to the receipt of a permit include:

- (1) All requirements of this subchapter are met;
- (2) All fees, as may be provided for from time to time by the Board of Trustees' resolution, for the permit are paid in full;
- (3) All judgments in the village's favor and against the applicant have been paid in full;



(4) The tract of land to be permitted shall contain on one single family dwelling occupied and used as such by the permittee; and

(5) The applicant has provided written notice to the residents of all immediately adjacent dwellings of the applicant's intent to obtain a permit.

(D) *Issuance of permit.* If the Permitting Officer concludes as a result of the information contained in the application that the requirements for a permit have been met, then the Officer shall issue the permit.

(E) *Denial, suspension, revocation, nonrenewal.* The Permitting Officer may deny, suspend, revoke or decline to renew any permit issued for any of the following grounds:

(1) False statements on any application or other information or report required by this section to be given by the applicant;

(2) Failure to pay any application, penalty, reinspection or reinstatement fee required by this section or Board of Trustee resolution;

(3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice;

(4) Failure to comply with the provisions of an approved mitigation/remediation plan by the Permitting Officer, or designee; or

(5) Failure to comply with any provision of this subchapter.

(F) *Notification.* A decision to revoke, suspend, deny or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address indicated on the application. The notification shall specify reasons for the action.

(G) *Effect of revocation, and the like.* When an application for a permit is denied, or when a permit is revoked, the applicant may not reapply for a new permit for a period of one year from the date of the denial or revocation.

(H) *Appeals.* No permit may be denied, suspended, revoked or not renewed without notice and an opportunity to be heard is given the applicant or holder of the permit. In any instance where the Permitting Officer has denied, revoked, suspended or not renewed a permit, the applicant or holder of urban chicken may appeal the decision to the Mayor, or designee other than the Permitting Officer within ten business days of receipt by the applicant or holder of the permit of the notice of the decision. The applicant or holder of the permit will be given an opportunity for a hearing. The decision of the officer hearing the appeal, or any decision by the Permitting Officer which is not appealed in accordance with

this subchapter shall be deemed final action.

Penalty, see § 90.99

(Ord. 1765, passed 11-21-2016; Ord. 1774, passed 2-6-2017)

#### **§ 90.52 NUMBER AND TYPE OF CHICKENS ALLOWED.**

(A) The maximum number of chicken allowed is four per tract of land regardless of how many dwelling units are on the tract.

(B) Only female chickens (hens) are allowed.

(Ord. 1765, passed 11-21-2016)

#### **§ 90.53 PERMITS RESTRICTED TO SINGLE-FAMILY DWELLINGS.**

Permits will be granted only to permittees legally occupying single-family dwellings within any zoning district in the village, an are specific to said single-family dwelling and not transferrable.

(Ord. 1765, passed 11-21-2016; Ord. 1774, passed 2-6-2017)

#### **§ 90.54 NON-COMMERCIAL USE ONLY.**

A permit shall not allow the permittee to engage in chicken breeding or fertilizer production for commercial purposes.

(Ord. 1765, passed 11-21-2016)

#### **§ 90.55 ENCLOSURES.**

(A) Chickens must be kept in an enclosure or fenced area at all times. Chickens shall be secured within a hen house or chicken tractor during non-daylight hours.

(B) Enclosures must be kept in a clean, dry, odor-free, neat and sanitary condition at all times.

(C) Hen houses, chicken tractors and chicken pens must provide adequate ventilation and adequate sun and shade and must be impermeable to rodents, wild birds and predators, including dogs and cats.

(D) Hen houses and chicken tractors.

(1) Hen houses and chicken tractors shall be designed to provide safe and healthy living condition for the chickens with a minimum of four square feet per bird while minimizing adverse impacts to other residents in the neighborhood.

(a) A hen house or chicken tractor shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird proof wire of less than one-inch opening.

(b) The materials used in making a hen house or chicken tractor shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal or similar materials is prohibited. Hen houses and chicken tractors shall be well maintained.

(2) Hen houses, chicken tractors and chicken pens shall only be located in the rear yard or side yard and within the required setbacks as required by the zoning code.

(3) Hen houses, chicken tractors and chicken pens must be located at least ten feet from the property line and at least 25 feet from any adjacent residential dwelling, church, school or place of business.

(E) Any enclosed chicken pen shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting or solid roofing.  
(Ord. 1765, passed 11-21-2016) Penalty, see § 90.99

**§ 90.56 ODOR AND NOISE IMPACTS.**

(A) Odors from chickens, chicken manure or other chicken related disturbances shall not be perceptible beyond the boundaries of the permitted tract of land.

(B) Noise from chickens shall not be loud enough beyond the boundaries of the permitted tract of land at the property boundaries to disturb persons of reasonable sensitivity.  
(Ord. 1765, passed 11-21-2016) Penalty, see § 90.99

**§ 90.57 PREDATORS, RODENTS, INSECTS AND PARASITES.**

The permittee shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed by an Animal Services Warden.  
(Ord. 1765, passed 11-21-2016)

**§ 90.58 FEED AND WATER.**

Chickens shall be provided with access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds and predators.

(Ord. 1765, passed 11-21-2016)

**§ 90.59 WASTE STORAGE AND REMOVAL.**

All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three cubic feet of manure shall be stored on the permitted tract of land. All other manure not used for composting or fertilizing shall be removed. The hen house, chicken tractor, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

(Ord. 1765, passed 11-21-2016)

**§ 90.60 CHICKENS AT LARGE.**

The permittee shall not allow the permittee's chickens to roam off the permitted tract of land. A dog or cat or other domesticated animal that kills a chicken off the permitted tract of land shall not, for that reason alone, be considered a dangerous or aggressive animal, or elicit responsibility on the part of the village to enforce its animal control provisions.

(Ord. 1765, passed 11-21-2016)

**§ 90.61 UNLAWFUL ACTS.**

(A) It shall be unlawful for any person to keep chickens in violation of any provision of this subchapter or any other provision of the village code.

(B) It shall be unlawful for any owner, renter or leaseholder of property to allow chickens to be kept on the property in violation of the provisions of this subchapter.

(C) No person shall keep chickens inside a single-family dwelling unit, multi-family dwelling unit(s) or rental unit.

(D) No person shall keep a rooster.

(E) No person shall keep chickens on a vacant or uninhabited tract of land.

(Ord. 1765, passed 11-21-2016) Penalty, see 90.99

**§ 90.62 NUISANCE.**

Any violation of the terms of this subchapter that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under general nuisance abatement provisions.

(Ord. 1765, passed 11-21-2016)

**§ 90.99 PENALTY.**

(A) *Generally.* Whoever violates any provision of this chapter for which another penalty is not provided shall be fined not more than \$750 for each offense. Each day's violation constitutes a separate offense.

(B) *Violation of §§ 90.50 through 90.62.* Any violation of the terms of §§ 90.50 through 90.62 that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under general nuisance abatement provisions.

(Ord. 1765, passed 11-21-2016)



## CHAPTER 91: NUISANCES

### Section

#### *General Provisions*

- 91.01 Specific nuisances enumerated
- 91.02 Notice to abate
- 91.03 Failure to comply with notice
- 91.04 Abatement

#### *Weeds*

- 91.15 Definitions
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- 91.17 Notice
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- 91.35 Definitions
- 91.36 Accumulation prohibited
- 91.37 Notice to person
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#### ***Cross-reference:***

- Animals, see Ch. 90*
- Parks, see Ch. 92*

## 20Swansea - General Regulations

### *GENERAL PROVISIONS*

#### **§ 91.01 SPECIFIC NUISANCES ENUMERATED.**

It is hereby declared to be a nuisance and to be against the health, peace and comfort of the village for any person, firm or corporation within the limits of the village to permit the following, the enumeration of which shall not be deemed to be exclusive:

(A) *Filth*. To cause or suffer the carcass of any animal or any rubbish, garbage, filth or noisome substance to be collected, deposited or to remain in any place to the prejudice of others;

(B) *Deposit of offensive materials*. To throw or deposit any rubbish, garbage or other offensive matter, or the carcass of any dead animal, in any watercourse, lake, pond, spring well or common sewer, street or public highway;

(C) *Corruption of water*. To corrupt or render unwholesome or impure the water of any spring, river, stream, pond or lake to the injury or prejudice of others;

(D) *Highway encroachment*. To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places and ways to burying places;

(E) *Unlawful advertising*. To advertise wares or occupations by painting notices of the same on, or affixing them to fences or other private property, or on rocks or other natural objects without the consent of the owner or, if in the highway or other public place, without permission of the proper authorities;

(F) *Harassment*. To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease or has bought or leased a residence or other real property, when the harassment, intimidation or threat relates to a person's attempt to sell, purchase or lease a residence or other real property;

(G) *Filthy premises conditions*. To keep or suffer to be in a foul, offensive, nauseous or filthy condition, any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by him or her, or any railroad car, building, yard, grounds and premises belonging to or occupied by him or her;

