VILLAGE OF FRANKLIN
MORGAN COUNTY, ILLINOIS

ORDINANCE NO. 02 - 2024

AN ORDINANCE ESTABLISHING STANDARDS FOR THE CONSTRUCTION OF UTILITY FACILITIES WITHIN THE PUBLIC WAYS OF THE VILLAGE OF FRANKLIN, ILLINOIS

PASSED BY THE

VILLAGE BOARD OF TRUSTEES

OF THE

VILLAGE OF FRANKLIN

THIS 6 DAY OF March, 2024

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE
VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF FRANKLIN,
MORGAN COUNTY, ILLINOIS
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ORDINANCE NO. 2024-02

AN ORDINANCE ESTABLISHING STANDARDS FOR THE CONSTRUCTION OF UTILITY FACILITIES WITHIN THE PUBLIC WAYS OF THE VILLAGE OF FRANKLIN, ILLINOIS

WHEREAS, the Village of Franklin, Illinois, is authorized, pursuant to 625 ILCS 5/11-208, to regulate the use of public right-of-ways, streets, and highways within the corporate boundaries of the Village of Franklin, Illinois; and,

WHEREAS, the Village of Franklin, Illinois, uses the Public Ways within its corporate limits to provide essential public services to its residents and businesses, including, but not limited to, traffic control signals, water, sanitary sewers, storm sewers, and gas utilities; and,

WHEREAS, the legislature and regulatory agencies at the State and federal levels have implemented changes in the statutory and regulatory framework to enhance competition in the providing of various utility services, including, but not limited to, the Illinois Cable and Video Competition Law of 2007, 220 ILCS 5/21-100, *et. seq.*; and,

WHEREAS, the combination of the aforementioned legislative and regulatory changes and the development of new technologies has led Utility Providers to seek authorization from the State of Illinois to provide services within the corporate limits of the Village of Franklin, Illinois; and,

WHEREAS, the aforementioned legislative, regulative and technological changes have resulted in demands from Utility Providers for access to and use of the Public Ways within the Village of Franklin, Illinois, particularly in the video and communications services where Utility Providers attempt to provide new or additional services to compete with Utility Providers currently existing within the Village of Franklin; and,

WHEREAS, unlike the prior deregulation of Utility Providers in which previously existing Utility Providers were required to make their transmission and/or distribution systems available to competitors, video and communications services seeking to compete with previously established Utility Providers are now seeking to install their own Facilities for delivering competing video and communications services; thereby, increasing the number of Utility Providers seeking access to and use of the Public Ways in the Village of Franklin, Illinois; and,

WHEREAS, the Public Ways within the corporate limits of the Village of Franklin, Illinois, are a limited public resource held in trust by the Village of Franklin, Illinois, for the benefit of its citizens; and,

WHEREAS, the Village of Franklin, Illinois, has a custodial duty to ensure the Public Ways are used, repaired and maintained in a manner that best serves the public interest; and,

WHEREAS, the corporate authorities of the Village of Franklin, Illinois, find and determine it is necessary and in the best interests of the public health, safety and general welfare to establish uniform standards and regulations for access to and use of the Public Ways in the Village of Franklin, Illinois, by Utility Providers and other persons and entities desiring to place Facilities, structures or equipment in the Public Ways, so as to (i) prevent interference with the use of streets, highways, sidewalks, alleys, and other Public Ways and places by the Village of Franklin, Illinois, and the general public, (ii) protect against visual and physical obstructions to vehicular and pedestrian traffic, (iii) prevent interference with the Facilities and operation of the Village of Franklin, Illinois' utilities and of other utilities lawfully located in the Public Ways or property, (iv) protect against environmental damage, including damage to trees, from the installation of Facilities, (v) preserve the character of the neighborhoods in which Facilities are installed, (vi) prevent visual blight, and (vii) assure the continued safe use and enjoyment of private properties adjacent to Facilities; and,

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

WHEREAS, this Ordinance establishes generally applicable standards for Construction on, over, above, along, upon, under, across or within Public Ways, and for the use of and repair of the Public Ways; and,

WHEREAS, in the enactment of this ordinance, the Village of Franklin, Illinois, has considered a variety of standards for Construction on, over, above, along, under, across or within, use of and repair of the Public Ways, including, but not limited to, the standards relating to Accommodation of Utilities on Public Way of the Illinois State Highway System promulgated by the Illinois Department of Transportation and found at 92 Ill. Adm. Code § 530.10 *et seq*.; and,

WHEREAS, the Village Board of Trustees for the Village of Franklin, Illinois, has determined it is necessary and in the best interest of the public and the Utility Providers using Public Ways to establish a comprehensive set of Construction standards and requirements to achieve various beneficial goals, including, without limitation, enhancing the planning of new Facilities and repair or maintenance of existing Facilities; minimizing interference with, and damage to, Public Ways and the streets, highways, sidewalks and other structures and improvements located in, on, over and above the Public Ways; and reducing costs and expenses to the public.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF FRANKLIN, MORGAN COUNTY, ILLINOIS, AS FOLLOWS:

SECTION I. RECITALS. The findings made in the prefatory portion of this Ordinance are hereby adopted.

