

CODIFIED ORDINANCES OF SOUTH RUSSELL
PART TEN - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE TWO - Street and Sidewalk Areas

- Chap. 1010. Work Involving Public Ways, Drainage, Water and Sewer Systems.
- Chap. 1012. Use of Public Ways and Design Guidelines for Small Cell Wireless Facilities and Wireless Support Structures.
- Chap. 1014. Excavations.
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CHAPTER 1010

Work Involving Public Ways, Drainage, Water and Sewer Systems

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1010.04 Responsibilities of Engineer.
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CROSS REFERENCES

- Assessments - see Ohio R.C. 701.05, Ch. 727
 Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01
 Openings by the Municipality - see Ohio R.C. 723.02
 Dedication and acceptance - see Ohio R.C. 723.03
 Change of name, vacating and narrowing streets - see Ohio R.C. 723.04 et seq.
 Sprinkling - see Ohio R.C. 723.16 et seq.
 Surface treatment - see Ohio R.C. 723.23, 723.31
 Excavation liability - see Ohio R.C. 723.49 et seq.
 Changing established grade - see Ohio R.C. 727.07
 Construction or repair of sidewalks at owner's expense - see Ohio R.C. 729.01 et seq.
 Compulsory service connections - see Ohio R.C. 729.06, 743.23, 743.32
 Digging, excavating and piling earth in streets - see Ohio R.C. 5589.10
 Purposely blockading streets - see TRAF. 412.05
 Mud, debris and litter upon streets - see GEN. OFF. 660.14
 Sewers and private sewage disposal systems - see S.U. & P.S. Ch. 1024

1010.01 COMPLIANCE REQUIRED.

No person, other than the Village, who has cause to perform work necessitating the involvement of a portion of the streets, rights of way, drainage system, water and sewer systems and sidewalks of the Village, shall perform such work without first having complied with the provisions of this chapter. (Ord. 1971-18. Passed 11-8-71.)

1010.02 APPLICATION.

Before any person, other than the Village, does any work involving a portion of the streets, rights of way, drainage system, water and sewer systems and sidewalks of the Village, the person shall make application to the Building Inspector, detailing the nature of the work contemplated, the method of work, the remedial work planned, the starting date and the anticipated completion date. (Ord.1993-2. Passed 1-11-93.)

1010.03 RIGHT- OF-WAY PERMIT.

(a) The Building Inspector shall review the application for any work in the right of way for compliance with Section 1010.02 and determine if a permit may be issued. If a permit is granted, a fee in the amount of fifty dollars (\$50.00) shall be submitted to the Village by the applicant. The Building Inspector will also determine if a bond is required, and, if so, the bond must be submitted prior to issuance of the permit. The bond may be either cash, certified check, or a surety bond satisfactory to the Building Inspector. The bond shall not exceed the maximum cost necessary to reimburse the Village should it be necessary for the Village to complete that portion of the work involving its streets, rights of way, drainage system, water and sewer systems and sidewalks.

(b) The work shall be performed under the direction of the Building Inspector and the Street Commissioner and in accordance with the specifications approved by the Building Inspector. If the work does not proceed according to the Inspector and the Commissioner, the Inspector may withdraw the permit and turn the matter over to the Village Engineer to proceed in accordance with Sections 1010.04 through 1010.05. (Ord.1993-2. Passed 1-11-93.)

1010.04 RESPONSIBILITIES OF ENGINEER.

If, after reviewing the application submitted under Section 1010.02, the Building Inspector determines that the Village Engineer's review is required, the application and requirements as set forth in Section 1010.02 shall be forwarded to the Engineer for his review. The Engineer shall review the application and advise in writing the suggested method of new or remedial work, and the time allotted. The Engineer shall also advise the applicant of the estimated cost of the involvement of work in the right of way, and suggest a bond. The bond shall not exceed the maximum cost necessary to reimburse the Village should it be necessary for the Village to complete that portion of the work involving its streets, rights of way, drainage system, water and sewer systems and sidewalks. (Ord.1993-2. Passed 1-11-93.)

1010.05 RIGHT-OF-WAY PERMIT; BOND.

The Building Inspector shall issue a right-of-way permit to the applicant after the Engineer has submitted his recommendations in writing to the applicant and after the applicant, in response to these recommendations, has agreed to such recommendations and submitted a bond as recommended by the Engineer and has submitted the fee for the permit in the amount of fifty dollars (\$50.00).

(Ord.1993-2. Passed 1-11-93.)

1010.06 DEPOSITS FOR ENGINEER'S REVIEW AND INSPECTION COSTS.

Whenever a right of way application is forwarded to the Engineer for his review, a deposit of five hundred dollars (\$500.00) is required with the application. Fees for the Engineer's review, administration, overhead expenses, and site supervision or inspections will be deducted from this deposit. In the event the Village determines to utilize persons other than the Village Engineer for such inspections or site supervision, a deposit of five hundred dollars (\$500.00) shall be required before a permit may be issued and the fees for such inspections may also be deducted from this deposit. If the actual costs exceed the deposit, the applicant

shall pay the additional costs incurred within seven days of receipt of a statement indicating the amount due. In the event the actual costs plus fifteen percent (15%) overhead are less than the amount deposited by the applicant, the Village shall refund the balance.

(Ord. 1993-21. Passed 4-26-93.)

1010.07 NONCOMPLIANCE; REMEDY OF VILLAGE.

(a) If, for any reason, the proposed work is done, is being done, or is proposed to be done in a manner other than that specified in the approved application and/or the Engineer's recommendations, the Building Inspector shall send written notice to the applicant, specifying where the applicant has failed to comply, and give him five days to correct the deficiency. If the applicant fails to correct the deficiency within five days, the Building Inspector may, at his option, consider the right-of-way permit void and cause the work to be completed in accordance with the approved application and/or the Engineer's recommendations and forfeit the bond to the extent of the cost to the Village of the work performed.

(b) In the event the Building Inspector determines the manner in which the applicant is performing such work has created an emergency situation wherein Village and/or private property or personnel is being endangered or damaged by such performance, then the Building Inspector is authorized to notify the applicant to stop work immediately. The notification may be verbal, to be followed by an order to be issued in writing; shall be effective upon its issuance; and shall be considered a stop work order, the violation of which may be enjoined by the Village upon proper application to the appropriate court.

(c) In the event the status of the work at the time such stop work order is issued is such that a clear and present danger to Village personnel or property exists, the Village may undertake any appropriate measure to alleviate potential danger and the costs for all such measures shall be borne by the applicant, including but not limited to engineering fees, materials, labor and all other costs.

(d) The applicant may appeal such stop work order to Council which shall thereafter decide such appeal within fourteen days after the filing of such appeal with the Fiscal Officer. If the applicant fails to satisfy Council that it may safely and appropriately complete the work, then the right-of-way permit shall be declared void and Council shall cause the work to be completed in accordance with the approved application and/or the Engineer's recommendations, at the applicant's costs.

(Ord. 1993-2. Passed 1-11-93.)

1010.08 DRIVEWAY CULVERTS; GRADING.

(a) Before installing a driveway culvert along a roadside ditch within the dedicated portion of a public street in the Village, the owner of the abutting property shall first obtain a right-of-way permit as provided in Section 1010.03. The length, diameter, depth and slope of materials to be used in such culvert shall first be approved by the Street Commissioner. The standard culvert pipe diameter shall be at least eight inches and have a minimum cover depth of six inches above the crown of the pipe. The culvert pipe shall extend a minimum of twelve inches beyond the adjacent driveway pavement edge. The minimum standard for culvert pipe size and installation may be adjusted by the Street Commissioner and/or the Village Engineer as warranted by site conditions.

(b) No person shall fill in, cover, regrade or alter the course or grade of any roadside ditch or otherwise change the grade of a ditch, tree lawn or any portion of a dedicated street in the Village, without first obtaining a right-of-way permit therefor. Any such filling in, covering, regrading or alteration shall be subject to the approval and inspection, at all times of the Street Commissioner. (Ord. 1993-2. Passed 1-11-93; Ord. 2020-20. Passed 4-13-20.)

1010.09 OBSTRUCTIONS IN DITCHES AND DRIVEWAY CULVERTS.

No owner or occupant of abutting land shall fail to keep all ditches and driveway culverts free from leaves, tree limbs, silt, dirt, trash or any other nuisance or obstruction to the flow of storm water.

(Ord. 1980-3. Passed 1-14-80; Ord. 1993-2. Passed 1-11-93.)

1010.99 PENALTY.

Whoever violates or fails to comply with any other provisions of this chapter shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000). In addition to the penalty imposed herein, the Village shall have the further right to institute injunctive proceedings or seek other equitable relief against any violators.

(Ord. 1971-18. Passed 11-8-71; Ord. 1993-2. Passed 1-11-93.)

CHAPTER 1012
Use of Public Ways for Small Cell Wireless
Facilities and Wireless Support Structures

1012.01	Overview and purpose; definitions.	1012.19	Construction permit.
1012.02	Consent required.	1012.20	Excavation permit.
1012.03	Permit application types.	1012.21	Small cell design guidelines; overview and purpose, definitions.
1012.04	Consolidated consent applications.	1012.22	General standards.
1012.05	Application fee.	1012.23	Specifications for collocation.
1012.06	Attachment fee.	1012.24	Antennas.
1012.07	Required application materials.	1012.25	Wireless support structure-mounted equipment.
1012.08	Application review.	1012.26	Ground-mounted small cell equipment.
1012.09	Permitting process, duration and termination.	1012.27	Cables.
1012.10	Annual registration.	1012.28	Electrical meters.
1012.11	Nonconforming facilities.	1012.29	Utility lines.
1012.12	Abandoned and damaged facilities.	1012.30	Specifications for replacement of wireless support structures.
1012.13	Insurance requirements.	1012.31	Specifications for new wireless support structures.
1012.14	Indemnification.	1012.32	Underground area regulations.
1012.15	Financial surety.	1012.99	Penalties; equitable remedies.
1012.16	Reserved space.		
1012.17	Removal or relocation of facilities.		
1012.18	Notice of work.		

1012.01 OVERVIEW AND PURPOSE; DEFINITIONS.

- (a) The purpose of this Chapter is to:
- (1) Provide standards for the construction, installation, modification, operation, and removal of Facilities and Wireless Support Structures in the Village's Right-of-Way to protect the health, safety, and welfare of the citizens of the Village;
 - (2) Preserve the character of the Village, including the Village's residential and commercial neighborhoods;

- (3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically pleasing installation of Facilities and Wireless Support Structures;
- (4) Comply with, and not conflict with or preempt, all applicable state and federal law; and.
- (5) Facilitate new development of small cell Facilities and advanced wireless communications within the Village in a manner that complies with the requirements of this Chapter and does not materially inhibit such deployment or the provision or availability of advanced wireless communications.

(b) For the purpose of this Chapter, and the interpretation and enforcement hereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

- (1) "Applicant" means any person or entity who submits an Application pursuant to this Chapter.
- (2) "Application" means all necessary documentation submitted by an Applicant to obtain a Small Cell Use Permit from the Village to Collocate a Small Cell Facility and/or to construct, maintain, modify, operate, or replace a Wireless Support Structure.
- (3) "Accessory Equipment" means equipment used in conjunction with a Small Cell Facility and generally at the same location of the Small Cell Facility, including, but not limited to, electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs.
- (4) "Collocation" or "Collocate" means to install, mount, maintain, modify, operate, or replace wireless Facilities on a Wireless Support Structure.
- (5) "Design Guidelines" means standards applicable to Small Cell Equipment and Wireless Support Structures in the Right-of-Way, established in Chapter 1012.
- (6) "Eligible Facilities or Eligible Support Structure Request" means any request for modification of an existing support structure or base station that does not substantially change the physical dimension of such support structure involving Collocation of new Facilities; removal of Facilities; or replacement of Facilities. A substantial change means:
 - (i) A modification that changes the physical dimension of a Wireless Support Structure by increasing the height of the Wireless Support Structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater; and/or by adding an appurtenance to the body of the Wireless Support Structure that would protrude from the edge of the Wireless Support Structure by more than six (6) feet;
 - (ii) The installation of more than the standard number of equipment cabinets for the technology involved or the installation of more than (4) cabinets, whichever is less;
 - (iii) The installation for any new ground-mounted equipment cabinets if there are not existing ground-mounted equipment cabinets;
 - (iv) Any excavation or deployment outside of the current site of the Facility;

- (v) Removal of any concealment elements of the Facilities or the Wireless Support Structure; and
- (vi) Any change that does not comply with this Chapter, the Design Guidelines set forth in Chapter 1012, or state or federal law and regulations.