(H) *Expectorate*. To expectorate on any public sidewalk, street or other public building or floor or walk of any public vehicle or hall;

(I) *Litter on village street*. It shall be unlawful for any person to allow trash, paper, cardboard, wire, yard waste, dirt, rock, stone, glass, brick, lumber, wood or litter of material objects of any size or description to fall upon village streets;



(J) *Accumulation of junk, trash and the like.* To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any lot, piece or parcel of land or upon any public or private alley, street or public way within the village, or to place same so that it can be blown about or scattered by the wind;

(K) *Rodents.* To cause or permit any condition or situation to exist that shall attract, harbor or encourage the infestation of rodents;

(L) *Bringing nuisances into the village.* To bring into the village or keep therein, for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance or thing which shall be a nuisance or which shall occasion a nuisance in the village, or which may or shall be dangerous or detrimental to health;

(M) *Offensive liquids.* To keep any nauseous, foul or putrid liquid or substance likely to become nauseous, foul, offensive or putrid, or to permit any such liquid to be discharged, placed, thrown or to flow from or out of any premises into or upon any adjacent premises or any public street or alley, or to permit the same to be done by any person connected with the premises under his or her control;

(N) *Motor transport engines.* To operate motor transport engines in the nighttime between the hours of 8:00 p.m. and 6:00 a.m. in any place in which a majority of the buildings within a radius of 400 feet are used exclusively for residence purposes, excluding state and federal highways; and

(O) *Sump pump discharge.* To discharge any water or other fluids originating from sumps, sump pits, sump pumps or other pumps, or any reservoir serving as a water drain or receptacle for water, from pipes or other structures onto any public sidewalk, street or street curb, street gutter or storm sewer, causing runoff to be concentrated over and onto that public sidewalk, street, street curb or street gutter whereby the water will stagnate, freeze or cause slippery conditions on the sidewalk, street or street curb or street gutter.

(Prior Code, § 12-101) (Ord. 1498, passed 9-17-2007) Penalty, see § 10.99

## § 91.02 NOTICE TO ABATE.

It shall be the duty of the designated authority to serve notice, by certified mail, upon the owner's last known address, and occupant, agent or person in possession or control of any lot, building or premises in or upon which any nuisance may be found, or who may be the owner or the cause of any such nuisance, requiring him or her to abate the same within five days in such a manner as the designated authority shall prescribe; provided that, an owner, occupant, agent or person in possession of any lot, building or premises who receives a notice under this section for sump pump discharge, as defined in § 91.01(O) of this chapter, shall have 180 days from the date on which he or she was served with notice to abate any nuisance caused by sump pump discharge if this discharge originates from sumps, sump pits, sump pumps or other pumps that were in existence at the time of the passage of this subchapter. It shall

not be necessary, in any case, for the designated authority to specify in the notice the manner in which any nuisance shall be abated, unless he or she shall deem it advisable to do so.  
(Prior Code, § 12-102) (Ord. 1498, passed 9-17-2007)

### § 91.03 FAILURE TO COMPLY WITH NOTICE.

If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a misdemeanor.

(Prior Code, § 12-103) Penalty, see § 10.99

### § 91.04 ABATEMENT.

It shall be the duty of the designated authority to proceed at once upon the expiration of the time specified in the notice to cause such nuisance to be abated; provided, however, that, whenever the owner, occupant, agent or person in possession or control of any premises in or upon which any nuisance may be found is unknown or cannot be found, the designated authority shall proceed to abate such nuisance without notice. In either case, the expense of such abatement shall be collected from the person who may have created or suffered such nuisance to exist, in addition to any penalty or fine.

(Prior Code, § 12-104)

## **WEEDS**

### § 91.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DEVELOPED LAND.** Any lot of land where a structure is erected, land maintained as lawn, land in unfinished phases of residential or commercial subdivisions wherein a minimum of two buildings have been build and occupied, and public rights-of-way adjacent to the land described in this definition.

**VACANT LAND.** Any lot of land on which there is no construction pending, land that has been graded in preparation for construction or improvement, forested land, pasture land and land that is being farmed, whether planted or left fallow, and public rights-of-way adjacent to the land described in this definition.

**WEEDS.** Burdock, ragweed (giant), ragweed (common), thistle, cocklebur, jimson, blue vervain, common milkweed, wild carrot, poison ivy, wild mustard, rough pigweed, lambs quarter, wild lettuce,

curled dock, smartweeds (all varieties), poison hemlock, wild hemp and Johnson grass and all other noxious weeds.

(Prior Code, § 12-201) (Ord. 1629, passed 11-7-2011)

**§ 91.16 NUISANCE.**

(A) It is hereby declared to be a nuisance, and it shall be unlawful, for the owner or occupant of any lot of developed land to refuse or neglect to cut weeds or any variety of grasses, when such weeds or grasses shall have reached a height in excess of eight inches.

(B) It is hereby declared to be a nuisance, and it shall be unlawful, for the owner or occupant of any lot of vacant land to refuse or neglect to cut weeds or any variety of grasses, when such weeds or grasses shall have reached a height in excess of 20 inches.

(Prior Code, § 12-202) (Ord. 1629, passed 11-7-2011) Penalty, see § 10.99

**§ 91.17 NOTICE.**

The Street Supervisor, Chief of Police, President of the Village Board of Trustees or any other person so designated by the President may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within five days after such notice has been duly served.

(Prior Code, § 12-203)

**§ 91.18 SERVICE OF NOTICE.**

Service of notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his or her household 15 years of age or older found on the premises, or by mailing such notice to the last known residence address of the owner by certified mail; provided that, if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

(Prior Code, § 12-204)

**§ 91.19 ABATEMENT.**

If the person so served does not abate the nuisance within five days, the village may proceed to abate such nuisance, keeping an account of the expenses of the abatement, and such expense shall be charged and paid by such owner or occupant.

(Prior Code, § 12-205)

**§ 91.20 LIEN.**

(A) Charges for such weed or grass removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner.

(B) If this bill is not paid within 30 days of submission of the bill, a notice of lien of the cost and expense thereof incurred by the village shall be recorded in the following manner:

(1) A description of the real estate sufficient for identification thereof;

(2) The amount of money representing the cost and expenses incurred or payable for the service; and

(3) The date or dates when said cost and expense was incurred by the village and shall be filed within 60 days after the cost and expense is incurred.  
(Prior Code, § 12-206)

**§ 91.21 PAYMENT.**

Notice of such lien claim shall be mailed to the owner of the premises if his or her address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the village or person in whose name the lien has been filed and the release shall be filed on record in the same manner as filing notice of the lien.  
(Prior Code, § 12-207)

**§ 91.22 FORECLOSURE OF LIEN.**

Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same after deducting costs, as in the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the village, after the lien is in effect for 60 days.  
(Prior Code, § 12-208)

***Statutory reference:***

*Related provisions, see 65 ILCS 5/11-20-6 and 5/11-20-7*

***GARBAGE AND DEBRIS*****§ 91.35 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***DEBRIS.*** Rubble, rubbish, waste, trash, discarded material, refuse and abandoned, dismantled or derelict vehicles; provided that, the latter shall not include any vehicle kept within a building.

***GARBAGE.*** Refuse, animal or vegetable matter, offal or litter.

***PROPERTY.*** Any real property within the village which is not a public street or highway.

***VEHICLE.*** The same as that defined in 625 ILCS.  
(Prior Code, § 12-301) (Ord. 1825, passed 5-21-2018)

**§ 91.36 ACCUMULATION PROHIBITED.**

No person shall permit any garbage or trash to accumulate on his or her premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.  
(Prior Code, § 12-302) Penalty, see § 10.99

**§ 91.37 NOTICE TO PERSON.**

The President of the Village Board of Trustees, Chief of Police or the President's designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within five days after such notice has been duly served.  
(Prior Code, § 12-303)

**§ 91.38 SERVICE OF NOTICE.**

Service of notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his or her household 15 years of age or older found on the premises, or by mailing such notice to the last known address of the owner; provided that, if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.  
(Prior Code, § 12-304)

**§ 91.39 ABATEMENT.**

If the person so served does not abate the nuisance within five days, the village may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged and paid by such owner or occupant.

(Prior Code, § 12-305)

**§ 91.40 LIEN.**

(A) Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner.

(B) If this bill is not paid within 30 days of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the village shall be recorded in the following manner:

(1) A description of the real estate sufficient for identification thereof;

(2) The amount of money representing the cost and expense incurred or payable for the service; and

(3) The date or dates when said cost and expense was incurred by the village and shall be filed within 60 days after the cost and expense is incurred.

(Prior Code, § 12-306)

**§ 91.41 PAYMENT.**

Notice of such lien claim shall be mailed to the owner of the premises if his or her address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the village or person in whose name the lien has been filed and the release shall be filed on record in the same manner as filing notice of lien.