SECTION II. SHORT TITLE. This Ordinance shall be known, may be cited, and is hereafter designated as "The Village of Franklin Standards for Construction, Repair and Maintenance of Utility Facilities within Public Ways Ordinance."

SECTION III: PURPOSE. The purpose of this Ordinance is to establish standards and procedures for the Construction, repair and maintenance of Facilities on Public Ways within the corporate limits of the Village of Franklin, Illinois, which shall provide public benefit consistent with the preservation of the integrity, safe usage and visual quality of the Public Ways located within the corporate limits of the Village of Franklin, Illinois.

SECTION IV: INTENT. By enacting this Ordinance, the Village of Franklin, Illinois, intends to exercise its authority over the Public Ways within the corporate limits of the Village of Franklin, Illinois, and particularly the use of Public Ways and public property by Utility Providers, by establishing uniform standards and procedures to address issues presented by the demand for access to and use of Public Ways in the Village of Franklin, Illinois, including, but not limited to:

A. Prevent interference with the use of streets, highways, sidewalks, alleys, Parkways and other public ways and places;

B. Prevent the creation of visual and physical obstructions and other conditions, which are hazardous to vehicular and pedestrian traffic;

C. Prevent interference with the Facilities and operations of the Village of Franklin, Illinois', utilities and of other utilities lawfully located in Public Ways or public property;

D. Protect against environmental damage, including damage to trees, from the installation of Facilities;

E. Protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;

F. Preserve the character of the neighborhoods in which Facilities are installed;

G. Preserve open space, particularly the tree-lined Parkways that characterize the residential areas of the Village of Franklin, Illinois;

H. Prevent visual blight from the proliferation of Facilities in Public Ways; and,

I. Assure the continued safe use and enjoyment of private properties adjacent to Facilities locations.

SECTION V: DEFINITIONS. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

A. **"AASHTO"** shall mean the American Association of State Highway and Transportation Officials.

B. **"ANSI"** shall mean the American National Standards Institute.

C. **"Applicant"** shall mean the Person applying for a permit under this Ordinance.

D. **"ASTM"** shall mean the American Society for Testing and Materials.

E. **"Backfill"** shall mean the methods or materials for replacing excavated material in a Trench or pit.

F. **"Bore" or "Boring"** shall mean to excavate an underground cylindrical cavity for the insertion of a pipe or electrical Conductor.

G. **"Cable Operator"** shall mean any Person or group of Persons who:

1) provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System; or,

2) otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System;

H. **"Cable Service"** shall mean:

1) the one way transmission to subscribers of (i) Video Programming, or (ii) other programming service; and,

2) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

I. **"Cable System"** shall mean a Utility Provider's Facility, consisting of a set of closed-transmission paths and associated signal general, reception, and control equipment that is designed to provide Cable Service and/or Video Service, which includes video programming and which is provided to multiple subscribers within the service area.

J. **"Carrier Pipe"** shall mean the pipe enclosing the liquid, gas or slurry to be transported.

K. **"Casing"** shall mean the structural protective enclosure for transmittal devices such as: Carrier Pipes, electrical Conductors, and fiber optic devices.

L. **"Casing Pipe"** shall mean a pipe used for Bores over six inches (6") in diameter, which carries the pipe, Conduit, wires, or cables being constructed. Casing Pipe for Jack and Auger Boring shall be steel. Casing Pipe for other Bores may be HDPE, restrained joint PVC, or other materials as approved by the Superintendent.

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

N. **"Coating"** shall mean the protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

O. **"Conductor"** shall mean a wire carrying electrical current.

P. **"Conduit"** shall mean a Casing or Encasement for wires or cables.

Q. **"Construction" or "Construct"** shall mean the installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of Facilities.

R. **"Cover"** shall mean the depth of earth or Backfill over buried utility pipe or Conductor.

S. **"Crossing Facility"** shall mean a facility that crosses one or more Public Way lines of a Public Way.

T. **"Disrupt the Public Way"** shall mean, for the purposes of this Ordinance, any work that obstructs the Public Way or causes a material adverse effect on the use of the Public Way for its intended use. Such work may include, but is not limited to, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, but does not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a Highway.