The threshold for measuring increases that may constitute a substantial change are cumulative, measured from the Facilities as originally permitted (including any modifications that were reviewed and approved by the Village prior to the enactment of the Spectrum Act on February 22, 2012.)

- (7) "Facilities" means Small Cell Facilities, Accessory Equipment, and Wireless Support Structures.
- (8) "Facilities Operator" means the person or entity responsible for the installation, operation, maintenance, replacement, and modification of Facilities. Facilities Operator includes:
 - (i) Operators;
 - (ii) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to O.R.C. Section 4939.031(E) and who have obtained a Small Cell Use Permit; and
 - (iii) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to O.R.C. Section 4939.033 and who have obtained a Small Cell Use Permit.
- (9) "Operator" means a wireless service provider, cable Operator, or a video service provider that operates a Small Cell Facility and provides wireless service, including a wireless service provider, cable operator, or a video service provider that provides information services as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.
- (10) "Public Way" or "Right-of-Way" means the surface of, and the space within, through, on, across, above or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a comparable public use, which is owned or controlled by the Village or other public entity or political subdivision.
- (11) "Small Cell Equipment" means a Small Cell Facility and all Accessory Equipment.
- (12) "Small Cell Facility" means a wireless facility that meets both of the following requirements:
 - (i) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six (6) cubic feet in volume; and

- (ii) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
 - (iii) A "Small Wireless Facility" is a type of Small Cell Facility (A) in which each antenna is located within an enclosure of not more than three (3) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than three (3) cubic feet in volume, and (B) where such antenna is associated with a structure (a) 50 feet or less in height, including the antenna, or (b) that is not more than 10 percent taller than adjacent structures, or (c) is not extended in height by more than 10 percent or to a height exceeding 50 feet, whichever is greater, and (C) the definition of "Small Wireless Facilities" found in the FCC's Small Cell order is also otherwise satisfied.
- (13) "Small Cell Use Permit" means the permit granted by the Village authorizing the Applicant to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way.
 - (14) "Underground Area" means an area in the Right-of-Way where existing electric utilities, cable facilities, telecommunications facilities and other facilities, other than structure and facilities owned by the Village or a transit authority, are located underground.
 - (15) "Wireless Support Structure" means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting Small Cell Facilities. As used in this Chapter, "Wireless Support Structure" excludes the following except in connection with a Small Wireless Facility, in which case the following are not excluded:
 - (i) A utility pole or other facility owned or operated by a municipal electric utility; and
 - (ii) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolley buses.
 - (16) "Village" means the Village of South Russell, Ohio.
(Ord. 2019-17. Passed 4-8-19.)

1012.02 CONSENT REQUIRED.

(a) Any person or entity seeking to Collocate a Small Cell Facility in the Right-of-Way, or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way, shall first file a written Application for a Small Cell Use Permit with the Building Inspector in accordance with the requirements in this Chapter, Design Guidelines, O.R.C. Chapter 4939, and all applicable state and federal laws and regulations.

(b) Applicants are strongly encouraged to contact the Building Inspector and request a pre-Application conference. This meeting will provide an opportunity for early coordination regarding proposed Facilities, locations, design, Application submittal, and the approval process in order to avoid any potential delays in the processing of an Application and deployment of Facilities in the Village.

(c) A Small Cell Use Permit granted under this Chapter shall not convey any right, title or interest in the Right-of-Way, but shall be deemed a permit only to use and occupy the Public Ways for the limited purposes and term stated in the permit, this Chapter, and the Design Guidelines. Further, no Small Cell Use Permit shall be construed as any warranty of title.
(Ord. 2019-17. Passed 4-8-19.)

1012.03 PERMIT APPLICATION TYPES.

Applicants shall classify their Application as one of the following types:

- (a) Type 1: Eligible Facilities Requests.
- (b) Type 2: Application for Collocation of Small Cell Equipment on a Wireless Support Structure that does not constitute an Eligible Facilities Request.
- (c) Type 3: New Wireless Support Structure. Such applications will address construction, modification, replacement, or removal of a Wireless Support Structure within the Right-of-Way. At the time of Application, Applicants shall certify that Small Cell Equipment will be placed on the Wireless Support Structure within 180 days from the date the Small Cell Use Permit is issued.
- (d) For Type 2 and Type 3 Applications, Applicants shall indicate whether the Application is or is not for a Small Wireless Facility.
(Ord. 2019-17. Passed 4-8-19.)

1012.04 CONSOLIDATED CONSENT APPLICATIONS.

(a) Pursuant to O.R.C. Section 4939.0312, an Applicant may file one consolidated application for up to thirty (30) individual small cell Facilities or thirty (30) individual Wireless Support Structures as long as the facilities or structures for which consent is requested are substantially similar.

- (1) Small Cell Facilities shall be considered substantially similar when the Small Cell Equipment is identical in type, size, appearance and function.
- (2) Wireless Support Structures shall be considered substantially similar when the Wireless Support Structures are identical in type, size, appearance and function and are to be located in a similar location.
- (3) Applications for Facilities and Wireless Support Structures cannot be commingled.

(b) The Village may, at its discretion, require separate Applications for any Small Cell Facilities or Wireless Support Structures that are not substantially similar.

(c) Although applications for Small Wireless Facilities may be filed on a consolidated basis, applications involving Small Wireless Facilities may not be commingled with applications for other Small Cell Facilities or Wireless Support Structures. The limit on the number of applications that may be filed in a consolidated application pursuant to Section 1012.04(a) shall not apply to applications for Small Wireless Facilities.
(Ord. 2019-17. Passed 4-8-19.)

1012.05 APPLICATION FEE.

(a) The fee for each application is Two Hundred Fifty Dollars (\$250.00). The Village shall adjust the fee by ten percent (10%) every five years, rounded to the nearest Five (5) Dollars, beginning in the year 2023.

(b) An Application shall not be deemed complete until the fee is paid.

(c) If Applications are consolidated, then the fee shall be the sum resulting from the fee set forth in subsection (a) multiplied by the total number of Facilities or Wireless Support Structures included in the consolidated Application.

(Ord. 2019-17. Passed 4-8-19.)

1012.06 ATTACHMENT FEE.

(a) In addition to the Application Fee, an annual fee shall be paid to the Village for each Small Cell Facility attached to a municipally-owned Wireless Support is Two Hundred Dollars (\$200.00). The Village shall adjust the attachment fee by ten percent (10%) every five years, rounded to the nearest five (5) dollars, beginning in the year 2023.

(b) The first-year attachment fee shall be paid when the collocation is complete, and no later than January 1 each year thereafter. The first-year attachment fee shall not be prorated, regardless of the date that the collocation is complete.

(Ord. 2019-17. Passed 4-8-19.)

1012.07 REQUIRED APPLICATION MATERIALS.

The Applicant must submit the following documentation with each Application.

(a) Completed Application form including the identity, legal status and federal tax identification number of the Applicant, as well as all affiliates and agents of the Applicant that will use or be, in any way, responsible for the Facilities.

(b) The name, address, and telephone number of the local officer, agent, or employee responsible for the accuracy of the application to be notified in case of emergency.

(c) Fully dimensional scaled site plan (scale no smaller than one inch equals forty (40) feet). The site plan must include:

(1) The exact proposed location of the Facilities within the Right-of-Way;

(2) All existing Facilities with all existing transmission equipment;

(3) The location of all overhead and underground public utilities, telecommunications, cable, water, sanitary sewer, and storm water drainage utilities in the Public Way within one hundred (100) feet surrounding the proposed Facilities.

(4) The legal property boundaries within one hundred (100) feet surrounding the proposed Facilities;

(5) Indication of distance between the Facilities and existing curbs, driveways, sidewalks, trees, utilities, other poles, and existing buildings within one hundred (100) feet surrounding the proposed Facilities; and

(6) Access and utility easements within one hundred (100) feet surrounding the proposed Facilities.

(d) Elevation drawings (scale no smaller than one inch equals ten (10) feet) of the proposed Facilities.

- (e) Evidence that the Applicant provided notice by mail to all property owners within 300 feet of the proposed Facilities prior to submitting the Application. The notice shall include:
- (1) Name of the Applicant;
 - (2) Estimated date Applicant intends to submit the Application;
 - (3) Detailed description of the proposed Facilities and the proposed location; and
 - (4) Accurate, to-scale photo simulation of the proposed Facilities. Scale shall be no smaller than one inch equals forty (40) feet.
- (f) A preliminary installation/construction schedule and completion date.
- (g) Structural calculations prepared, stamped and signed by an engineer licensed and registered by the State of Ohio showing that the Wireless Support Structure can accommodate the weight of the proposed small cell equipment.
- (h) Analysis demonstrating that the proposed Facilities do not interfere with the Village's public safety radio system, traffic and emergency signal light system, or other Village safety communications components. It shall be the responsibility of the Applicant to evaluate, prior to making the Application for a Small Cell Use Permit, the compatibility between the existing Village infrastructure and Applicant's proposed Facilities.
- (i) A landscape plan that demonstrates screening of proposed small cell equipment.
- (j) Drawings of the proposed Facilities. For all equipment depicted, the Applicant must also include, if applicable:
- (1) The manufacturer's name and model number;
 - (2) Physical dimensions, including, without limitation, height, width, depth and weight with mounts and other necessary hardware; and
 - (3) The noise level generated by the equipment, if any.
- (k) If the Applicant is not an Operator, then the Applicant must provide proof that the Applicant has been engaged by a wireless service provider who will be the end-user of the Facilities.
- (l) If the Applicant intends to place Small Cell Facilities and Small Cell Equipment on a Wireless Support Structure that is not owned by the Village, then the Applicant shall provide written confirmation of permission to use the Wireless Support Structure upon which the Small Cell Facilities and Small Cell Equipment will be located.
(Ord. 2019-17. Passed 4-8-19.)

1012.08 APPLICATION REVIEW.

- (a) Applications shall be evaluated in the timeframes as follows:
- (1) Type 1 Applications: 60 days
 - (2) Type 2 Applications: 90 days, except that for Small Wireless Facilities, the timeframe for a Type 2 Application shall be 60 days.
 - (3) Type 3 Applications: 120 days, except that for new Wireless Support Structures upon which a Small Wireless Facility is to be mounted, the timeframe for a Type 3 Application shall be 90 days.

(b) Applications shall be reviewed for completeness. If the Application is incomplete, then the Applicant will be notified of the insufficiency, and the timeframes set forth in subsection (a) shall be tolled until the Application is made complete, as described below:

- (1) To toll the time period for incompleteness, the Village must provide written notice to the Applicant, specifically identifying all missing documents or information, within thirty (30) days after receiving the Application; except that where an Applicant has indicated that the Application is for a Small Wireless Facility, or a Wireless Support Structure upon which a Small Wireless Facility is to be mounted, the written notice shall be provided within ten (10) days after receiving the Application.
 - (A) In the case of a proper and timely initial written notice of incompleteness provided concerning an Application involving a Small Wireless Facility pursuant to subsection (b)(1), the time period set forth in subsection (a) shall be deemed never to have started running at all until Applicant provides a supplemental submission.
- (2) The time period set forth in subsection (a) will begin to run again when the Applicant provides a supplemental submission in response to the Village's notice of incompleteness, but may be tolled again if the Village notifies the applicant in writing, within ten (10) days of receiving a supplemental submission, that the Application remains incomplete and identifies which items specified in the original notice of incompleteness are still missing. Timely notice by the Village of the deficiencies in a supplemental submission tolls the time period set forth in subsection (a) until the Applicant supplies the specified information.