(Prior Code, § 12-307)

**§ 91.42 FORECLOSURE OF LIEN.**

Property subject to a lien for unpaid charges shall be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the

foreclosure of statutory liens. Such foreclosure shall be in the name of the village after lien is in effect for 60 days. Suit to foreclose this lien shall be commenced within two years after the date of filing notice of lien.  
(Prior Code, § 12-308)





## CHAPTER 92: PARK REGULATIONS

### Section

- 92.01 Park hours
- 92.02 Destruction of park property
- 92.03 Littering, water pollution
- 92.04 Fires in parks
- 92.05 Picnics
- 92.06 Erection of structures
- 92.07 Signs
- 92.08 Animals
- 92.09 Motor vehicles
- 92.10 Sales, amusements for gain
- 92.11 Reserving facilities
- 92.12 Special events
- 92.13 Applications for required permits
- 92.14 Decision on permit application
- 92.15 Issuance; denial of permit
- 92.16 Prohibited acts
  
- 92.99 Penalty

### § 92.01 PARK HOURS.

(A) All village parks, including any adjacent parking areas, shall be open to the public daily from 6:00 a.m. until 10:00 p.m. from April 1 through October 31 of each year, and from 7:00 a.m. until 6:00 p.m. from November 1 through March 31 of each year. No person shall remain in a park at any time other than those listed above, except village personnel on official business, or those engaged in a village sponsored or sanctioned activity, or those who have requested and been approved to reserve specific facilities within a park for designated dates and times.

(B) For those who have requested and been approved to reserve one of the park community centers shall be entitled to utilize such facility between 9:00 a.m. and 10:00 p.m., which, during winter months, is after normal park closing hours.  
(Prior Code, § 6-201) (Ord. 1394, passed 12-7-2004; Ord. 1596, passed 11-1-2010) Penalty, see § 92.99

**§ 92.02 DESTRUCTION OF PARK PROPERTY.**

Within the municipal parks, no person, except park personnel on official business, shall:

(A) Cut, break, injure, destroy, take or remove any tree, shrub, timber, plant or natural object;

(B) Kill, cause to be killed or pursue with intent to kill any bird or animal, except in areas where the Board has authorized hunting;

(C) Take any fish from park waters contrary to any fishing regulations promulgated by the Village Board of Trustees; and/or

(D) Willfully mutilate, injure or destroy any building, bridge, table, bench, fireplace, guidepost, notice, tablet, fence, monument or other park property or appurtenances.  
(Prior Code, § 6-202) Penalty, see § 92.99

**§ 92.03 LITTERING, WATER POLLUTION.**

(A) No person shall deposit any trash within the municipal parks, except in proper receptacles where these are provided, and only when such trash is generated as a result of using said parks. Where receptacles are not provided, all trash shall be carried away from the parks by the person responsible for its presence, and be properly disposed of elsewhere.

(B) No person shall discharge, or otherwise place or cause to be placed in the waters of any fountain, lake, stream or other body of water, in or adjacent to any park or in any tributary, stream, storm sewer or drain flowing into such waters any substance or thing, liquid or solid, which will or may result in the pollution of said waters.  
(Prior Code, § 6-203) Penalty, see § 92.99

**§ 92.04 FIRES IN PARKS.**

(A) No person shall light or use any unenclosed picnic fire within the municipal parks. Fires may be built only in fireplaces or on grills constructed for that purpose in designated areas.

(B) In designated camping areas, every campfire shall be attended by a competent person at all times.

(C) Every person who has lighted or used any fire in a municipal park shall extinguish such fire before leaving the park.  
(Prior Code, § 6-204) Penalty, see § 92.99

**§ 92.05 PICNICS.**

No person shall picnic in the municipal parks, except in areas designated for that purpose. Village park personnel are hereby authorized to regulate the activities in such areas when necessary to prevent congestion or to secure the maximum use, comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.  
(Prior Code, § 6-205) Penalty, see § 92.99

**§ 92.06 ERECTION OF STRUCTURES.**

No person shall build or place any tent, building, booth, stand or other structure in or upon any municipal park or other village-owned recreational facility unless he or she has obtained a permit to do so from the village.  
(Prior Code, § 6-206) Penalty, see § 92.99

**§ 92.07 SIGNS.**

No person shall place within any municipal park, or affix to any object therein, any sign or device designed to advertise any business, profession, exhibition, event or thing unless he or she has obtained a permit to do so from the village.  
(Prior Code, § 6-207) Penalty, see § 92.99

**§ 92.08 ANIMALS.**

(A) *Dog park.* A dog park has been placed in an area of Melvin Price Memorial Park for the use by any park visitors.

(1) No membership is necessary.

(2) No fee is required.

(3) Village personnel are hereby authorized to regulate the activities in the dog park are when necessary to prevent congestion or to secure the maximum use, comfort, and convenience of all.

(4) The village will not be responsible for any harm to human or animal while using the dog park.

(B) No person shall:

(1) Bring any dangerous animal into any municipal park;

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(2) Permit any dog to be in any park unless such dog is on a leash or in the dog park area;

(3) Ride or lead any horse in any municipal park or other village-owned recreational area, except upon paths or other ways expressly provided and posted for that purpose; or

(4) Allow any permitted animal to defecate on park properties or walkways, unless said person shall immediately remove all feces so deposited by said animal before removing the animal from the immediate area where said defecation occurred.

(Prior Code, § 6-208) (Ord. 1456, passed 6-19-2006; Ord. 1779, passed 4-17-2017) Penalty, see § 92.99

### § 92.09 MOTOR VEHICLES.

No person, other than municipal personnel on official business, shall drive or park any motor vehicle in any municipal park, except on a roadway or parking lot.

(Prior Code, § 6-209) Penalty, see § 92.99

### § 92.10 SALES, AMUSEMENTS FOR GAIN.

Within the parks of the municipality, no person shall, without first having obtained a permit from the village:

(A) Sell or offer for sale, any goods or services; and/or

(B) Conduct any amusement for gain or for which a charge is made.

(Prior Code, § 6-210) Penalty, see § 92.99

### § 92.11 RESERVING FACILITIES.

(A) Whenever any person, group, or organization desires to reserve a specific facility within a municipal park, including pavilions, lighted athletic fields, and the Norman Lehr Community Center and Thompson Civic Center at Mel Price Park, to the exclusion of others, they shall do so only through written request and authorization in accordance with the following:

(1) *Waiver.*

(a) *Specified organizations entitled to waiver.* Specified organizations within the village, namely the Swansea Senior Society, the Metro-East Regional Chamber of Commerce, the Swansea Patriots, and the Swansea Farmers' Market, shall be entitled to utilize the Community Center at Price Memorial Park, to the exclusion of all others and without charge or deposit, for their regularly scheduled

meetings, and for any special events reported to the village during the month of November and scheduled in the following year, provided that the village shall retain the right to utilize said facility at any time for any public purpose.

(b) *Other organizations entitled to waiver.* The Board of Trustees shall allow certain other organizations to utilize a specific facility within a municipal park to the exclusion of all others and without charge or deposit if the following requirements are met, as determined by the Board of Trustees in its discretion:

1. A written request has been submitted at least 30 days before the proposed reservation date;
2. The specific facility has not already been reserved by another organization or person; and
3. The organization making the request promotes a public interest or purpose that is consistent with the public purpose and service objectives of the village government, or provides services due for the public good without compensation.

(2) *Other reservations; acceptance.* Any other reservations shall be accepted for each calendar year beginning with the first business day of December.

(3) *Only residents to reserve; exceptions.* Reservations for such facilities, except park pavilions, shall only be accepted from residents of the village, or from businesses or organizations located in the village. The village shall verify residency by requiring the person making said reservation to submitting a copy of their driver's license or other acceptable form of identification, or by requiring the company or organization to submit a letter, on their letterhead, authorizing the reservation.

(4) *Reservation requests.* Reservation requests shall be made in writing on forms provided by the village, and no reservation shall be assured until a formal request is made and approved by the village. No reservation shall be taken over the telephone. Such form may include language regarding additional terms and conditions upon the use of the village's facilities.

(5) *Conflicting requests; priority.* Should two reservation requests be submitted for the same day, the first such request submitted to the village shall be given first consideration.

(6) *Required information in requests.* Each such request shall specifically state the location and facilities requested, as well as all special needs or requirements.

(7) *Fee.* Each such request for reservation of a park pavilion shall be accompanied by a check, cash or credit card payment in the amount of \$25 for residents and \$50 for non-residents as the reservation fee for the use of said facility. This check shall be immediately deposited by the village with the intent of offsetting some of the costs of utilities and maintenance for said facility.

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(8) *Athletic facilities; fees.* Each such request for reservations of athletic facilities when field lights are required, shall be accompanied by a check, cash or credit card payment in an amount equal to \$15 per hour of lights required, with a two-hour minimum. Lights will be available in increments of hours only. The village will be responsible for turning on and off the lights for each scheduled use.

(9) *Community Center; fees.* Each request for reservation of the Norman Lehr Community Center at Melvin Price Memorial Park shall be accompanied by check, cash or credit card payment in the amount of \$225. One hundred dollars is for the rent amount of the Community Center, and \$125 is for a security deposit. The total amount will be entered into the cash receipts system. The \$125 deposit fee shall be returned to the person making said reservation only if, upon inspection, said facility is found by the village to be clean and undamaged, and all keys and any equipment are returned to the village.