U. **"Drilling Fluid/Mud"** shall mean a mixture of water and usually bentonite and/or polymer continuously pumped to a rotating cutting head or rotating backreamer to facilitate cutting, reduce required torque, facilitation the removal of cuttings, stabilizing the borehole, cooling the head, and/or lubricating the installation of a Boring. In suitable soil conditions, the Superintendent may authorize, in his/her sole discretion, the use of water alone.

V. **"Emergency"** shall mean any immediate maintenance to the Facility required for the safety of the public using or in the vicinity of the Public Way or immediate maintenance required for the health and safety of the general public served by the utility.

W. **"Encasement"** shall mean any provision of a protective Casing.

X. **"Equipment"** shall mean materials, tools, implements, supplies, and/or other items used to facilitate Construction of Facilities.

Y. **"Excavation" or "Excavating"** shall mean the making of a hole or cavity by removing material or laying bare by digging.

Z. **"Extra Heavy Pipe"** shall mean pipe meeting ASTM standards for this pipe designation.

AA. **"Facility"** shall mean to include, but is not limited to, any and all structures, devices, objects, and materials (including, but not limited to, cables, cabinets, ducts, Conduits, converters, equipment, drains, handholds, manholes, pipes, pipelines, splice boxes, surface location markers, track and rails, tunnels, utilities, vaults, wires, ducts, fiber optic cable, antennas, boxes, equipment enclosures, pedestals, poles, grates, Covers, and appurtenances thereto) located on, over, above, along, upon, under, across, or within Public Way under this Ordinance. For purposes of this Ordinance, the term "Facility" shall not include any Facility owned or operated by the Village of Franklin, Illinois.

BB. **"Freestanding Facility"** shall mean a Facility that is not a Crossing Facility or a Parallel Facility, such as an antenna, transformer, pump, or meter station.

CC. **"Frontage Road"** shall mean a Roadway, usually a parallel Roadway, providing access to land adjacent to the Highway where it is precluded by control of access to a Highway.

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

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

FF. **"Highway"** shall mean a specific type of Public Way used for vehicular traffic including rural or urban roads or streets. "Highway" includes all Highway land and improvements, including Roadways, Frontage Road, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

GG. **"Holder"** shall mean a Person or entity that has received authorization to offer or provide Cable Service or Video Service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

HH. **"Horizontal Directional Boring or Drilling"** shall mean a method of trenchless technology in which a steerable, small diameter (less than six inches (6")) in diameter is drilled from either a pit or the ground surface. For pipes, Conduits, wires, or cables less than six inches (6") in diameter, the pilot bore is pulled back with or without a rotating backreamer and the pipe, Conduit, wire, or cable attached. For multiple pipes, Conduits, wires, or cable or bores greater than six inches (6") in diameter, a Casing Pipe shall be pulled aback with the backreamer.

II. **"IDOT"** shall mean the Illinois Department of Transportation.

JJ. **"ICC"** shall mean the Illinois Commerce Commission.

KK. **"Jack and Auger Boring"** shall mean a method of trenchless technology in which a steel Casing Pipe is jacked from a bore pit using hydraulic cylinders (jacks), mechanical jacks, or air jacks with the soil is removed from inside the Casing Pipe by means of a rotating cutting head with an auger attached to transport the soil to the rear of the Casing Pipe where it is removed from the bore pit. The rotating cutting edge in Jack and Auger Boring shall not be extended so as to be completely past the leading edge of the Casing Pipe. A device may be attached to the leading edge of the Casing Pipe to provide limited steering capabilities.

LL. **"Jacking"** shall mean the pushing of a pipe horizontally under a Roadway by mechanical means without Boring or augering.

MM. **"Jetting"** shall mean pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

NN. **"Joint Use"** shall mean the use of pole lines, Trenches or other Facilities by two or more Utility Providers.

OO. **"J.U.L.I.E."** shall mean the Joint Utility Locating Information for Excavators utility notification program.

PP. **"Major Intersection"** shall mean the intersection of two or more major arterial Highways.

QQ. **"Occupancy"** shall mean the presence of Facilities on, over, above, along, upon, under, across or within a Public Way.

RR. **"Parallel Facility"** shall mean a Facility that is generally parallel or longitudinal to the centerline of a Public Way.

SS. **"Parkway"** shall mean any portion of a Public Way not improved by street or sidewalk.

TT. **"Pavement Cut"** shall mean the removal of an area of pavement for access to Facility or for the Construction of a Facility.

UU. **"Permittee"** shall mean that Person to which a permit has been issued pursuant to Sections XII and XIII of this Ordinance.