(c) The timeframes set out in subsection (a) may also be tolled by mutual agreement between the Applicant and the Village. The timeframes in subsections (a)(2) and (a)(3) may also be tolled as follows, except that where an Applicant has indicated that the Application is for a Small Wireless Facility, the provisions of subsections (c)(1) and (c)(2) below do not apply:

- (1) If the Village receives between fifteen (15) and thirty (30) applications in a thirty (30) day period, then the Village may toll the evaluation for an additional twenty (20) days.
- (2) If the Village receives more than thirty (30) applications in a thirty (30) day period, then the Village may toll the evaluation for an additional fifteen (15) days for every fifteen (15) applications received.
- (3) By mutual agreement between the Applicant and the Village.
- (4) When an Applicant submits an underground area waiver pursuant to Section 1012.13(d) of the Codified Ordinances, in which case the Village may toll the evaluation for an additional fourteen (14) days.

(d) If two Applicants request to Collocate on the same Wireless Support Structure or two Wireless Support Structures are proposed within a distance that would violate the spacing requirements set forth in Section 1012.23, then the Building Inspector may resolve the conflict in any reasonable and nondiscriminatory manner.

(e) If a request for consent is denied, the Village shall provide, in writing, its reasons for denying the request, supported by substantial, competent evidence. The denial of consent shall not unreasonably discriminate against the Applicant. Grounds for denying an Application may include, but are not limited to:

- (1) Failure to provide information required under Section 1012.07;
 - (2) Failure to comply with Design Guidelines set forth in this Chapter 1012;
 - (3) Failure to provide financial surety pursuant to Section 1012.15;
 - (4) Failure to remove abandoned Facilities as required under Section 1012.12;
 - (5) Conflict with the historic nature or character of the surrounding area;
 - (6) Conflict with planned future improvements in the Right-of-Way; and
 - (7) Failure to comply with generally applicable health, safety, and welfare requirements.
- (Ord. 2019-17. Passed 4-8-19.)

1012.09 PERMITTING PROCESS, DURATION, AND TERMINATION.

(a) Upon approval of its Application, an Applicant shall receive a Small Cell Use Permit indicating that the Village has granted the Applicant consent to occupy the Right-of-Way.

(b) A Small Cell Use Permit issued to an Operator shall have duration of no longer than ten (10) years. Permits may be renewed for five year terms.

(c) A Small Cell Use Permit issued to a Facilities Operator who is not an Operator shall have a term of ten (10) years or the duration of the Facilities Operator's agreement with a wireless service provider provided pursuant to Section 1012.07 (k), whichever is shorter.

(d) A Small Cell Use Permit shall not be renewed if the Facilities Operator or the Facilities are not in compliance with all applicable laws and regulations.

(e) Pursuant to O.R.C. Section 4939.0314(E), a Small Cell Use Permit shall be deemed terminated if the Facilities Operator has not completed construction of the Facilities or has failed to attach Small Cell Equipment to a Wireless Support Structure within 180 days of issuance of the permit, unless the delay is caused by:

- (1) Make-ready work for a municipally-owned Wireless Support Structure;
or
- (2) Due to the lack of commercial power or backhaul availability at the site, provided that the Operator has made a request for commercial power or backhaul services within sixty days after the Small Cell Use Permit was granted.

If the additional time to complete the installation exceeds three hundred sixty days (360) after the issuance of the permit, then the permit shall be deemed terminated regardless of the cause of the delay.

(f) A Small Cell Use Permit for a new Wireless Support Structure shall be deemed terminated if the Facilities Operator fails to attach Small Cell Equipment to the new Wireless Support Structure within 180 days of issuance of the Small Cell Use Permit.

(g) If the Facilities Operator fails to remit the annual attachment fee required pursuant to Section 1012.10, then the Small Cell Use Permit will expire on the ninetieth (90th) day from the date the annual attachment fee was due.

(h) A Small Cell Use Permit may be terminated by the Facilities Operator at any time upon service of 60-days written notice to the Village.

(i) Upon termination of a Small Cell Use Permit, the Facilities Operator shall restore and rehabilitate all Village-owned Wireless Support Structures and the Right-of-Way to their former condition and utility.

(j) The Village shall not issue any refunds for any amounts paid by the Facilities Operator upon termination of the permit.
(Ord. 2019-17. Passed 4-8-19.)

1012.10 ANNUAL REGISTRATION.

(a) All Facilities Operators with consent to occupy or use the Right-of-Way shall register with the Village each calendar year between January 1 and January 31 on a form provided by the Village. The form will allow the Facilities Operator to indicate when there is no change in the information required, and when such indication is submitted, previously provided information will be considered current and will be relied upon. Facilities Operators who obtain consent to occupy the Right-of-Way after September 30 of any year need not file an Annual Registration for next calendar year.

(b) The purpose of registration under this Section is to:

- (1) Compile, update and supplement the Village's database so that the Village has accurate and current information concerning the Facilities Operators that own or operate Facilities in the Village/Village's public Right-of-Way;
- (2) Assist the Village in monitoring the usage of the public Right-of-Way in order to ensure that the public receives the maximum possible benefit from that use, and the use is consistent with the best management and care of the public Right-of-Way;
- (3) Assist the Village in the collection and enforcement of any municipal taxes, fees, or other charges that may be due the Village; and
- (4) Assist the Village in monitoring compliance with local, state and federal laws.

(c) Registration forms will be provided by the Village and shall require the following information:

- (1) Any material changes to the information the Facilities Operator provided to the Village in the Application for Small Cell Use Permit including, but not limited to:
 - (i) The identity, legal status, and federal tax identification number of the Facilities Operator, including any affiliates or agents.
 - (ii) The name, address and telephone number of the local officer, agent or employee responsible for the accuracy of the Facilities Operator's registration statement and available at all reasonable times to be notified in case of emergency.

- (iii) Evidence that the Facilities Operator is in compliance with the insurance, indemnity and financial surety requirements pursuant to this Chapter.
- (iv) Such other information as the Building Inspector may reasonably require.

(d) In addition to the annual registration requirement, each Facilities Operator shall keep all required registration information current at all times and shall provide the Village with notice of changes to the required information within fifteen (15) days following the date on which the Facilities Operator has notice of the need for such change.
(Ord. 2019-17. Passed 4-8-19.)

1012.11 NONCONFORMING FACILITIES.

(a) Facilities in the Right-of-Way that are legally in existence on the date of the adoption of this Chapter but that do not comply with the requirements of this Chapter may remain in the Right-of-Way but shall be considered a nonconforming facility.

(b) Any person or entity who owns or operates a Nonconforming Facility shall register such facility pursuant to Section 1012.10 within ninety (90) days of the date this ordinance takes effect.

(c) If a nonconforming facility is damaged or destroyed beyond repair, any replacement facility must be designed in accordance with all provisions of this Chapter and state and federal law and regulations.
(Ord. 2019-17. Passed 4-8-19.)

1012.12 ABANDONED AND DAMAGED FACILITIES.

(a) A Facilities Operator shall provide written notice to the Village of its intent to discontinue use of any Facilities. The notice shall include the date the use will be discontinued. If Facilities are not removed within three hundred sixty five (365) days from the date the use was discontinued, the Facilities shall be considered a nuisance and the Village may remove the Facilities at the expense of the Facilities Operator.

(b) In the event that Facilities are damaged, the Facilities Operator shall promptly repair the damaged Facilities. Damaged Facilities shall be repaired no later than thirty (30) days after obtaining written notice that the Facilities were damaged. If the damaged Facilities are not repaired within thirty (30) days, then the damaged Facilities shall be considered a nuisance and the Village may repair or remove the Facilities at the expense of the Facilities Operator.
(Ord. 2019-17. Passed 4-8-19.)

1012.13 INSURANCE REQUIREMENTS.

(a) As a condition of the Village's consent to occupy the Right-of-Way, a Facilities Operator must secure and maintain the following liability insurance policies insuring both the Facilities Operator and the Village, and its elected and appointed officers, officials, agents and employees as additional insureds:

- (1) Comprehensive general liability insurance with limits not less than:

- (i) Five Million Dollars (\$5,000,000.00) for bodily injury or death to each person;
 - (ii) Five Million Dollars (\$5,000,000.00) for property damage resulting from any one (1) accident; and
 - (iii) Five Million Dollars (\$5,000,000.00) for all other types of liability.
- (2) Automobile liability for owned, non-owned and hired vehicles with a limit of Three Million Dollars (\$3,000,000.00) for each person and Three Million Dollars (\$3,000,000.00) for each accident.
 - (3) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000.00).
 - (4) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than Three Million Dollars (\$3,000,000.00).

(b) Each such insurance policy shall contain the following endorsement:
"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until ninety (90) days after receipt by the Village, by registered mail, of a written notice addressed to the Building Inspector of such intent to cancel or not to renew."

(c) Within sixty (60) days after receipt by the Village of said notice, and in no event later than thirty (30) days prior to said cancellation, the Facilities Operator shall obtain and furnish to the Village replacement insurance policies meeting the requirements of this subsection.

(d) Upon written application to, and written approval by the Fiscal Officer, a Facilities Operator may be self-insured to provide all of the same coverages as listed in this section; except that all coverages for Worker's Compensation shall be in compliance with State law. No approval for self-insurance shall be given until the Village's Fiscal Officer has made a complete review of the Facilities Operator's financial ability to provide such self-insurance and notifies the Fiscal Officer that such review has been completed. As part of the review process, the Fiscal Officer may require, and the self-insurance applicant shall provide, any and all financial documents necessary to make a valid determination of the applicant's ability to meet the needs of this Chapter.
(Ord. 2019-17. Passed 4-8-19.)

1012.14 INDEMNIFICATION.

A Facilities Operator shall indemnify, protect, defend, and hold the Village and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the Operator who owns or operates Small Cell Facilities and wireless service in the Right-of-Way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the Operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining Facilities in the Right-of-Way.
(Ord. 2019-17. Passed 4-8-19.)

1012.15 FINANCIAL SURETY.

(a) Each Facilities Operator must procure and provide to the Village a bond, escrow, deposit, letter of credit, or other financial surety to ensure compliance with this Chapter and Chapter 4939. The financial surety must be in an amount sufficient to cover the cost of removal of all Facilities owned or operated by the Facilities Operator.

(b) The Village may, in its sole discretion, draw on the financial surety to remove abandoned Facilities, remove or repair damaged Facilities, or to repair damage to any Village property caused by the Facilities Operator or its agent. In such event, the Facilities Operator shall cause the financial surety be replenished to its prior amount within ten (10) business days after Village notifies the Facilities Operator that it has drawn on the financial surety.
(Ord. 2019-17. Passed 4-8-19.)

1012.16 RESERVED SPACE.

The Village reserves the right to install, and permit others to install, Facilities in the Right-of-Way. The Village may reserve space in the Right-of-Way and on Wireless Support Structures for future utility, safety, or transportation uses. Such space may be reserved in an ordinance or plan approved by the Mayor, Village Council, Building Inspector, or Planning Commission.
(Ord. 2019-17. Passed 4-8-19.)

1012.17 REMOVAL OR RELOCATION OF FACILITIES.

(a) The Village may require a Facilities Operator to remove or relocate Facilities to accomplish construction and maintenance activities. The Facilities Operator shall remove or relocate the Facilities at no cost to the Village. If the Facilities Operator fails to remove or relocate the Facilities within ninety (90) days of receiving a request to do so from the Village, then the Village may remove the Facilities at Facilities Operator's sole cost and expense, without further notice to the Facilities Operator.

(b) If the Facilities are placed in a location other than the location approved by the Village, the Facilities Operator shall relocate the Facilities within thirty (30) days of receiving notice that the Facilities are located improperly.
(Ord. 2019-17. Passed 4-8-19.)