(10) *Thompson Center, Lehr Center, TWM Center; keys; times entry permitted and other rules.* For those requesting to reserve the Thompson Center, the Lehr Center or TWM Center, a key to the appropriate building shall be made available so that it can be picked up on the date of the approved reservation. The person making said reservation shall be held responsible for the safe keeping of such key, and entry into the Thompson Center, Lehr Center or TWM Center shall only be authorized on the date and during the times approved on the reservation request. Entry at any other time shall be deemed unlawful. It shall also be the responsibility of the person making the reservation to assure that all doors to the Thompson Center, Lehr Center or TWM Center are locked and to assure that the key is returned. Further rules and regulations regarding when and where to pickup and drop off the keys for these rentals shall be adopted by resolution of the Board of Trustees and attached to the building reservation form.

(11) *Thompson Center; fees; rules.* Each request for reservation of the Thompson Center at Melvin Price Memorial Park shall be accompanied by check, cash or credit card payment in the amount of \$350. One hundred fifty dollars is for the rent of the Thompson Center, and \$200 is for a security deposit. Should the renter also want access to the kitchen, the reservation shall be accompanied by check, cash or credit card payment in the amount of \$500. Two hundred dollars is for the rent of the Thompson Center, and \$300 is for a security deposit. The total amount will be entered into the cash receipts system. No disc jockeys (“DJs”) or live music is allowed at the Thompson Center. The applicable deposit fee shall be returned to the person making said reservation only if, upon inspection, said facility is found by the village to be clean and undamaged, and all keys and any equipment are returned to the village.

(12) *TWM Center, Schranz Memorial Park; fees and rules.* Each request for reservation of the TWM Center at Schranz Memorial Park shall be accompanied by check, cash or credit card payment in the amount of \$250 for residents or \$300 for non-residents. One hundred dollars for residents and \$150 for non-residents shall be the rent amount of the TWM Center. The remaining \$150 for residents and non-residents shall be held as a security deposit. The entire amount shall be entered into the cash receipts system. The security deposit shall be returned to the person making said reservation only if, upon inspection, said facility is found by the village to be clean and undamaged, and all keys and any equipment are returned to the village.

(13) *Reservation for weddings; minimum rental period.* The foregoing notwithstanding, any reservation for a building for a wedding must reserve the building for a minimum of three days, accompanied by check, cash or credit card payment in the amount of rent for three days and one security deposit for the building as provided hereinabove.

(B) *Schranz Park Splash Pad reservation.* Whenever anyone desires to use the Schranz Park Splash Pad for an organized group of ten or more persons, they shall do so only through written reservation, authorization and permit in accordance with the following:

(1) The number of users permitted by the reservation shall not exceed 50 persons.

(2) The time reserved shall be limited to the hours of 11:30 a.m. to 1:30 p.m., and only on a non-holiday weekday when the Schranz Park Splash Pad is open.

(3) Any person making such a reservation which allows exclusive use of the Schranz Park Splash Pad during the time and date of the reservation, shall pay a fee to do so, in the form of a check made payable to "The Village of Swansea". Said fee shall be \$50 for residents of the village, and \$75 for non-residents. Any such check shall immediately be deposited by the village with the intent of offsetting some of the operating cost for said facility.

(4) Any such reservation request for exclusive use of the Schranz Park Splash Pad shall be accompanied by a check or cash security deposit in the amount of \$100 for residents of the village, or \$200 for non-residents. The deposit will be entered into the cash receipts system and refunded to the person making said reservation only if, upon inspection, the Splash Pad is found to be clean and undamaged, with the filtration system free of food or any other materials not allowed in or near the splash pad, and all other rules governing its use were followed. The Village Administrator, or any other official authorized by the Board of Trustees, shall have the authority to decide not to refund a security deposit.

(5) Reservation requests shall be made in writing, at least 30 days in advance, on forms provided by the village, and no reservation shall exist until the request is approved by the village. No reservations shall be taken over the telephone. Such forms may include language regarding additional terms and conditions upon the use of the village's facilities.

(6) Each permitted reservation shall be posted at an appropriate location at the Schranz Park Splash Pad facility, and the reserving group shall be entitled to exclusive use on that date and during that time period.

(Prior Code, § 6-211) (Ord. 1394, passed 12-7-2004; Ord. 1445, passed 3-20-2006; Ord. 1500, passed 10-15-2007; Ord. 1539, passed 1-20-2009; Ord. 1558, passed 10-19-2009; Ord. 1591, passed 9-20-2010; Ord. 1626, passed 9-19-2011; Ord. 1716, passed 2-17-2015; Ord. 1745, passed 4-4-2016; Ord. 1746, passed 4-4-2016; Ord. 1756, passed 7-5-2016) Penalty, see § 92.99

**§ 92.12 SPECIAL EVENTS.**

(A) Whenever any group, association or organization desires to use said park facilities for a particular special event, such as company picnics or parties, theatrical or entertainment performances, political speeches, festivals or carnivals, a representative of said group, association or organization shall first obtain the written permission from the village. All requests for special events must be made at least 30 days prior to event.

(B) The village shall grant the application if it appears that the group, association or organization will not interfere with the general use of the park by the individual members of the public and if said group, association or organization meets any other conditions required by the village.

(C) The village may require an indemnity bond to guard from any liability of any kind or character determined to be necessary to protect the village from loss or damage.  
(Prior Code, § 6-212)

**§ 92.13 APPLICATIONS FOR REQUIRED PERMITS.**

(A) Applications for permits required by §§ 92.01(B), 92.06, 92.07 and 92.10 and any other section of this chapter shall be made in writing to the village not less than seven days before the proposed date of the activity for which the permit is sought.

(B) Each application shall include the following information:

- (1) Statement briefly describing the nature of the proposed activity;
- (2) Name, address and telephone number of the person or organization wishing to conduct such activity;
- (3) The date when such activity is to be conducted;
- (4) The hour when such activity will start and terminate;
- (5) The park or portion thereof for which such permit is desired; and
- (6) An estimate of the anticipated attendance.

(Prior Code, § 6-213)



**§ 92.14 DECISION ON PERMIT APPLICATION.**

(A) After due consideration of the information contained in the permit application, but no later than four days after the application has been filed, the village shall determine whether the application is satisfactory.

(B) An application shall be deemed satisfactory if:

(1) The proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;

(2) The facilities desired have not been reserved for other use at the day and hour requested in the application;

(3) The conduct of such activity will not substantially interrupt the safe and orderly movement of traffic;

(4) The proper policing of such activity will not require the diversion of so great a number of police officers as to prevent normal police protection to the remainder of the municipality;

(5) The conduct of such activity is not reasonably likely to cause injury to persons or property, or to incite violence, crime or disorderly conduct; and

(6) Such activity is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.  
(Prior Code, § 6-214)

**§ 92.15 ISSUANCE; DENIAL OF PERMITS.**

(A) By regular mail or by telephone, the village shall promptly notify every permit applicant of the decision of his or her application.

(B) If such decision is favorable, the village shall issue the permit. As a condition of the issuance of any permit, the village may require that an indemnity bond be obtained if, in its opinion, such bond is necessary to protect the municipality from liability or to protect municipal property from damage.

(C) The village shall inform each applicant who has been denied a license regarding the reasons for the denial and the procedure for appeals.  
(Prior Code, § 6-215)

**§ 92.16 PROHIBITED ACTS.**

It shall be unlawful for any person, firm or corporation using such parks to either perform or permit to be performed any of the following acts:

(A) Willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, bridge, table, bench, fireplace, railing, paving or paving material, waterline or other public utility or part or appurtenance thereof, sign, notice or placard, whether temporary or permanent, monument, stake, post or other boundary marker or other structure or equipment, facility or park property or appurtenance whatsoever;

(B) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters;

(C) Bring in any dump, or leave any bottle, broken glass, ashes, paper, box, can, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere;

(D) Engage in disorderly conduct or disturb the peace;

(E) Prevent any person from peaceably using any park, or any of its facilities, or interfere with such use;

(F) Swim, bathe or wade in any water or waterways in or adjacent to any park, except in such waters and at such places as are designated therefor;

(G) Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end;

(H) Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded, except by permission as provided in this chapter;

(I) Engage in special activities including flying model airplanes and drones, golf practice, ice skating, sledding, fishing, games and picnics except at locations specifically designated for such activities by the village. Areas for such activities may be reserved by groups for use at specified times, as provided in this chapter;

(J) (1) Drive or park any bicycle, automobile, motorcycle or other motor vehicle, except on a street, driveway or parking lot in any park, or park or leave any such vehicle in any place other than one established for public parking. It shall be unlawful to pass on any park road. The speed limit in any park shall be ten mph.