1012.18 NOTICE OF WORK.

(a) A Facilities Operator shall notify the Building Inspector of all nonemergency work within ten (10) calendar days prior to performing any upgrades or maintenance on any Facilities, regardless of whether the work requires any permit or consent from the Village.
(Ord. 2019-17. Passed 4-8-19.)

1012.19 CONSTRUCTION PERMIT.

(a) Facilities Operators are required to obtain a construction permit pursuant to Chapter 1010 prior to commencing any of the following activities:

- (1) Collocation of small cell equipment on a Wireless Support Structure;
- (2) Replacement, modification, repair, or maintenance of small cell equipment;
- (3) Construction, replacement, modification, repair, or maintenance of a Wireless Support Structure associated with a small cell facility; and
- (4) Any excavation of the Right-of-Way in connection with the activities described in this subsection (a).

(b) The construction permit fee shall be the fee set forth in Chapter 1010.
(Ord. 2019-17. Passed 4-8-19.)

1012.20 EXCAVATION PERMIT.

If a Facilities Operator must construct, reconstruct, alter, repair, remove or replace any culvert, sidewalk or driveway in any public street or road Right-of-Way, then the Facilities Operator shall obtain the required permit pursuant to Chapter 1010.
(Ord. 2019-17. Passed 4-8-19.)

1012.21 SMALL CELL DESIGN GUIDELINES; OVERVIEW AND PURPOSE, DEFINITIONS.

- (a) The purpose of these Design Guidelines is to:
- (1) Protect the health, safety, and welfare of the citizens of the Village;
 - (2) Preserve the character of the Village, including the Village's residential and commercial neighborhoods;
 - (3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically pleasing installation of Facilities; and
 - (4) Comply with, and not conflict with or preempt, all applicable state and federal laws.
- (Ord. 2019-17. Passed 4-8-19.)

1012.22 GENERAL STANDARDS.

- (a) Facilities shall not be installed unless the Facilities are compliant with these Design Guidelines, Chapter 1012 of the Codified Ordinances and any Application requirements, and all applicable local, state, and federal laws.
- (b) A Facilities Operator shall not construct, maintain, modify, operate, or replace any Facilities not clearly depicted in an Application for a Small Cell Use Permit.
- (c) All work shall be performed in a professional manner consistent with the highest standards of workmanship.
- (d) Facilities shall be maintained in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.
- (e) Facilities shall not be installed in any location that causes any interference with the Village's public safety radio system, traffic and emergency signal light system, or other Village safety communications systems or system components.
- (f) The Village may propose an alternative location for proposed Facilities up to one hundred (100) feet from the proposed location or within a distance that is equivalent to the width of the Public Way, whichever is greater. The Facilities Operator shall utilize the alternative location unless the Facilities Operator shows that the alternative location is not technically feasible.
- (g) Facilities shall not interfere with existing or planned street trees.

(h) Signage shall be mounted on all new Facilities providing the Facilities Operator's name, an emergency contact phone number, an informational contact number, and all other information required by law. Unless otherwise prohibited by law, signage shall be discreet in color and shall match the Facilities and surrounding area and font size used on the sign shall be no smaller than 9 point font and no larger than 14 point font.

(i) Unless otherwise required by law, all manufacturer stickers and decals shall be removed from Facilities.

(j) Facilities shall be camouflaged using existing land forms, vegetation, and structures to screen the Facilities from view and to blend in with the surrounding built and natural environment.

(k) The Village may require the Facilities Operator to incorporate additional concealment elements before approving an Application. Concealment elements may include, but shall not be limited to, fencing, public art, strategic placement, and placement within existing or replacement street furniture.

(l) Facilities shall not have any flashing lights, sirens or regular noise other than a cooling fan that may run intermittently.

(m) All hardware, including antenna mounting brackets and hardware, antenna mounting posts, cables, shrouds and other equipment mounted shall be painted in a color designated by the Village, and the color shall match the Facilities. The Village may require the Facilities Operator use a different, non-matching color on a case-by-case basis when the Village determines a non-matching color would better fulfil the purposes of these Design Guidelines.

(n) A Facilities Operator shall remove or paint over any graffiti on the Facilities at Facility Operator's sole expense as soon as practicable, but no later than ten (10) days from the date the Facilities Operator receives notice of the graffiti.
(Ord. 2019-17. Passed 4-8-19.)

1012.23 SPECIFICATIONS FOR COLLOCATION.

(a) Small Cell Equipment shall not interfere with the primary purpose of a Wireless Support Structure.

(b) Small Cell Equipment to be attached to a Wireless Support Structure shall be attached at least six (6) feet above ground level. If Small Cell Equipment is projecting toward the street then the Small Cell Equipment shall be installed no less than sixteen (16) feet above ground level.
(Ord. 2019-17. Passed 4-8-19.)

1012.24 ANTENNAS.

(a) Antennas and Accessory Equipment must be capable of fitting within an enclosure not larger than six (6) cubic feet in volume.

(b) Antennas and Accessory Equipment shall not increase the overall height of an existing Wireless Support Structure by more than five (5) feet.

(c) Antennas mounted on a Wireless Support Structure shall be enclosed inside the Wireless Support Structure whenever possible and otherwise within a canister or other shroud. All Accessory Equipment associated with the antenna shall be concealed and shall not visibly protrude from the shroud or canister.

(d) The width of the canister or other shroud encasing the antenna and Accessory Equipment shall not exceed the width of the narrowest portion of the Wireless Support Structure.

(e) The enclosure or shroud shall be painted to match or compliment the Wireless Support Structure.

(f) Antennas shall be installed in a manner that minimizes the visual impact to the general public.

(g) Antennas shall not impair light or views from adjacent window(s).

(h) Antennas located on the exterior of a Wireless Support Structure shall be top-mounted on a Wireless Support Structure. The Village may approve a side-mounted antenna if, in the Village's discretion, the side-mounted antenna would be more appropriate given the built environment, neighborhood character, overall site appearance or would otherwise promote the purposes in these Design Guidelines.
(Ord. 2019-17. Passed 4-8-19.)

1012.25 WIRELESS SUPPORT STRUCTURE-MOUNTED EQUIPMENT.

(a) All Wireless Support Structure-mounted Small Cell Equipment other than the antenna(s) and electric meter must be concealed within an equipment cabinet.

(b) Equipment cabinets shall be mounted flush to the Wireless Support Structure.

(c) Equipment cabinets shall be stacked together on the same side of the Wireless Support Structure and oriented away from any windows and doorways to minimize visual impacts thereupon.

(d) The equipment cabinets must be non-reflective and painted, wrapped or otherwise colored to match the Wireless Support Structure.
(Ord. 2019-17. Passed 4-8-19.)

1012.26 GROUND-MOUNTED SMALL CELL EQUIPMENT.

(a) The Village shall not approve the proposed location of ground-mounted Small Cell Equipment unless the Applicant (1) proposes the ground-mounted equipment in connection with a Collocation, and (2) shows that the equipment cannot be feasibly placed on the Wireless Support Structure or in an underground vault.

(b) If technically feasible, Small Cell Equipment should be located in a vault buried underground rather than being ground-mounted. If underground placement is not technically feasible, ground-mounted Small Cell Equipment shall be contained in a shroud or cabinet.

(c) All ground-mounted Small Cell Equipment shall be installed in a manner that minimizes the visual and ingress/egress impact to the general public.

(d) Ground-mounted Small Cell Equipment shall be placed as far as practicable from pedestrian sidewalks and shall neither block nor be placed within the sidewalk in any way.
(Ord. 2019-17. Passed 4-8-19.)

1012.27 CABLES.

(a) All cables, conduit and wiring shall be located inside conduit and inside the Wireless Support Structure or an equipment cabinet.

(b) Excess cables and wiring shall not be spooled, coiled or otherwise stored on the exterior of the Wireless Support Structure unless within an enclosure. Cables shall not be externally visible.
(Ord. 2019-17. Passed 4-8-19.)

1012.28 ELECTRICAL METERS.

(a) Facilities Operators shall use flat-rate electric service when available in order to eliminate the need for a meter.

(b) If a meter is required, then Facilities Operators shall use the smallest and least intrusive electric meter available. Whenever permitted by the electric service provider, the electric meter shall be painted to match the Wireless Support Structure.
(Ord. 2019-17. Passed 4-8-19.)

1012.29 UTILITY LINES.

(a) Service lines shall be underground to avoid additional overhead lines. The underground cables and wires must transition directly into the Wireless Support Structure base without any external junction box.
(Ord. 2019-17. Passed 4-8-19.)

1012.30 SPECIFICATIONS FOR REPLACEMENT OF WIRELESS SUPPORT STRUCTURES.

(a) A Facilities Operator shall be required to replace an existing Wireless Support Structure in the following circumstances:

- (1) The Wireless Support Structure upon which the Applicant has proposed to Collocate Small Cell Equipment is deemed incapable of bearing the added weight of the Small Cell Equipment; or
- (2) An existing Wireless Support Structure is located within 100 feet of the proposed site of a new Wireless Support Structure but the existing Wireless Support Structure is incapable of bearing the additional weight of the Small Cell Equipment.

(b) Designs for replacement of Wireless Support Structures shall be as architecturally similar as possible to the existing Wireless Support Structure to be replaced unless otherwise approved by the Village.

- (1) All luminaire mast arms shall be the same length, arch, and style as the original luminaire arm, unless otherwise specified by the Village.
- (2) The Village may require the Facilities Operator to install a new metal Wireless Support Structure rather than a new wood support structure.

(c) Except in the Residential Zoning Districts, the overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than forty (40) feet in height above ground level; provided, however, that the height of a Wireless Support Structure upon which a Small Wireless Facility is to be mounted shall be as provided in Section 1012.01(b)(12)(iii). The overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in Residential Zoning Districts so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed replacement Wireless Support Structure.

(d) All existing signs, traffic signals, emergency signal detection units, video detection cameras, video cameras, crosswalk service buttons, crosswalk signals, and any other pedestrian or traffic devices shall be reinstalled or replaced with new units by the Facilities Operator at no cost to the Village.

(e) The concrete Wireless Support Structure foundation for the original Wireless Support Structure shall be removed either partially or completely by the Facilities Operator as instructed by the Village.

- (1) If partially removed, the original Wireless Support Structure foundation shall be taken back to a level that is twelve (12) inches below the existing grade and covered with four (4) inches of one-half ($\frac{1}{2}$) inch to three-quarter ($\frac{3}{4}$) inch compose of rock material. The remaining eight (8) shall be native soil.
- (2) If the entire original Wireless Support Structure foundation must be removed, then all foundation materials (concrete, rebar, metals, bolts, etc.) shall be removed. The type of backfill material and compaction required is: (a) one-half ($\frac{1}{2}$) sack slurry for the entire depth in paved areas, and (b) one-half ($\frac{1}{2}$) sack slurry for the entire depth except the top twelve (12) inches will be native soil in landscaped areas.
(Ord. 2019-17. Passed 4-8-19.)

1012.31 SPECIFICATIONS FOR NEW WIRELESS SUPPORT STRUCTURES.

(a) New Wireless Support Structures shall be designed and constructed to accommodate at least two sets of Small Cell Equipment on the same Wireless Support Structure.

(b) New Wireless Support Structures shall maintain a distance of three hundred (300) feet from existing monopoles, or utility poles.

(c) In residential districts, new Wireless Support Structures shall be located at the shared property line between two residential parcels where the parcels intersect the Right-of-Way when available.

(d) In non-residential districts, new Wireless Support Structures shall be located between tenant spaces, storefront bays, or adjoining properties at the shared property lines where the parcels intersect the Right-of-Way when available.

(e) New Wireless Support Structures shall not interfere with any metered parking space.

(f) A new Wireless Support Structure shall not be located in front of a building entrance or exit.

(g) Except in the Residential Zoning Districts, the overall height of a new Wireless Support Structure, including proposed Collocated antenna, shall not be more than forty (40) feet in height above ground level; provided, however, that the height of a Wireless Support Structure upon which a Small Wireless Facility is to be mounted shall be as provided in Section 1012.01(b)(12)(iii). The overall height of a new Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in the Residential Zoning Districts so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed new Wireless Support Structure.

(h) The Village may require the Facilities Operator to install a metal Wireless Support Structure rather than a wood Wireless Support Structure.
(Ord. 2019-17. Passed 4-8-19.)

1012.32 UNDERGROUND AREA REGULATIONS.

(a) Subject to subsection (b), a Facilities Operator shall locate its Facilities underground in an Underground Area.

(b) A Facilities Operator may replace an existing Wireless Support Structure or Collocate Small Cell Facilities on an Existing Wireless Support Structure even if the Wireless Support Structure is located in an Underground Area.

(c) A Facilities Operator shall not install a new Wireless Support Structure in an Underground Area.

(d) An Operator may apply to the Building Inspector for a waiver of the underground placement requirement if the Operator is unable to achieve its service objective under the following circumstances:

- (1) From a location in the public Right-of-Way where the prohibition does not apply;
- (2) From a utility easement the service provider has the right to access; and
- (3) From other suitable locations or structures made available by the Village at reasonable rates, fees and terms.

(e) Submission of a waiver pursuant to subsection (d) is subject to the Facilities Operator's agreement to toll the timeframes set forth in Section 1012.08(a) of the Codified Ordinances by fourteen (14) days.
(Ord. 2019-17. Passed 4-8-19.)

1012.99 PENALTIES; EQUITABLE REMEDIES.

(a) Any Applicant or Operator or other person or entity acting as the agent of an Applicant or Operator who is found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) Nothing in this Chapter shall be construed as limiting any judicial remedies that the Village may have, at law or in equity, for enforcement of this Chapter.
(Ord. 2019-17. Passed 4-8-19.)

CHAPTER 1014 Excavations

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| 1014.01 Excavation defined. | 1014.04 Specifications. |
| 1014.02 Dangerous excavations; notice to barricade and light. | 1014.99 Penalty. |
| 1014.03 Authority of Mayor; remedy of Village for noncompliance. | |

CROSS REFERENCES

Openings by the Municipality - see Ohio R.C. 723.02
 Liability for damages - see Ohio R.C. 723.49 et seq.
 Changing established grade - see Ohio R.C. 727.07
 Digging, excavating and piling earth on streets - see Ohio R.C. 5589.10
 Purposely blockading streets - see TRAF. 412.05
 Mud, debris and litter upon streets - see GEN. OFF. 660.14

1014.01 EXCAVATION DEFINED.

As used in this chapter "excavation" means any purposely caused digging related to the building of basements, foundations or similar diggings which are likely to be left open overnight and which might cause danger to life, limb or property.
(Ord. 1974-4. Passed 2-11-74.)

1014.02 DANGEROUS EXCAVATIONS; NOTICE TO BARRICADE AND LIGHT.

In the event the Police Department deems an excavation to be dangerous to life, limb or property, the Department shall notify the property owner forthwith, and the excavation shall, within twenty-four hours of such notice, be barricaded at all times and lighted during the night season by the property owner or his agent. The barricading and lighting shall be a temporary measure, and in no event shall an excavation be left open for more than thirty days after the Department deems it to be dangerous. No owner upon whose land an excavation exists shall fail to barricade and light such excavation according to the provisions of this section.
(Ord. 1974-4. Passed 2-11-74.)

1014.03 AUTHORITY OF MAYOR; REMEDY OF VILLAGE FOR NONCOMPLIANCE.

After the expiration of the thirty days, as provided in Section 1014.02 the Police Department shall forthwith notify the Mayor who shall cause a letter to be sent to the owner of the property on which the excavation exists, such letter stating that the excavation shall be filled within ten days after receipt of the letter. In the event the property owner does not fill the excavation within ten days, the matter shall be submitted to Council. Council is hereby authorized to adopt a resolution naming the property owner and the location of the excavation, and directing the property owner to fill the excavation within ten days of service of the resolution upon the property owner by certified mail, such resolution to be mailed by the Fiscal Officer. In the event the excavation is not filled within ten days, the property owner shall be advised that the Village will come upon the property to fill the excavation, and any expenses incurred by the Village shall be certified to the County Auditor for inclusion on the property owner's tax duplicate. Such expenses shall be deemed a lien on the property. (Ord. 1974-4. Passed 2-11-74.)

1014.04 SPECIFICATIONS.

The minimum standard for a barricade around the perimeter of an excavation shall consist of a four foot high fence of snow fence-type construction and placement or of higher quality. The minimum standard for illumination shall be of such nature as is needed to warn the unwary person or dumb animal of present danger. The quality and placement of barricades and lighting shall be decided by the Zoning Inspector or the Chief of Police. (Ord. 1974-4. Passed 2-11-74.)

1014.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be fined one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which an excavation is not barricaded and lighted in violation of Section 1014.01. (Ord. 1974-4. Passed 2-11-74.)

CHAPTER 1018
Private Roads

1018.01 Private road defined.
1018.02 Design standards.

1018.99 Penalty.

CROSS REFERENCES

Use of private property for vehicular travel - see Ohio R.C. 4511.08

Drainage from private lands - see B. & H. 1466.10

Base flood elevation data required in subdivision proposals - see

B. & H. 1468.15

1018.01 PRIVATE ROAD DEFINED.

"Private road" and "private street" mean a private way used to serve more than one dwelling, business or industrial establishment.
(Ord. 1979-35. Passed 9-10-79.)

1018.02 DESIGN STANDARDS.

After the effective date of this chapter (Ordinance 1979-35, passed September 10, 1979), all private roads and private streets in the Village shall be designed and based upon the standards contained in the Subdivision Regulations of the Village.
(Ord. 1979-35. Passed 9-10-79.)

1018.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter shall be fined one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

TITLE FOUR - Public Utilities

- Chap. 1020. County Sanitary Engineering Code.
- Chap. 1024. Sewers and Private Sewage Disposal Systems.
- Chap. 1028. Water.
- Chap. 1032. Gas.

CHAPTER 1020 County Sanitary Engineering Code

- 1020.01 1965 edition adopted.
- 1020.02 File and distribution copies.

CROSS REFERENCES

- Adoption of technical codes - see Ohio R.C. 731.231
- Sewers and private sewage disposal systems- see S.U. & P.S. Ch. 1024
- Water - see S.U. & P.S. Ch. 1028
- Garbage and refuse collection and disposal - see S.U. & P.S. Ch. 1050
- Plumbing inspection - see B. & H. 1442.02

1020.01 1965 EDITION ADOPTED.

The Geauga County Sanitary Engineering Code providing standards and specifications for fixing fees, charges and assessments relative to the approval of plans, and specifications for, supervision of construction of, and the servicing, maintenance, protection, operation, management and use of, private and public sewage works improvements and sewerage systems; public water supplies and supply works, improvements and systems and connections thereto, including the prevention of pollution and unnecessary wastes relative to the latter; and garbage and refuse disposal facilities and systems; including the provisions of penalties for violations thereof; in the unincorporated areas of the County, outside of municipal corporations, in established County sanitary sewer, water supply or garbage and refuse disposal districts, in systems constructed or operated by the County, in all areas under the jurisdiction of the County Commissioners, is hereby adopted and the terms thereof made applicable to the Village with such Engineering Code, dated 1965, being hereby incorporated into this chapter by reference as though fully rewritten herein.
(Ord. 1969-23. Passed 12-23-69.)

1020.02 FILE AND DISTRIBUTION COPIES.

At least one copy of the Geauga County Sanitary Engineering Code, as adopted in Section 1020.01, shall be on file with the Fiscal Officer for inspection by the public. At least one copy shall also be on file in the County Law Library. In addition, the Fiscal Officer shall have copies available for distribution to the public, at cost.

CHAPTER 1024

Sewers and Private Disposal Systems

1024.01	Application of chapter.	1024.07	Registration of septic systems.
1024.02	Rental rate.	1024.08	Sewer tie-ins.
1024.03	Billing and collection.	1024.09	Inspection and cleaning of septic systems.
1024.04	County regulations; delinquencies.	1024.10	Installation and screening maintenance of single-family residential septic systems within front yards of residential lots.
1024.05	Treatment of wastes from properties adjacent to the Village of Chagrin Falls.		
1024.06	Septic tanks prohibited; variances.		

CROSS REFERENCES

Power to license sewer tappers and vault cleaners - see Ohio R.C. 715.27
 Power to regulate water closets and privies - see Ohio R.C. 715.40
 Power to construct sewerage system - see Ohio R.C. 715.40, 717.01
 Compulsory sewer connections - see Ohio R.C. 729.06
 Sewerage rates - see Ohio R.C. 729.49, 729.52
 Management and control of sewerage system - see Ohio R.C. 729.50
 Regulations to control house sewers and connections - see Ohio R.C. 729.51
 Weekly deposit of sewer rentals collected - see Ohio R.C. 729.52
 Untreated sewerage - see Ohio R.C. 3701.59
 Interference with sewage flow - see Ohio R.C. 4933.24

1024.01 APPLICATION OF CHAPTER.

Every person within the Central Sanitary Sewer District shall be subject to the provisions of this chapter. (Ord. 1969-23. Passed 12-23-69.)

1024.02 RENTAL RATE.

The sewage rental rate for the Central Sanitary Sewer District shall be five dollars and fifty cents (\$5.50) per month per unit. (Ord. 1969-23. Passed 12-23-69.)

1024.03 BILLING AND COLLECTION.

The County is hereby authorized to bill and collect sewer rental charges within the South Russell Village Central Sanitary Sewer District.
 (Res. 1970-R7. Passed 4-13-70.)

1024.04 COUNTY REGULATIONS; DELINQUENCIES.

The County may adopt its usual rules and regulations for the collection of the rates stipulated in Section 1024.02. However, the County shall refer back to the Village any efforts to collect a delinquency after such delinquency has been certified by the County Auditor's Office for placement on the real estate tax duplicate.

(Res. 1970-R7. Passed 4-13-70.)

1024.05 TREATMENT OF WASTES FROM PROPERTIES ADJACENT TO THE VILLAGE OF CHAGRIN FALLS.

(a) The purpose of this section is to implement a contract for the treatment of wastes from Barrwood Estates Subdivision, entered into between the Village of Chagrin Falls and the Village of South Russell and authorized by the Council of the Village of South Russell on November 11, 1985.

(b) "Property owners" means the record owners of all property situated on the common boundary of Chagrin Falls and South Russell, having sanitary sewers installed and approved by South Russell. All property owners shall connect to such sewers for the disposal of all sanitary waste from such property, and the property owners shall pay to the Village of Chagrin Falls an original tap-in charge of one thousand dollars (\$1,000). This charge shall apply to all original tap-ins made after June 27, 1985.

(c) The tap-in charge assessed in subsection (b) hereof shall be paid within thirty days of the date upon which the original connection to the sanitary sewer is completed, as determined by the South Russell Village Engineer.

(d) All tap-in charges which are not paid in accordance with the provisions of subsections (b) and (c) hereof, shall constitute a lien on the property and shall be collected in the same manner as other Village of South Russell taxes, in accordance with Ohio R.C. Chapter 729.

(e) After payment of the tap-in charge to Chagrin Falls, each property owner shall pay to Chagrin Falls a quarterly charge as established by the Chagrin Falls Water Department regulations as amended from time to time. Anytime hereafter that Chagrin Falls increases charges to its own resident users, the same percentage increase shall apply to each property owner. No notice to the property owner shall be required of Chagrin Falls, other than the notice, if any, given by Chagrin Falls to its resident users. Failure of any property owner to make any payment required herein within thirty days of the date due, will authorize the Village of Chagrin Falls to disconnect said property and terminate the service provided herein. Any re-connection of such terminated property owner will require payment of another original tap-in charge required under subsection (b) hereof, as well as payment of all delinquent bills and two months' advance payment.