(2) Exception: Bicycles shall be permitted to drive and park upon any shared-use path within any park, so long as they are not unattended. In all instances, cyclists shall yield any shared-use path to pedestrians;

(K) Bring any horse or dangerous animal or permit any dog to be in any park unless such dog is on a leash not more than six feet long. Allow any permitted animal to defecate on park properties or walkways, unless said person shall immediately remove all feces so deposited by said animal before removing the animal from the immediate area where said defecation occurred;

(L) Sell, peddle or offer for sale any commodity or article within any village park, without a written permit;

(M) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, erect or cause to be erected any sign whatever in any park or roads adjacent to a park;

(N) Deposit or leave any species of fish, fowl or animal in any park;

(O) Remove Indian relics, arrowheads or other artifacts;

(P) Light any fires other than in established fire containers or pits;

(Q) Consume or have in one's possession any intoxicating beverage on or within 30 feet of any playground or playground with water play fixtures, or on any sports field or court or within 30 feet of the outer field lines of any sports field or court during any game or practice session of any sports team(s) in which the players are under the age of 21 years, or within the enclosed area of the dog park, or any place within any park or park facilities when there is a gathering of more than 50 persons unless the Village Clerk issues a permit, after a group of such size has made application for a permit at least 30 days in advance of the event, and has presented proof of an indemnity bond or other insurance to protect the village from liabilities of any kind or character that the village determines necessary to guard the village from loss or damage as a result of consumption of intoxicating beverages, and after said application has been approved by the Park Board;

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**Swansea - General Regulations**

(R) Fire, or have in possession, with the exception of those with a valid concealed weapon permit, any firearm, air gun, archery device or other device for the propelling of objects; and/or

(S) Smoke cigarettes, electronic cigarettes, cigars, pipes or chew tobacco within 30 feet of any playground, or playground with water play fixtures or within the fenced area of the dog park. (Prior Code, § 6-216) (Ord. 1521, passed 7-7-2008; Ord. 1584, passed 6-21-2010; Ord. 1853, passed 3-18-2019)

**§ 92.99 PENALTY.**

Anyone found guilty of violating any of the provisions of this chapter shall be fined not less than \$50, nor more than \$750.  
(Prior Code, § 6-216)

## CHAPTER 93: STREET REGULATIONS

### Section

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- 93.01 Undermining
- 93.02 Closing streets, generally
- 93.03 Closing streets; block parties
- 93.04 Closing streets; community events
- 93.05 Closing streets; private construction
- 93.06 Signs across street
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- 93.08 Vehicles on sidewalks
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- 93.11 Materials on sidewalks
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## Swansea - General Regulations

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### **GENERAL REGULATIONS**

#### **§ 93.01 UNDERMINING.**

No person shall undermine, in any manner, any street or any other ground or real estate situated in the village and owned by the village or by any other private person.  
(Prior Code, § 6-301) Penalty, see § 93.99

#### **§ 93.02 CLOSING STREETS; GENERALLY.**

(A) Whenever public safety or the repair of any street, alley or sidewalk requires it, the Mayor, Police Chief, Fire Chief or Superintendent of Public Works may order any street, alley or sidewalk temporarily closed to traffic, and shall direct the placing of barricades and signs indicating that such right-of-way is closed by the order of same. Whenever such barricades and signs are so placed, it shall be unlawful for any person to walk, drive or ride upon or cross such closed street, alley or sidewalk.

(B) It shall be unlawful for any unauthorized person to remove or relocate any barricade from any public right-of-way, or for any person to damage, deface, destroy or remove or relocate any closure or detour placard.

(C) There shall be no fee imposed by the village for the temporary occupation or closure of any street, alley or sidewalk for any block party, community event or private construction. (Prior Code, § 6-302) (Ord. 1634, passed 12-19-2011) Penalty, see § 93.99

**§ 93.03 CLOSING STREETS; BLOCK PARTIES.**

(A) Any person or group of persons may make application to the Chief of Police to close any street or part of a street for any day or part of a day for the purpose of conducting a block party. The applicant shall agree to the following:

- (1) Provide adequate method of street closure;
- (2) Allow one lane to remain clear and open for the passage of emergency vehicles; and
- (3) Accept responsibility for any damage or liability that may occur.

(B) The Chief of Police shall approve the request if the Chief determines that the applicant will fulfill the requirements listed herein and the event will not affect public safety or unduly inconvenience the public. Upon approval, the Chief of Police shall notify the Mayor and the Board of Trustees of the scheduled block party. (Prior Code, § 6-303) (Ord. 1634, passed 12-19-2011)

**§ 93.04 CLOSING STREETS; COMMUNITY EVENTS.**

Any person, corporation, not-for-profit organization or other group seeking to temporarily occupy or close any street under the jurisdiction of village for any parade, festival, organized run, walk or bicycle tour or similar community event shall first make application to the Chief of Police. The applicant shall present a diagram of the streets proposed to be occupied or closed, detour route and barricade and signage plan. The Chief of Police shall review the proposed occupation or closure of such street or streets and shall recommend to the Board of Trustees the approval or denial of the application. The Board of Trustees shall give its approval, with conditions if deemed necessary, or denial of the proposed occupation or closure of such street or streets considering the safety and convenience of the public. (Prior Code, § 6-304) (Ord. 1634, passed 12-19-2011)

**§ 93.05 CLOSING STREETS; PRIVATE CONSTRUCTION.**

Any person or firm seeking the temporary occupation or the closure of all or part of any street, alley or sidewalk for any purpose in connection with the erection, removal, alteration or repair of any building or other structure shall first make application to the Superintendent of Public Works or his or her designated representative. The Superintendent of Public Works shall approve, with conditions if deemed necessary, or deny the application considering the duration of the closure, the practicality of the detour plan, the arrangements for appropriate detour and closure signage and the safety and convenience of the public. The Superintendent of Public Works shall give 48 hours' notice to the Police and Fire Departments and the ambulance company of any scheduled street closure. (Prior Code, § 6-305) (Ord. 1634, passed 12-19-2011)

**§ 93.06 SIGNS ACROSS STREET.**

No person shall place any sign, advertisement or banner over any street or alley in the village, unless he or she has written approval of the Village Board of Trustees. (Prior Code, § 6-306) Penalty, see § 93.99

**§ 93.07 PORCH.**

It shall be unlawful for any person or persons, firm or corporation to construct and maintain any porch or similar overhead covering device extending from any building bordering upon any public sidewalk, which overhangs any public sidewalk or passageway, supported by or resting upon posts, in the village. (Prior Code, § 6-307) Penalty, see § 93.99

**§ 93.08 VEHICLES ON SIDEWALKS.**

No person shall operate any licensed vehicles over any sidewalk, except in crossing the same to go into a yard or parking lot. (Prior Code, § 6-308) Penalty, see § 93.99

**§ 93.09 CULVERTS.**

Any person desiring a driveway-type culvert shall secure permission from the Superintendent of Public Works. After securing the proper size, location, depth and method of installation information from the village, the person shall purchase the approved culvert and the Village Street Department shall install the culvert. (Prior Code, § 6-309) (Ord. 1621, passed 8-1-2011) Penalty, see § 93.99



**§ 93.10 BURNING.**

It shall be unlawful in the village to burn leaves, grass, rubbish or any other substance on the margin of any cement, bituminous or other hard-surfaced paved street, highway or sidewalk within or partly within the village.

(Prior Code, § 6-310) Penalty, see § 93.99

**§ 93.11 MATERIALS ON SIDEWALKS.**

(A) It shall be unlawful to place or locate on any public sidewalk any material, which may be harmful to the pavement thereof, or any waste material, any glass or other articles which might cause injury to persons, animals or property.

(B) Merchandise or other articles may be deposited on sidewalks preparatory to delivery; provided that, the usable width is not thereby reduced to less than four feet; and, provided that, no such article shall remain on such walk for more than one-half hour.

(Prior Code, § 6-311) Penalty, see § 93.99

**§ 93.12 OBSTRUCTING STREET.**

No person shall place or cause to be placed or erected on any public ground or in any public street, alley or sidewalk in the village any debris, materials or obstruction, including mud, dirt and other organic matter deposited as a result of construction, except as may be permitted by this subchapter. When any such matter is deposited as a result of construction, it shall be the responsibility of the general contractor, or the property owner in the absence of a general contractor, to assure that such material is removed daily and streets are left clean and unobstructed.

(Prior Code, § 6-312) Penalty, see § 93.99

**§ 93.13 WATER FROM EAVES.**

No person owning or occupying any building in the village shall cause pipes conducting the water from eaves of the building to be so constructed as to spread the water over the sidewalk.

(Prior Code, § 6-313) Penalty, see § 93.99

**§ 93.14 BUILDING MATERIALS IN STREET.**

The Superintendent of Public Works may cause to be moved any obstruction on any street or sidewalk of the village; but, before doing so, he or she shall notify the person responsible therefor to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to

such length of time as may be necessary for the work. The obstruction shall not extend to more than one-half of the width of the sidewalk, street or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. Such person shall warn passers-by at night by placing warning lights around such materials.