(f) In addition to the provisions of subsection (e) hereof, all charges which are not paid as required in subsection (e) shall constitute a lien on the property and shall be collected in the same manner as other Village of South Russell taxes, in accordance with Ohio R.C. Chapter 729.

(g) All sewer connections required by this section shall be approved by the Engineer of the Village of South Russell.

(h) No roof drain, sump pump, storm drains or footer drains shall be connected to the sanitary sewer.

(i) All repair and maintenance of sewer lines or connections from any building or structure located on property subject to the provisions of this section shall be at the sole cost and expense of the property owner.

(j) All costs for repairs and maintenance on the common sewer lines serving the properties subject to this section may be assessed against all property owners connected to the sewer lines as provided in Ohio R.C. Chapter 729.

(k) Nothing in this section shall be construed to prevent the Village of South Russell from constructing its own trunk sewer line at some future date, and assessing the costs of such line as provided in Ohio R.C. Chapter 729. (Ord. 1986-27. Passed 4-28-86.)

1024.06 SEPTIC TANKS PROHIBITED.

(a) No person shall install any septic tank sewage disposal system within the South Russell Village Central Sanitary Sewer District. (Res. 1970-R10. Passed 9-28-70.)

(b) Council may grant a variance from the provisions of subsection (a) hereof, whenever, in its judgment, compelling public need, extreme individual hardship or other extraordinary circumstances require that a variance be granted.

Any person desiring such a variance must apply therefor, in writing, to Council. Such application shall include a signed statement from the Zoning Inspector that, except for a ban, the facility for which the variance is sought would be permitted under all applicable local and State laws and regulations. Council shall hear the variance request at its next regular meeting or at a special meeting convened therefor, and shall grant or deny the variance within forty-five days of the date that the request for the variance is received. (Ord. 1978-17. Passed 6-12-78.)

1024.07 REGISTRATION OF SEPTIC SYSTEMS.

Every septic system installed in the Village shall be registered with the Building Inspector on a form to be supplied by the Building Inspector. In the case of septic systems installed as of September 23, 1996, said registration shall be by the owner of the property where the septic system is installed. In the case of septic systems installed after September 23, 1996, such registration shall be accomplished by the contractor installing same. (Ord. 1996-37. Passed 9-23-96.)

1024.08 SEWER TIE-INS.

No person shall use a septic tank sewage disposal system or an on-site sewage disposal system where a public sewer is available and accessible.

Every dwelling house and every building designed for, or occupied by, persons in the Village shall be separately connected with the public sewerage system.

In cases of new sewer construction or extensions to the sewerage system, the required tie-in shall be effected within six months from the date of acceptance of the sewer by the County or other appropriate agency. (Ord. 1979-21. Passed 4-23-79.)

1024.09 INSPECTION AND CLEANING OF SEPTIC SYSTEMS.

(a) Every septic system installed in the Village as of September 23, 1996, shall be inspected and cleaned no later than September 23, 1997, by a company or individual licensed, or otherwise approved, by the Geauga County Health Department, unless the owner of a septic system can demonstrate his/her system was so cleaned and inspected and in satisfactory working order within one year prior to September 23, 1996. Thereafter, every septic system shall be inspected and cleaned at least once every two years, commencing with the date of the inspection referred to in this subsection (a) or, within two years after installation if installed after September 23, 1996. It shall be the duty of the owner of the property whereon such septic system is located to keep such septic system in proper working condition at all times and to notify the Building Inspector, immediately after the biennial inspection and cleaning, by certificate from the inspecting company or individual, that such system is in proper operating order.

(b) In addition to the requirements set forth above that the company or individual performing the inspections and cleaning required under this chapter be licensed, or otherwise approved, by the Geauga County Health Department, said company or individual must, in addition, register with the Building Inspector on a form to be supplied by said Inspector and shall pay to the Village a fee of twenty-five dollars (\$25.00) for such registration.

(c) Whoever violates any provision of this section, is guilty of a fourth degree misdemeanor. Each and every day or portion thereof during which any violation of any of the provisions of this section is committed, continued, or permitted shall be considered a separate offense. (Ord. 1996-37. Passed 9-23-96.)

1024.10 INSTALLATION AND SCREENING MAINTENANCE OF SINGLE-FAMILY RESIDENTIAL SEPTIC SYSTEMS WITHIN FRONT YARDS OF RESIDENTIAL LOTS.

Any single-family residential septic system which contains components which appear and are intended to remain above grade after installation of such system may be located in the front yard of a residential lot only upon approval by the Building Inspector after:

- (a) The applicant for the septic system has submitted a written application to the Building Inspector with a fee of fifty dollars (\$50.00) and a deposit of two hundred dollars (\$200.00), containing the following information, along with a plan for the proposed septic system prepared by a licensed or certified septic installer:
 - (1) Evidence of the approval for such proposed septic system by the County Board of Health.

- (2) A sworn statement from a licensed septic installer and/or an appropriate County Health Department official indicating that it is not reasonably possible to locate a septic system in the rear yard or side yard of such lot due to either topography or soil reasons, undue financial burden, the location of existing or proposed improvements to the property, the natural features of the property, or any combination of such factors, or for any other serious practical difficulty which renders the front yard as the best available option.
 - (3) A plan for natural (vegetation) screening or such other screening, such as fencing, as may be permitted under the Zoning Code in the front yard for the zoning district where the lot is located. Such screening plan must serve, in the opinion of the Building Inspector, to reasonably minimize any adverse visual and/or auditory impact of such septic system upon adjacent properties and the surrounding neighborhood.
- (b) In granting approval for such proposed septic system installation in a front yard, the Building Inspector may condition his approval on timely installation of any approved screening and upon the applicant's agreement to properly maintain, repair, and replace such screening. Upon approval by the Building Inspector that the screening has been properly installed, the deposit shall be refunded to the applicant, or designee of applicant.
- (c) Any screening plan approved pursuant to this section must be properly maintained, repaired and replaced in accordance with such plan by the owner of the property, regardless of whether or not the owner of such property was the owner at the time such plan was initially approved. Failure to do so within thirty (30) days after the written notification from the Building Inspector shall subject the property owner to the penalty provisions of Section 1480.99.
(Ord. 2007-22. Passed 5-14-07.)

CHAPTER 1028 Central Water Systems

1028.01	Water study required for central water systems.	1028.07	Monthly reports.
1028.02	Premises subject to regulations.	1028.08	Systems outside Municipality.
1028.03	Testing required.	1028.09	Scope of regulations.
1028.04	Determination of contaminants	1028.10	Microbiological and chemical tests.
1028.05	Adequate water supply.	1028.99	Penalty.
1028.06	Unsafe supply.		

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01
 Water pollution - see Ohio R.C. 715.08, 743.24 et seq.; GEN. OFF. 660.04
 Water works mortgage revenue bonds - see Ohio R.C. 715.09 et seq.
 Easements for water supply - see Ohio R.C. 715.34
 Compulsory water connections - see Ohio R.C. 729.06, 743.23
 Water power contract - see Ohio R.C. 735.08
 Fixing water rates - see Ohio R.C. 735.28 et seq.
 Management and control of water works - see Ohio R.C. 735.28
 Weekly deposit of water works money collected - see Ohio R.C. 743.06
 Contract for water supply - see Ohio R.C. 743.24
 Power to regulate water and other utility rates - see Ohio R.C. 743.26, 743.28, 4909.34 et seq.
 Tampering with water hydrant, pipes or meters; unauthorized connections - see Ohio R.C. 4933.22
 Polluting and diverting watercourses - see GEN. OFF. 660.04
 Obstruction and diversion of watercourses - see GEN. OFF. 660.04, 660.16
 Accumulation of stagnant water - see GEN. OFF. 660.16
 Swimming pools - see B. & H. Ch. 1464

1028.01 WATER STUDY REQUIRED FOR CENTRAL WATER SYSTEMS.

From and after the effective date of this section (Ordinance 1980-43, passed October 27, 1980) and in the event there is a change of the original plans submitted to the Village for a central water system, a water study is hereby made a requirement of the person responsible for the operation of the central water supply system. Such water study shall be in accordance with the requirement set forth by the Village Engineer, who may seek expert assistance therefor, and no change of the original water system shall be permitted until and unless the water study is approved by the Village Engineer. (Ord. 1980-43. Passed 10-27-80.)

1028.02 PREMISES SUBJECT TO REGULATIONS.

From the effective date of this section, in the interest of promoting the health, safety and general welfare of the Village, all central water systems, which systems depend on surface water or ground water for their source of supply, and which serve more than one residence, building or other structure or premises within the Village shall be subject to the regulations as stated hereinafter. (Ord. 1983-16. Passed 3-14-83.)

1028.03 TESTING REQUIRED.

All central water systems depending on ground water for part or all of their source of supply shall be tested monthly by a person, firm or other entity approved by the State Department of Health to take such tests, or by the Village Building Inspector, to determine the static water level and specific capacity of the water supply remaining in the central water system. Such testing shall be done by the use of automatic water level recorders attached to the central water system using monthly reading charts. Any recorder used must be manufactured with specifications approved by the Village hydrologist and the minimum resolution applicable to such static water testing shall be plus or minus one foot per one quarter day. (Ord. 1983-16. Passed 3-14-83.)

1028.04 DETERMINATION OF CONTAMINANTS.

(a) All central water systems shall be tested monthly by a testing person, firm or entity as indicated in Section 1028.03, to monitor and determine the levels of nitrates and other contaminants mentioned on any list adopted by the Ohio or United States Environmental Protection Agencies in the ground water or surface water which is the source of supply for the central water system.

(b) All central water systems shall also be tested and monitored for other contaminants or natural conditions that may affect the quality or supply of the source of water for such central water systems, upon establishment of regulations which are prepared by the hydrologist retained by the Village and approved by Council and posted in the same manner as are ordinances adopted by Council. (Ord. 1983-16. Passed 3-14-83.)

1028.05 ADEQUATE WATER SUPPLY.

Unless abandonment of the system is approved by the Public Utilities Commission or the owner or operator of the system gives six months advance notice of abandonment to the Village if the system is not subject to Public Utilities Commission jurisdiction, then in the event that Council, for the Village, determines that the test results of the static water level or specific capacity show an insufficient amount of water to maintain an adequate water supply for those persons, or other entities served by the same source of water, the owner or operator or any system shall take sufficient steps to obtain additional sources of water in order to maintain an adequate supply of water for the persons, firms or other entities served by such system. In the event the Village, by Council, determines that there is an inadequate supply of water to service the consumers of such water, the Village may seek the penalty for violations of this chapter as is imposed by this chapter, or may seek any other legal or equitable relief it may deem appropriate, or may order the operator to limit the quantity of water to be used per day until an adequate water supply is restored or new wells in a different aquifer are obtained at such levels as will adequately serve the users of such central water system.
(Ord. 1983-16. Passed 3-14-83.)

1028.06 UNSAFE SUPPLY.

In the event that the results of the monthly monitoring test indicate that there is an unsafe level of contaminants in the source of supply of water for any central water system within the Village, as based on United States Environmental Protection Agency standards for unsafe contaminant levels, or in the event that the Ohio Environmental Protection Agency adopts such standards, then the owner and/or operator of such system shall immediately take steps to eliminate the contaminants from the source of supply and further take steps if possible, to eliminate contaminants from entering into the source of supply for the central water system. Upon learning of any test results indicating a contaminant level in excess of standards established by the Village hydrologist and approved by Council or adopted by the Ohio Environmental Protection Agency or the standards of the United States Environmental Protection Agency, the owner or operator of such central water systems shall immediately notify the Building Inspector for the Village of the test results. In the event that the test results indicate an unsafe level of contaminants in the source of supply for such central water system, the Building Inspector shall have the right and the duty to order the system shut down to stop the supply of water and to order all consumers of the water to immediately stop drinking such water and to avoid bodily contact with the water if contact with such water will cause any harm to consumers of the water. In the event that the owner/operator of such system fails to notify the Building Inspector of any unsafe level of contaminants in the source of water supply, or fails to take the necessary steps to eliminate the source of contamination, if possible, or fails to take any other steps to avoid any harm to consumers of the central water system, the owner and/or operator of the system shall be in violation of this chapter and the Municipality may seek any penalty imposed by this chapter or may seek any other legal or equitable relief that it deems appropriate. (Ord. 1983-16. Passed 3-14-83.)

1028.07 MONTHLY REPORTS.

The owner and/or operator of each central water system within the Village shall submit monthly reports as required by this chapter to the Building Inspector for the Village within ten days of taking such tests. All monitoring required by this chapter and all testing required by this chapter shall be completed prior to the fifteenth day of each month. (Ord. 1983-16. Passed 3-14-83; Ord. 1983-17. Passed 3-14-83.)

1028.08 SYSTEMS OUTSIDE MUNICIPALITY.

This chapter shall also apply to any central water system which is located in whole or in part outside of the Village but which services one or more residences, buildings or other structures or premises within the Village. (Ord. 1983-16. Passed 3-14-83; Ord. 1983-17. Passed 3-14-83.)

1028.09 SCOPE OF REGULATIONS.

Notwithstanding the fact that any owner or operator of a central water system shall be defined as a public utility under the Ohio Revised Code, it is the intent of the Village that all operators and owners of central water systems servicing consumers of such water systems within the Village be subject to and bound by the regulations contained in this chapter. (Ord. 1983-16. Passed 3-14-83; Ord. 1983-17. Passed 3-14-83.)

1028.10 MICROBIOLOGICAL AND CHEMICAL TESTS.

(a) From and after the effective date of this section all central water systems within the Village shall be tested and monitored as set forth in the regulations established by the Village Hydrologist, a copy of which is attached to Ordinance 1983-17. All central water systems shall perform microbiological tests at a minimum frequency of one set of tests per month and at a greater frequency per month upon notification by the Village Hydrologist that due to the size of the water supply system and the size of the community served by the system that a greater frequency is required. Further, any water supply system based entirely or partly on open service water reservoirs are hereby required to carry out daily tests of turbidity.

(b) All central water systems shall further provide testing for inorganic components, organic chemicals and radioactive nuclides as established in the time periods set forth on pages 8 and 9 in Exhibit 1 attached to Ordinance 1983-17. Additionally all central water systems shall monitor water quality for physical properties, metals, inorganic nonmetallics and organics at frequency levels set forth in Table 2 on pages 10 and 11 of such Exhibit 1.

(c) All testing and monitoring as required by this chapter shall be performed by any existing central water system upon the effective date of this section and any new central water system, upon commencement of service, shall comply with this chapter.
(Ord. 1983-17. Passed 3-14-83.)

1028.99 PENALTY.

Whoever violates any section of this chapter is guilty of a misdemeanor of the third degree. Any person, firm or other entity who violates this chapter shall be fined not more than five hundred dollars (\$500.00) nor imprisoned more than sixty days for a first offense. Any subsequent conviction for a violation of any section of this chapter shall be a misdemeanor of the first degree. Any person, firm or entity who violates this ordinance shall upon subsequent conviction thereof be fined not more than one thousand dollars (\$1,000) nor imprisoned more than six months. Each day such violation continues shall be considered a separate offense. Nothing in this section shall prevent the Municipality from taking such other legal or equitable action necessary to prevent or remedy a violation or to avoid any harm to the consumers of any central water system within the Village.
(Ord. 1983-16. Passed 3-14-83. Ord. 1983-17. Passed 3-14-83.)

CHAPTER 1030
Water Wells

1030.01	Permit required.	1030.05	Approved supply.
1030.02	Health Department standards.	1030.06	Denial of permit.
	(Repealed)	1030.07	Permit fee.
1030.03	Drilling report.	1030.99	Penalty.
1030.04	Operation requirements.		

CROSS REFERENCES

Polluting spring or well - see Ohio R.C. 3767.18
Water pollution or control - see Ohio R.C. Ch. 6111
Water well standards - see OAC Ch. 3745-9

1030.01 PERMIT REQUIRED.

No water well being utilized in a geothermal heating unit, as defined in Section 1030.04 shall be drilled in the Village unless prior to such drilling a permit has been secured from the Building Inspector of the Village. (Ord. 1986-26. Passed 4-28-86.)

1030.02 HEALTH DEPARTMENT STANDARDS.

(EDITOR'S NOTE: Former Section 1030.02 was repealed by Ordinance 1986-26, passed April 28, 1986.)

1030.03 DRILLING REPORT.

Within thirty days after a receipt of a copy of the well log and drilling report, Division of Water, as required by the State Department of Natural Resources, a copy of such report given to each owner of a water well drilled or redrilled in the Village, shall be furnished to the Building Inspector. A copy of such report shall be required for each and every water well drilled or redrilled in the Village, including but not limited to those intended for domestic potable water, commercial or business use of potable water, ground water, source heat pump systems, geothermal heating units, rechargeable wells and livestock wells. No final occupancy permits shall be issued to any owner of any premises for which any such water well has been drilled or redrilled, until such well log journal report has been filed with the Village Building Inspector. (Ord. 86-26. Passed 4-28-86.)

1030.04 OPERATION REQUIREMENTS.

When water wells and/or supply wells are used in conjunction with groundwater source heat pumps or heating and cooling devices, referred to herein as geothermal heating units, or as any other type of source for potable water and heating and/or cooling or groundwater recharge, the following additional requirements shall be in effect.

- (a) The water well shall be constructed, operated, maintained and abandoned in compliance with the Ohio Administrative Code, Chapter 3745-9, and as may hereinafter be amended, together with the requirements of the County Health Department or such other governmental agency having jurisdiction.
- (b) An approved backflow prevention device must be appropriately installed in relation to a heating and/or cooling unit, heat pump unit or such similar device, to protect both the supply well from contamination and the water user from contamination.
- (c) Heating and/or cooling unit, heat pump unit, or such similar device, shall be valved on the intake and discharge sides of the unit and the intake valve shall be located between the unit and backflow prevention device.
- (d) The heating and/or cooling unit, heat pump unit or such similar device shall be equipped with an automatic device to shut down the entire system if a leak occurs in the refrigeration system.
- (e) When providing water having an objectionable quality such water shall not be returned to an aquifer or portion of an aquifer containing water of higher quality.
- (f) Water returned to the subsurface through a well or similar means shall be of essentially the same quality both chemically and bacteriologically as it was prior to use except for the temperature differential.
- (g) Each geothermal heating unit or such similar device shall be so designed and shall operate so that incoming water from one well or aquifer for use in the cooling or heating unit is returned to its original aquifer as waste water in accordance with subsection (f) hereof.
- (h) No geothermal heating unit or similar device shall use, as its source of water, a central water system or the appurtenances to such central water system within the Village. (Ord. 1982-44. Passed 12-13-82.)

1030.05 APPROVED SUPPLY.

After the effective date of this section, residence, building or establishment, or any other use using an underground aquifer as a source for heating and/or cooling, shall upon written notice by Council for the Village, or the County Health Department, cease to use such aquifer as a source for heating and/or cooling if the specific capacity of the aquifer and surrounding water wells is at such a level that an adequate domestic supply of potable water is unavailable without deepening the wells using such aquifer as a source of water. Such system, having been ordered to cease, shall not be allowed to reuse the aquifer until an adequate recharge system has been installed and approved by the Building Inspector for the Village or until, in the opinion of the Building Inspector an adequate domestic supply of potable water is again available. (Ord. 1982-44. Passed 12-13-82.)

1030.06 DENIAL OF PERMIT.

Permits to drill for groundwater source heat pumps, geothermal heating units and other such systems will be denied in areas where inadequate domestic supplies exist at the time application is made for such permit. (Ord. 1982-44. Passed 12-13-82.)

1030.07 PERMIT FEE.

Each application for a well drilling permit shall be accompanied by an application fee of twenty dollars (\$20.00) and the permit when issued shall be identical to that attached to Ordinance 1982-44 as Exhibit A which is fully incorporated herein. (Ord. 1982-44. Passed 12-13-82.)

1030.99 PENALTY.

Whoever violates any provision of this chapter, is guilty of a fourth degree misdemeanor. Each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted shall be considered a separate offense.

CHAPTER 1032
Gas

1032.01	Inspection of installations.	1032.02	Fee. (Repealed)
	(Repealed)	1032.03	Gas Inspector. (Repealed)

CROSS REFERENCES

Power to furnish light, power and heat - see Ohio R.C. 715.06, 717.01

Purchase of gas - see Ohio R.C. 715.07

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01

Power to regulate gas and other utility rates - see Ohio R.C. 743.26,
743.28, 4909.34 et seq.

Gas contract restrictions - see Ohio R.C. 743.33

Power to erect gas and electric works - see Ohio R.C. 743.34

Compulsory gas connections - see Ohio R.C. 743.37

Contract for gas - see Ohio R.C. 743.38

Gas companies - see Ohio R.C. Ch. 4933

Venting of heaters and burners - see GEN. OFF. 660.01

1032.01 INSPECTION OF INSTALLATIONS. (REPEALED)

(EDITOR'S NOTE: Section 1032.01 was repealed by Ordinance 1974-8, passed May 13, 1974.)

1032.02 FEE. (REPEALED)

(EDITOR'S NOTE: Section 1032.02 was repealed by Ordinance 1974-8, passed May 13, 1974.)

1032.03 GAS INSPECTOR. (REPEALED)

(EDITOR'S NOTE: Section 1032.03 was repealed by Ordinance 1974-8, passed May 13, 1974.)

TITLE SIX - Other Public Services

- Chap. 1050. Garbage and Refuse Collection and Disposal.
 Chap. 1054. Chagrin Falls Airport.
 Chap. 1058. Cemeteries.
 Chap. 1062. Emergency Ambulance Service.
 Chap. 1066. Village Hall.
 Chap. 1068. Illicit Discharge and Illegal Connection Control.

CHAPTER 1050

Garbage and Refuse Collection and Disposal

- | | | | |
|----------------|---|----------------|--|
| 1050.01 | Designation of Village as
garbage disposal district. | 1050.04 | Advertisement for bids. |
| 1050.02 | Franchise required. | 1050.05 | Grant of franchise;
revocation. |
| 1050.03 | Exclusive franchise right
created. | 1050.06 | Application of chapter. |

CROSS REFERENCES

- Employment of scavengers - see Ohio R.C. 3707.39
 Disposal and transportation upon public ways - see Ohio R.C.
 3767.20 et seq.
 Service Department - see ADM. Ch. 242
 Loads dropping or leaking - see TRAF. 440.06
 Filthy accumulations - see GEN.OFF. 660.04, 660.16
 Open burning - see GEN.OFF. 660.13
 Littering - see GEN.OFF. 660.14 et seq.
 Dumping of refuse - see GEN. OFF. 660.15
 Junk and junk vehicles - see GEN. OFF. 660.17

1050.01 DESIGNATION OF VILLAGE AS GARBAGE DISPOSAL DISTRICT.

The entire incorporated area of the Village is hereby designated as a garbage disposal district. (Ord. 1970-19. Passed 10-26-70.)

1050.02 FRANCHISE REQUIRED.

No garbage, rubbish or other waste shall be picked up or removed by any person unless such person first obtains a franchise from Council for such purpose.
 (Ord. 1970-19. Passed 10-25-70.)

1050.03 EXCLUSIVE FRANCHISE RIGHT CREATED.

An exclusive franchise right is hereby created for the pickup and removal of garbage, waste and other refuse in the above established garbage disposal district, with such franchise right to be awarded to that bidder who annually submits the lowest and best bid for the franchise of pickup and removal of garbage, rubbish and other waste material within the garbage disposal district. (Ord. 1970-19. Passed 10-26-70.)