(Prior Code, § 6-314) Penalty, see § 93.99

### § 93.15 SIGNS AND NOTICES.

(A) No person shall attach, post, nail, tack, paste, paint or fasten or cause to be attached, posted, nailed, tacked, painted or fastened any sign, handbill, poster, advertisement, notice of any kind or any other foreign substance or material onto:

- (1) Any tree or shrub in any right-of-way, street, parkway or other public place;
- (2) Any telephone, telegraph, electric light, utility, police or fire-alarm pole or post;
- (3) Any street or traffic sign located on any sidewalk, street, alley or public grounds;
- (4) Any curbstone, flagstone or any other portion or part of any sidewalk;
- (5) Any hydrant; or

(6) Any private well, door or gate without the consent in writing of the owner of the wall, door or gate.

(B) No person shall injure or deface any item referred to in (A)(1) through (A)(6) hereinabove.

(C) The foregoing notwithstanding, the proper village of Swansea and St. Clair county officials may post election signs, polling place signs and other signs or placards, but shall not be attached to a tree or shrub.

(Prior Code, § 6-315) Penalty, see § 93.99

***Cross-reference:***

*Posting bills, see § 130.26*

### § 93.16 MERCHANDISE ON PUBLIC STREETS.

It shall be unlawful for any person, firm or corporation to use any street, sidewalk or other public place as space for the display of goods or merchandise for sale or to write or make any signs advertising on any such pavements.

(Prior Code, § 6-316) Penalty, see § 93.99

**§ 93.17 ENCROACHMENTS.**

It shall be unlawful for any person, firm or corporation to erect or maintain any building, structure, fence, pole or sign, which encroaches upon any public street, property or right-of-way, without written authorization to do so from the Village Board of Trustees.  
(Prior Code, § 6-317) Penalty, see § 93.99

**§ 93.18 INJURY TO NEW PAVEMENTS.**

It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement.  
(Prior Code, § 6-318) Penalty, see § 93.99

***TREES AND SHRUBS AS OBSTRUCTIONS TO STREETS***

**§ 93.30 PLANTING.**

It shall be unlawful to plant any tree or bush in any public right-of-way, street or parkway, or other public place, without having first secured a permit therefor. Applications for such permits shall be made to the Village Clerk and shall be referred by him or her to the Village Board of Trustees. All trees and shrubs so planted shall be placed subject to the directions and approval of the Village Board of Trustees.  
(Prior Code, § 6-401) Penalty, see § 93.99

**§ 93.31 UNLAWFUL TO PLANT TREES AND SHRUBBERY.**

It shall be unlawful for any person or persons, firm or corporation to plant or cause to be planted any tree or shrub less than seven feet from any property line fronting any public street. No tree shall be planted on the corner of a lot at a distance less than 30 feet from any intersecting streets.  
(Prior Code, § 6-402) Penalty, see § 93.99

**§ 93.32 REMOVAL.**

It shall be unlawful to remove or cut down any tree or shrub or portion thereof in any right-of-way, parkway or public place without having first secured a permit therefor. Applications for such permits shall be made to the Village Clerk and shall be referred by him or her to the Village Board of Trustees before permission shall be granted.  
(Prior Code, § 6-403) Penalty, see § 93.99

**§ 93.33 INJURY.**

It shall be unlawful to injure any tree or shrub planted in any public place.  
(Prior Code, § 6-404) Penalty, see § 93.99

**§ 93.34 DANGEROUS TREES.**

(A) Any tree or shrub which overhangs any sidewalk, street or other public place in the municipality at a height less than eight feet or in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the premises on which such tree or shrub grows, so that the obstruction shall cease.

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

(C) The Superintendent of Public Works may, at the owner's expense, trim or remove any tree or shrub so that the obstruction or danger to traffic or passage shall be done away with.  
(Prior Code, § 6-406) Penalty, see § 93.99

**§ 93.35 CERTAIN TREES PROHIBITED.**

It shall be unlawful for any person or persons, firm or corporation to plant or cause to be planted in any of the public rights-of-way, streets, alleys, sidewalks, parkways and other public places in the village any trees of any of the following varieties: cottonwood, poplar and willow.  
(Prior Code, § 6-407) Penalty, see § 93.99

**§ 93.36 WIRES.**

(A) It shall be unlawful to attach any wires or rope to any tree or shrub in any public street, parkway or other public place without the permission of the Village Board of Trustees.

(B) Any person or company given the right to maintain the poles and wires in the streets, alleys or other public places in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Superintendent of Public Works so that no injury shall be done either to the poles or wires or the shrubs and trees by their conduct.  
(Prior Code, § 6-408) Penalty, see § 93.99

**§ 93.37 GAS PIPES.**

Any person or company maintaining any gas pipe in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs.

(Prior Code, § 6-409) Penalty, see § 93.99

**§ 93.38 DECAYED TREES.**

Any person owning a parcel of land whereon is situated a decayed or dead tree which extends over any sidewalk or street shall remove such dead or decayed tree or parts thereof in such a manner that danger to the public is eliminated.

(Prior Code, § 6-410) Penalty, see § 93.99

***REGULATIONS FOR STREET EXCAVATION***

**§ 93.50 APPLICATION FOR PERMIT.**

Any person desiring to lay, lower, change, repair or remove any pipes or to make connections therewith, or to make any change, improvement, fill, excavation or alteration within or upon any right-of-way, street, alley, sidewalk or other public place shall apply to the Superintendent of Public Works or his or her designated representative for a permit to do so. The applicant shall describe the portion of the right-of-way, street, alley, sidewalk or other public place where such work is to be done and the nature and character of the work to be done.

(Prior Code, § 6-501) Penalty, see § 93.99

**§ 93.51 BOND.**

(A) The applicant shall also give a \$5,000 bond or 5% of project, whichever is greater, conditioned that he or she will:

(1) Suitably guard and protect any excavation or obstruction;

(2) Defend, save, keep harmless and indemnify the village and from all actions, suits, costs, damages and expenses including any injuries or damages received or sustained by any person by or from acts or omissions of the applicant or his or her employees in doing such work;

(3) Complete such work as expediently as possible, and when completed, notify the village of such fact so that the Superintendent of Public Works or his or her designated representative may see that the same has been promptly and properly restored to its former condition;

(4) Guarantee that such work is to reconstructed, refilled and restored in a good and workmanlike manner, and of good and proper material, and that the same shall not deteriorate, cave-in or require repair or reconstruction for a period of at least two years from the time of approval of such work; and

(5) Upon the giving of notice to that effect, pay to the village, for use of same, any and all costs and expenses to which the village may have been put, paid or become liable for in refilling, repairing and replacing the work on the surface or pavement of such right-of-way, street, alley or sidewalk, or other public place if the work shall be done by the village, or it becomes necessary for the village to do so, the cost in all cases to be certified by the Superintendent of Public Works or his or her designated representative.

(B) Such bond, with sureties, shall be approved by the President of the Village Board of Trustees or his or her designated representative.  
(Prior Code, § 6-502)

### **§ 93.52 MANNER OF EXCAVATING.**

(A) It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and in excavations, the excavation shall not extend anywhere below the surface any distance which would be greater than the opening at the surface.

(B) No injury shall be done to any pipes, cables or conduits or any village department or office charged with the care thereof, and no pipes, cables or conduits or parts thereof, which are or may be in danger or affected by making such excavation or tunnel, shall be removed without obtaining a permit to do so before such pipes, cables or conduits shall be disturbed.

(C) No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.  
(Prior Code, § 6-503) Penalty, see § 93.99

### **§ 93.53 RESTORATION OF EXCAVATION.**

The street shall be restored by the applicant and or developer as indicated below.

(A) All trenches shall be backfilled with compacted CA-6 rock or approved alternate. No material removed from the trench will be allowed to be reused unless approved by the village prior to placement.

(B) Temporary patches may be installed to facilitate traffic movement until a permanent patch can be installed. The contractor shall be responsible for maintaining the temporary patch and for all liability associated with the excavation and repair.

(C) The contractor shall notify the village 24 hours prior to pouring or placing any permanent repairs.

(D) The existing pavement should be saw-cut one foot beyond the trench limits (each direction) prior to initiating the pavement repair.

(E) (1) Concrete streets shall be repaired with portland cement pavement having a 28-day compressive strength of not less than 4,000 PSI and having a minimum thickness equivalent to the pavement being replaced, but in no case less than six inches in thickness.

(2) Prior to pouring the replacement slab, the contractor shall install one-half dowel bars at a maximum of 30-inch spacing (minimum two, each direction) into the existing slab.

(3) The contractor shall be responsible for replacing any reinforcing removed during the repair process and for installing reinforcing in any repair area as directed by the village.

(F) Asphalt streets shall be repaired with a minimum thickness equal to the surrounding surface, but not less than eight-inch bituminous concrete dyed to match the surrounding. Asphalt can be used in lieu of bituminous concrete pavement.

(G) Oil and chip streets shall be repaired with a minimum thickness equal to the surrounding surface, but not less than eight inches of bituminous concrete pavement.  
(Prior Code, § 6-504) (Ord. 1696, passed 3-17-2014) Penalty, see § 93.99

**§ 93.54 TIME LIMIT.**

(A) Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground, or until the refill is made ready for the pavement to be put on by the village, if same restores such surface pavement.