1050.04 ADVERTISEMENT FOR BIDS.

The Fiscal Officer is hereby directed to cause a legal notice to be published in a newspaper of general circulation within the Village for at least two consecutive weeks, advertising for bids to be submitted on the granting of the franchise; the legal advertisement shall provide that the franchise shall be exclusive, shall be for a period of twelve months from the effective date of its being granted and shall be subject to the conditions and specifications set forth by Council for operation within the garbage disposal district. (Ord. 1970-19. Passed 10-26-70.)

1050.05 GRANT OF FRANCHISE; REVOCATION.

The franchise shall be granted by Council at the sole discretion of Council after the receipt of bids and the continuation of the franchise right shall be subject to the discretion of Council, provided, however, that Council shall not exercise such right until such time as it has given in writing notice to the franchise holder that there does exist a deficiency in the operation and that the franchise holder shall have two weeks from the time of receipt of such notice to correct the deficiency or be subject to the revocation of the franchise right. (Ord. 1970-19. Passed 10-26-70.)

1050.06 APPLICATION OF CHAPTER.

Nothing contained in this chapter shall be construed to have any application whatsoever to commercial or industrial activities located within the Village. (Ord. 1970-19. Passed 10-26-70.)

CHAPTER 1054
Chagrin Falls Airport

1054.01 Night landing restricted.

1054.99 Penalty; equitable remedy.

CROSS REFERENCES

Airports - see Ohio R.C. 4561.08 et seq., 4563.01 et seq.

1054.01 NIGHT LANDING RESTRICTED.

No person shall land any aircraft at night at the Chagrin Falls Airport when the night landing lights are not operative or not lit for the purpose of such landing.
(Ord. 1963-16. Passed 11-12-63.)

1054.99 PENALTY; EQUITABLE REMEDY.

In the event of a violation of Section 1054.01, the aircraft operator and the airport management shall be fined one hundred dollars (\$100.00) for each offense and the Village may bring injunctive action against the Airport enjoining such violations.
(Ord. 1961-12. Passed 11-28-61.)

CHAPTER 1058
Cemeteries

1058.01 Interments in Bell Road Cemetery.

CROSS REFERENCES

Village cemeteries - see Ohio R.C. 759.19 et seq.

Abuse of a corpse - see GEN. OFF. 636.12

1058.01 INTERMENTS IN BELL ROAD CEMETERY.

(a) Further use of the cemetery on Bell Road within the Village will be detrimental to the public health and welfare.

(b) Burial of the dead in the cemetery located on Bell Road in the Village is hereby discontinued.

(c) The aforementioned cemetery property shall not be used for any purpose other than a cemetery, but it is expressly ordained that no further interments in the cemetery shall be permitted. (Ord. 1975-22. Passed 7-14-75.)

CHAPTER 1062

Emergency Ambulance Service

EDITOR'S NOTE: Ordinance 1977-19, passed April 25, 1977, authorized an Agreement with Russell Township for emergency ambulance service. Copies of the ordinance and the Agreement are available, at cost, from the Fiscal Officer.

There are no sections in Chapter 1062. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Right of way of pedestrians and public safety vehicles - see TRAF. 416.08

Emergency and public safety vehicles at stop signs - see TRAF. 432.18

Following and parking near emergency and public safety vehicles - see
TRAF. 432.25

Speed exceptions for emergency and public safety vehicles - see TRAF. 434.06

CHAPTER 1066

Village Hall

1066.01 Intent

1066.02 Use regulations.

CROSS REFERENCES

Sale or lease of Municipal property - see Ohio R.C. 721.01 et seq.
Management of property in Villages - see Ohio R.C. 735.27
Disturbing a lawful meeting - see GEN. OFF. 648.06

1066.01 INTENT.

It is the intent of Council to provide the Village Hall as a meeting place for local residents, neighborhood associations and civic organizations. It is further the intent of Council to protect the Village Hall from physical damage.
(Ord. 1977-26. Passed 7-11-77.)

1066.02 USE REGULATIONS.

The following regulations are hereby adopted respecting the use of the Village Hall:

- (a) Written request for the use of the Village Hall shall be made to Council at a regularly scheduled Council meeting.
- (b) Smoking and serving of light refreshments is permitted only in the uncarpeted foyer area.
- (c) Serving of alcoholic beverages is prohibited.
- (d) Each organization shall be responsible for cleaning the Hall and restoring it to the condition in which it was found.
- (e) A proposed user of the Village Hall shall deposit with the Fiscal Officer a cash bond in the amount of twenty-five dollars (\$25.00), such bond to guarantee the aforementioned cleaning and restoration. If unused, the bond, or any unused portion of it, shall be returned within thirty days of the next meeting of Council following the usage of the Hall.
- (f) At the discretion of Council, the aforementioned bond may continue from meeting to meeting for any organization, subject only to replenishment to the amount of twenty-five dollars (\$25.00), should any part of the bond be used from time to time.
- (g) Council shall have the sole discretion to refuse the use of the Hall to any group should Council, in its discretion, determine that the Village property may be jeopardized. (Ord. 1977-26. Passed 7-11-77.)

CHAPTER 1068
Illicit Discharge and Illegal Connection Control

1068.01	Purpose and scope.	1068.07	Discharge and connection prohibitions.
1068.02	Applicability.	1068.08	Monitoring of illicit discharges and illegal connections.
1068.03	Definitions.	1068.09	Enforcement.
1068.04	Disclaimer of liability.	1068.10	Remedies not exclusive.
1068.05	Conflicts, severability, nuisances and responsibility.		
1068.06	Responsibility for administration.		

1068.01 PURPOSE AND SCOPE.

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of the Village of South Russell through the regulation of illicit discharges to the municipal separate storm sewer system (MS4). This regulation establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation are:

- (a) To prohibit illicit discharges and illegal connections to the MS4.
 - (b) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.
- (Ord. 2008-16. Passed 4-28-08.)

1068.02 APPLICABILITY.

This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in the Village of South Russell, except for those discharges generated by the activities detailed in Section 1068.07 (a)(1) to (a)(3) of this regulation. (Ord. 2008-16. Passed 4-28-08.)

1068.03 DEFINITIONS.

The words and terms used in this regulation, unless otherwise expressly stated, shall have the following meaning:

- (a) Best Management Practices (BMPs): means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (b) Community: means the Village of South Russell, its designated representatives, boards, or commissions.
- (c) Environmental Protection Agency or United States Environmental Protection Agency (USEPA): means the United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (Ohio EPA), or any duly authorized official of said agency.
- (d) Floatable Material: in general this term means any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.
- (e) Hazardous Material: means any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (f) Illicit Discharge: as defined at 40 C.F.R. 122.26 (b)(2) means any discharge to an MS4 that is not composed entirely of storm water, except for those discharges to an MS4 pursuant to a NPDES permit or noted in Section 1068.07 of this regulation.
- (g) Illegal Connection: means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.
- (h) Municipal Separate Storm Sewer System (MS4): as defined at 40 C.F.R. 122.26 (b)(8), municipal separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
 - (1) Owned or operated by a State, city, town, borough, county, parish, district, municipality, township, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over sewage, industrial wastes, including special districts under State law such as a sewer district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States;
 - (2) Designed or used for collecting or conveying storm water;
 - (3) Which is not a combined sewer; and
 - (4) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.

- (i) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area wide basis.
- (j) Off-Lot Discharging Home Sewage Treatment System: means a system designed to treat home sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.
- (k) Owner/Operator: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.
- (l) Pollutant: means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.
- (m) Storm Water: any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (n) Wastewater: The spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.
(Ord. 2008-16. Passed 4-28-08.)

1068.04 DISCLAIMER OF LIABILITY.

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.
(Ord. 2008-16. Passed 4-28-08.)

1068.05 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

(a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the Village of South Russell, shall prevail.

(b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(c) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

(d) Failure of the Village of South Russell to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the Village of South Russell, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

(Ord. 2008-16. Passed 4-28-08.)

1068.06 RESPONSIBILITY FOR ADMINISTRATION.

The Village of South Russell shall administer, implement, and enforce the provisions of this regulation. The Village of South Russell may contract with the Geauga Board of Health to conduct inspections and monitoring and to assist with enforcement actions.

(Ord. 2008-16. Passed 4-28-08.)

1068.07 DISCHARGE AND CONNECTION PROHIBITIONS.

(a) Prohibition of Illicit Discharges. No person shall discharge, or cause to be discharged, an illicit discharge into the MS4. The commencement, conduct, or continuance of any illicit discharge to the MS4 is prohibited except as described below:

- (1) Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities. These discharges are exempt until such time as they are determined by the Village of South Russell to be significant contributors of pollutants to the MS4.
- (2) Discharges specified in writing by the Village of South Russell as being necessary to protect public health and safety.
- (3) Discharges from off-lot discharging home sewage treatment systems permitted by the [County] Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29, or other applicable [County] Board of Health regulations, until such time as the Ohio Environmental Protection Agency issues an NPDES permitting mechanism for residential 1, 2, or 3 family dwellings. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the [County] Board of Health.
In compliance with the Village of South Russell Storm Water Management Program, discharges from all off-lot discharging home sewage treatment systems must either be eliminated or have coverage under an appropriate NPDES permit issued and approved by the Ohio Environmental Protection Agency. When such permit coverage is available, discharges from off-lot discharging home sewage treatment systems will no longer be exempt from the requirements of this regulation.

(b) Prohibition of Illegal Connections. The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.

- (1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.
(Ord. 2008-16. Passed 4-28-08.)

1068.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS.

(a) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program:
The Village of South Russell shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4. This program shall include the mapping of the MS4, including MS4 outfalls and home sewage treatment systems; the routine inspection of storm water outfalls to the MS4, and the systematic investigation of potential residential, commercial, industrial, and institutional facilities for the sources of any dry weather flows found as the result of these inspections.

(b) Inspection of Residential, Commercial, Industrial, or Institutional Facilities.

- (1) The Village of South Russell shall be permitted to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.
- (2) The Village of South Russell shall have the right to set up at facilities subject to this regulation such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the Village of South Russell.
- (3) The Village of South Russell shall have the right to require the facility owner/operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at the owner/operator's expense. All devices used to measure storm water flow and quality shall be calibrated by the Village of South Russell to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the Village of South Russell and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.
- (5) Unreasonable delays in allowing the Village of South Russell access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.

- (6) If the Village of South Russell is refused access to any part of the facility from which storm water is discharged, and the Village of South Russell demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety, and welfare, the Village of South Russell may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.
- (7) Any costs associated with these inspections shall be assessed to the facility owner/operator.
(Ord. 2008-16. Passed 4-28-08.)

1068.09 ENFORCEMENT.

(a) Notice of Violation. When the Village of South Russell finds that a person has violated a prohibition or failed to meet a requirement of this regulation, the Village of South Russell may order compliance by written Notice of Violation. Such notice must specify the violation and shall be hand delivered, and/or sent by registered mail, to the owner/operator of the facility. Such notice may require the following actions:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit discharges or illegal connections;
- (3) That violating discharges, practices, or operations cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; or
- (5) The implementation of source control or treatment BMPs.

(b) If abatement of a violation and/or restoration of affected property is required, the Notice of Violation shall set forth a deadline within which such remediation or restoration must be completed. Said Notice shall further advise that, should the facility owner/operator fail to remediate or restore within the established deadline, a legal action for enforcement may be initiated.

(c) Any person receiving a Notice of Violation must meet compliance standards within the time established in the Notice of Violation.

(d) Administrative Hearing: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the Village of South Russell shall schedule an administrative hearing before the Village's Planning Commission to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent registered mail.

(e) Injunctive Relief: It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this regulation pursuant to Ohio R.C. 3709.211. If an owner/operator has violated or continues to violate the provisions of this regulation, the Village of South Russell may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.
(Ord. 2008-16. Passed 4-28-08.)

1068.10 REMEDIES NOT EXCLUSIVE.

The remedies listed in this regulation are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of the Village of South Russell to seek cumulative remedies. (Ord. 2008-16. Passed 4-28-08.)