(B) It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the village.  
(Prior Code, § 6-505) Penalty, see § 93.99

**§ 93.55 FITNESS OF APPLICANT.**

No permits shall be granted to any person failing to file the appropriate bond, or who, in the judgment of the President of the Village Board of Trustees or his or her designated representative, is unfit or unqualified to engage in the class of work herein provided for.  
(Prior Code, § 6-506)

**§ 93.56 ISSUANCE OF PERMIT.**

Upon receipt of application, the Superintendent of Public Works or his or her designated representative, in coordination with the Village Engineer and upon approval of the President of the Village Board of Trustees or his or her designated representative, shall issue a permit to the application, stating therein all privileges thereby granted.  
(Prior Code, § 6-507)

**§ 93.57 SUPERVISION.**

(A) The Superintendent of Public Works or his or her designated representative shall, from time to time, inspect all excavations and tunnels being made in or under any public street, alley or other public place in the village to see to the enforcement of the provisions of this subchapter.

(B) Sufficient notice shall be given to the Superintendent of Public Works or his or her designated representative before the work of refilling any such excavation or tunnel commences.  
(Prior Code, § 6-508)

**§ 93.58 EXEMPTIONS.**

The provisions of the regulation relative to securing permits shall not apply to officers or employees of the village engaged in doing such work; nor to persons or corporations which are operating under a franchise or grant from the village if such franchise provides for the making of excavation and tunnels without securing a permit therefor.  
(Prior Code, § 6-509)

**§ 93.59 OBSTRUCTING WORK IN STREET.**

When any right-of-way, street, alley, sidewalk or other public place is being improved under any contract with the village, it shall be unlawful for any person to destroy, injure, carry away, remove or interfere with any of the material or appliances used in or about the work, or impede, obstruct or interfere with the execution of the work or destroy or damage any of the work or materials which may have been placed by the contractor.  
(Prior Code, § 6-510) Penalty, see § 93.99

**§ 93.60 BARRIERS AND LIGHTS.**

Whoever digs, or causes to be dug, a ditch or excavation in or adjoining any right-of-way, street, alley, sidewalk or other public place shall erect a suitable barrier about such excavation and, during the



night, shall keep a sufficient number of illuminated warning lights around such excavation, and the earth there from, in order to warn passers-by.

(Prior Code, § 6-511) Penalty, see § 93.99

**§ 93.61 LIGHTS ON MATERIAL IN STREET.**

Every object standing on a street, alley or other public road within the village shall have an illuminated light thereon at night, if it is an object other than a vehicle.

(Prior Code, § 6-512) Penalty, see § 93.99

**§ 93.62 INTERFERENCE WITH BARRIERS AND LIGHTS.**

No person shall remove or interfere with any barrier, warning sign or light placed in any street for the protection of the public.

(Prior Code, § 6-513) Penalty, see § 93.99

**§ 93.63 LIABILITY OF PERSONS TO VILLAGE FOR DAMAGE.**

If any person violates any provision of this subchapter, and any person or property in consequence thereof is injured or damaged, the person so guilty of such violation shall be liable to the village in relation thereto, and no prosecution or other proceeding by the village of such person for any penalty imposed for a violation shall constitute a bar to such action by the village for such damages.

(Prior Code, § 6-514)

**§ 93.64 DEFINITIONS.**

For the purpose of §§ 93.65 and 93.66, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PUBLIC UTILITY.** Any person, firm or corporation duly authorized to furnish under regulation to the public:

(1) Electricity, gas, steam, telephone, telegraph, transportation, water or sewerage systems; and

(2) To the extent allowable by law, any data or internet services.

(Ord. 1821, passed 4-23-2018)

**§ 93.65 RIGHTS-OF-WAY AGREEMENTS.**

(A) *Rights-of-way use agreement application.* An application for rights-of-way use agreement, on village forms, shall be presented to the village in writing and shall include all such information as is required by this Code. This application requires payment of a nonrefundable application fee of \$750, which fee shall be utilized to offset the village's costs in this process, consistent with applicable law. If applicable, the applicant shall be obligated to reimburse the village for its reasonable expenses associated with the review, negotiation and adoption of an appropriate rights-of-way use agreement that may reasonably exceed the application fee amount. The application will be used to determine the qualifications and eligibility of the applicant to be granted either a license agreement, franchise, or rights-of-way use agreement under the Municipal Code, and federal and state law, and to assist the village in ensuring compliance of the applicant with applicable law, and adapting any agreement to unique or special circumstances as may be established by the applicant. The applicant shall be responsible for accurately maintaining the information in the application during the term of any rights-of-way use agreement and shall be responsible for all costs incurred by the village due to the failure to provide or maintain as accurate any application information required herein.

(B) *Franchise application.* This provision shall not override any section in the Municipal Code of the Village of Swansea which describes, controls, or regulates franchise agreements. Such provisions remain in full force and effect.

(C) *No warranty.* The village makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of facilities or utilities on any particular segment of rights-of-way and shall not be liable for any damage therefrom. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon the applicant. Such applicant shall be wholly liable for any damages to facilities or other property due to any work, improvement, or maintenance performed on the rights-of-way, without cost or liability to the village. No remedies or monetary recourse may be enforced against or paid by the village arising from the use of rights-of-way.

(D) *Third parties.* Except as otherwise provided by written agreement or as required by law, no franchise, license, or permit may be transferred or assigned to a third party without the written application to and consent of the village based on the requirements and policies of this section and § 93.66.

(Ord. 1821, passed 4-23-2018)

**§ 93.66 ANNUAL REGISTRATION AND FEE.**

(A) *Annual registration required.* Every public utility that occupies a right-of-way within the village shall register on January 1 of each year with the Village Code Administrator, providing the public utility's name, address, regular business telephone and facsimile numbers, the name of one or more contact persons who can act on behalf of the public utility in connection with emergencies involving the

public utility's facilities in the right-of-way, a 24-hour telephone number for each such person, evidence of insurance, and a map evidencing the public utility's facilities.

(B) *Annual registration fee.* Except where inconsistent with applicable law, a \$25 annual registration fee shall accompany the above registration information.  
(Ord. 1821, passed 4-23-2018)

### § 93.67 SMALL WIRELESS FACILITIES.

(A) *Purpose and scope.*

(1) *Purpose.* The purpose of this section is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the village's jurisdiction, or outside the rights-of-way on property zoned by the village exclusively for commercial or industrial use, in a manner that is consistent with the Small Wireless Facilities Deployment Act (the "Act").

(2) *Conflicts with other ordinances.* This section supersedes all ordinances or parts of ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(3) *Conflicts with state and federal laws.* In the event that applicable federal or state laws or regulations conflict with the requirements of this section, the wireless provider shall comply with the requirements of this section to the maximum extent possible without violating federal or state laws or regulations.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

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

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

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

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

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

**FCC.** The Federal Communications Commission of the United States.

**FEE.** A one-time charge.

**HISTORIC DISTRICT or HISTORIC LANDMARK.** A building, property, or site, or group of buildings, properties, or sites that are either

(a) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or

(b) Designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the village pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

**LAW.** A federal or state statute, common law, code, rule, regulation, order, or local ordinance or resolution.

**MICRO WIRELESS FACILITY.** A small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

**MUNICIPAL UTILITY POLE.** A utility pole owned or operated by the village in public rights-of-way.

**PERMIT.** A written authorization required by the village to perform an action or initiate, continue, or complete a project.

**PERSON.** An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

**PUBLIC SAFETY AGENCY.** The functional division of the federal government, the state, a unit of local government, or a special purpose district located in whole or in part within this state, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

**RATE.** A recurring charge.

**RIGHT-OF-WAY.** The area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. **RIGHT-OF-WAY** does not include village-owned aerial lines.

**SMALL WIRELESS FACILITY.** A wireless facility that meets both of the following qualifications:

(a) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and

(b) All other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

**UTILITY POLE.** A pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

**WIRELESS FACILITY.**

(a) Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

1. Equipment associated with wireless communications; and
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

(b) **WIRELESS FACILITY** includes small wireless facilities.

(c) **WIRELESS FACILITY** does not include:

1. The structure or improvements on, under, or within which the equipment is collocated; or

2. Wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

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

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

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

**WIRELESS SERVICES PROVIDER.** A person who provides wireless services.

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

(C) *Regulation of small wireless facilities.*

(1) *Permitted use.* Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in division (D)(9) below regarding height exceptions or variances, but not subject to zoning review or approval if they are collocated:

(a) In rights-of-way in any zoning district, or

(b) Outside rights-of-way in property zoned exclusively for commercial or industrial use.

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

(a) *Application requirements.* A wireless provider shall provide the following information to the village, together with the village's small cell facilities permit application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:

1. Site specific structural integrity and, for any village-owned utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the-Structural Engineering Practice Act of 1989;

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

(b) *Application process.* The village shall process applications as follows:

1. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
2. An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the village fails to approve or deny the application within 90 days after the submission of a completed application.
  - A. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the village in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.
  - B. The permit shall be deemed approved on the latter of the ninetieth day after submission of the complete application or the tenth day after the receipt of the deemed approved notice by the village. The receipt of the deemed approved notice shall not preclude the village's denial of the permit request within the time limits as provided under this division (C)(2)(b)2.
3. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the village fails to approve or deny the application within 120 days after the submission of a completed application.

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

B. The permit shall be deemed approved on the latter of the one hundred-twentieth day after submission of the complete application or the tenth day after the receipt of the deemed approved notice by the village. The receipt of the deemed approved notice shall not preclude the village's denial of the permit request within the time limits as provided under this division (C)(2)(b)3.

4. The village shall deny an application which does not meet the requirements of this division (C)(2).

A. If the village determines that applicable codes, ordinances or regulations that concern public safety, or the collocation requirements and conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

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

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

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

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

5. *Pole attachment agreement.* Within 30 days after an approved permit to collocate a small wireless facility on any village-owned utility pole, the village and the applicant shall enter into a master pole attachment agreement, provided by the village for the initial collocation on any village-owned utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on any village-owned utility pole, the village and the applicant shall enter into a license supplement of the master pole attachment agreement.



(c) *Completeness of application.*

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

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

(d) *Tolling.* The time period for applications may be further tolled by:

1. An express written agreement by both the applicant and the village; or
2. A local, state or federal disaster declaration or similar emergency that causes the delay.

(e) *Consolidated applications.*

1. An applicant seeking to collocate small wireless facilities within the jurisdiction of the village shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

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

(f) *Duration of permits.*

1. The duration of a permit shall be for a period of not less than five years, and the permit shall be renewed for equivalent durations unless the village makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable village codes or any provision, condition or requirement contained in this section.

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

(g) *Means of submitting applications.* Applicants shall submit applications, supporting information and notices to the village by personal delivery at the village's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

(D) *Collocation requirements and conditions.*

(1) *Public safety space reservation.* The village may reserve space on any village-owned utility poles for future public safety uses, but a reservation of space may not preclude the collocation of a small wireless facility unless the village reasonably determines that the village-owned utility pole cannot accommodate both uses.

(2) *Installation and maintenance.* The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this division (D). The wireless provider shall ensure that its employees, agents or contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.

(3) *No interference with public safety communication frequencies.* The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

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

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

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

(d) The village may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in division (D)(3)(c) above. Failure to remedy the interference as required herein shall constitute a public nuisance.

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

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

(b) For purposes of this division (D)(4), the terms **COMMUNICATIONS SPACE**, **COMMUNICATION WORKER SAFETY ZONE**, and **ELECTRIC SUPPLY ZONE** have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

(5) The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.

(6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a village ordinance, written policy adopted by the village, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

(7) *Alternate placements.*

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

(b) If the applicant refuses a collocation proposed by the village, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this division (D)(7).

(8) *Height limitations.*

(a) The maximum height of a small wireless facility shall be no more than ten feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

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

1. Ten feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the village, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the village, provided the village may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or

2. Forty-five feet above ground level.

(9) *Height exceptions or variances.* If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a variance in conformance with procedures, terms and conditions set forth in § 152.10 of the Swansea Municipal Code.

(10) *Contractual design requirements.* The wireless provider shall comply with requirements that are imposed by a contract between the village and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

(11) *Ground-mounted equipment spacing.* The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.

(12) *Undergrounding regulations.* The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.

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

(E) *Application fees.* Application fees are imposed as follows:

(1) Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.

(2) Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.

(3) Notwithstanding any contrary provision of state law or local ordinance, applications pursuant to this section shall be accompanied by the required application fee. Application fees shall be non-refundable.

(4) The village shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:

(a) Routine maintenance;

(b) The replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the village at least ten days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with division (C)(2)(b)(4) herein; or

(c) The installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.

(5) Wireless providers shall secure a permit from the village to work within rights-of-way for activities that affect traffic patterns or require lane closures.

(F) *Exceptions to applicability.* Nothing in this section authorizes a person to collocate small wireless facilities on:

(1) Property owned by a private party or property owned or controlled by the village or another unit of local government that is not located within rights-of-way, or a privately-owned utility pole or wireless support structure without the consent of the property owner;

(2) Property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code (605 ILCS 5); or

(3) (a) Property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code (625 ILCS 5/18c-7201), Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act (220 ILCS 5/16-102), without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this section do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act (220 ILCS 5/16-108.5(I)).

(b) For the purposes of this division (F)(3), **PUBLIC UTILITY** has the meaning given to that term in Section 3-105 of the Public Utilities Act (220 ILCS 5/3-105). Nothing in this section shall be construed to relieve any person from any requirement:

1. To obtain a franchise or a state-issued authorization to offer cable service or video service, or
2. To obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this section.

(G) *Pre-existing agreements.*

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

(2) A wireless provider that has an existing agreement with the village on the effective date of the Act may accept the rates, fees and terms that the village makes available under this section for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the village that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the village's utility poles pursuant to applications submitted to the village before the wireless provider provides such notice and exercises its option under this division (G)(2).

(H) *Annual recurring rate.*

(a) A wireless provider shall pay to the village an annual recurring rate to collocate a small wireless facility on any village-owned utility pole located in a right-of-way that equals:

1. Two hundred dollars per year, or

2. The actual, direct and reasonable costs related to the wireless provider's use of space on any village-owned utility pole.

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

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

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

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

(J) *Dispute resolution.* The Circuit Court of St. Clair County shall have exclusive jurisdiction to resolve all disputes arising under the Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the village shall allow the collocating person to collocate on any poles owned by the village at annual rates of no more than \$200 per year per village-owned utility pole, with rates to be determined upon final resolution of the dispute.

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

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

(1) Property insurance for its property's replacement cost against all risks and workers' compensation insurance, as required by law; or

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

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

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

(M) *Severability*. If any provision of this section or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this section is severable.  
(Ord. 1831, passed 7-2-2018)

#### **§ 93.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person laying, lowering, changing, repairing or removing any pipes or making connections therewith, or making any changes, improvements, filling, excavations or alterations within or upon any right-of-way, street, alley, sidewalk or other public place, without first applying for a permit pursuant to § 93.50 of this chapter, or conducting such activities without a permit shall be liable to the village for any damage to real or personal property belonging to the village in addition to being fined not more than \$750 per any such activity pursuant to § 10.99 of this code of ordinances.  
(Prior Code, § 6-501)



## CHAPTER 94: FIREWORKS

### Section

94.01 Fireworks regulations

94.99 Penalty

### § 94.01 FIREWORKS REGULATIONS.

(A) *Defined.* The term **FIREWORKS** shall mean and include any explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, combustion, deflagration or detonation and shall include blank cartridges and toy cannons, in which explosives are used; the type of balloons which require fire underneath to propel the same; firecrackers, torpedoes, sky rockets, Roman candles, bombs or other fireworks of like construction and any tablets or other device containing any explosive substance or containing combustible substances producing visual effects; provided, however, that, the term **FIREWORKS** shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, and the toy pistol, paper or plastic caps which contain less than twenty-five hundredths grains or explosive mixture, excluding recoverage model rockets sold for the express use of modelers and/or exhibitions or rocketry, the sale and use of which shall be permitted.

(B) *Prohibition.* Except as hereinafter provided, it shall be unlawful for any person, firm, copartnership or corporation to offer for sale, expose for sale, sell at retail or use or explode any fireworks within the village limits.

(C) *Permits.* The Police Chief will authorize the Village Clerk to grant permits for the supervised public display of fireworks. No permit granted hereunder shall be transferable. Permits may be granted hereunder to any group of three or more adult individuals applying therefore. No permit shall be required for individuals applying therefore. No permit shall be required for supervised public displays by State or County Fair Associations.

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(D) *Applications*. Application for permits shall be made in writing at least 15 days in advance of the date of the display and action shall be taken on such application within 48 hours after such application is made.

(E) *Display*. Every such display shall be handled by a competent individual designated by the Police Chief and shall be of such character and so located, discharged or fired, as not to be hazardous to property or endanger any person or persons.

(F) *Fees*. There shall be a charge of \$10 for the issuance of a permit.

(G) *Conditions of permits*. Any person applying for a permit shall be required to obtain a bond of at least \$1,000 conditioned on compliance with the provisions of this section and the regulations of the State Fire Marshal; except that, the village shall not be required to file such bond.

(1) Such permit shall be issued only after the issuing officer has inspected the display site and determines that the display shall not be hazardous to property or people.

(2) Permits are to be those from office of State Fire Marshal.

(3) One copy of the permit shall be filed with issuing officer, and one copy with the office of the State Fire Marshal.

(H) *Protected areas*. No fireworks shall be exploded, discharged or ignited within 600 feet of a hospital, asylum, infirmary or nursing home.  
(Prior Code, § 13-218) Penalty, see § 94.99

**§ 94.99 PENALTY.**

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.