VV. **"Person"** shall mean any individual, firm, partnership, organization, corporation, limited liability company, limited liability partnership, association, proprietorship, governmental entity, or other legal entity. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law.

WW. **"Practicable"** shall mean that which is performable, feasible or possible, rather than that which is simply convenient.

XX. **"Pressure"** shall mean the internal force acting radially against the walls of a Carrier Pipe expressed in pounds per square inch gauge (psig).

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

ZZ. **"Pipe Bursting/Ramming"** shall mean a method of trenchless technology in which a new pipe is mechanically forced through the ground or an existing pipe, bursting or breaking and forcing pieces of the old pipe into the adjacent ground.

AAA. **"Promptly"** shall mean that which is done within a period of time specified by the Village of Franklin, Illinois. If no time period is specified, the period shall be thirty (30) calendar days.

BBB. **"Public Entity"** shall mean a legal entity that constitutes or is part of the government, whether at local, state or federal level.

CCC. **"Restoration"** shall mean the removal of the Facility and/or repair of a Public Way, Highway, Roadway, or other area disrupted by the Construction of a Facility.

DDD. **"Public Ways" or "Public Way**" shall mean the surface of, and the space above and below, any public street, Highway, boulevard, alley, Roadway, sidewalk, Parkway, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible use now or hereafter held by the Village of Franklin, Illinois. "Public Ways" or "Public Way" shall not include any real or personal property owned by the Village of Franklin, Illinois, that is not specifically described in the previous two sentences and shall not include buildings, fixtures and other structures or improvements owned by the Village of Franklin, Illinois, regardless of whether they are situated in the Public Way.

EEE. **"Roadway"** shall mean that part of the Highway that includes the pavement and Shoulders.

FFF. **"Sale of Telecommunications at Retail"** shall mean the transmitting, supplying, or furnishing of Telecommunications and all services rendered in connection

therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

GGG. "Security Fund" shall mean that amount of security required pursuant to Section XVIII of this Ordinance.

HHH. "Shoulder" shall mean a width of Roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

III. "Superintendent" shall mean the Utility Superintendent for the Village of Franklin, Illinois, or his or her designee.

JJJ. "Telecommunications" shall include, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile Telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar Facilities. "Private line" means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of Telecommunications by a Telecommunications Provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. "Telecommunications" shall not include the provision of Cable Services through a Cable System as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the Village of Franklin, Illinois, through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

KKK. "Telecommunications Provider" shall mean any Person that installs, owns, operates or controls Facilities in Public Ways used or designed to be used to transmit Telecommunications in any form.

LLL. "Telecommunications Retailer" shall mean and includes every Person engaged in making Sales of Telecommunications at Retail as defined herein.

MMM. "Trench" shall mean a relatively narrow open Excavation for the installation of an underground Facility.

NNN. "Tunneling" shall mean a method of trenchless technology in which an opening beneath the ground is Excavated by various means but is not followed by the immediate installation of pipe, Conduit, wire, cable, or Casing for pipe, Conduit, wore, and/or cable for other means of support to prevent cave-in or collapse.

OOO. "Utility Provider" shall mean any Person, including, but not limited to a Holder and/or Telecommunications Provider, owning or operating any Facility as defined in this Ordinance, other than the Village of Franklin, Illinois.

PPP. "Vent" shall mean a pipe to allow the dissipation into the atmosphere of gases or vapors from an underground Casing.

QQQ. "Village" shall mean the Village of Franklin, Illinois.

RRR. "Video Service" shall mean video programming and video subscriber interaction, if any, that is required for the selection or use of such video programming services, and that is provided through Facilities located at least in part in the Public Way without regard to delivery technology, including internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in subsection (d) of 47 U.S.C. 332 or any video programming provided solely as part of, and via, service that enables subscribers to access content, information, electronic mail, or other services offered over the public internet.

SSS. "Wet Boring" shall mean Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

SECTION VI: FACILITIES SUBJECT TO THIS ORDINANCE. This Ordinance shall apply to all Facilities on, over, above, along, upon, under, across or within Public Ways within the corporate limits of the Village of Franklin, Illinois. A Facility lawfully established and operated by a Utility Provider prior to the effective date of this Ordinance may continue to be maintained, repaired and operated by said Utility Provider presently Constructed and located, so long as said maintenance, repair and operation is in accordance with the provisions of this Ordinance, as amended from time to time, and as otherwise provided in any applicable franchise, license, permit or similar agreement.

SECTION VII: FRANCHISES, LICENSES OR SIMILAR AGREEMENTS. The Village of Franklin, Illinois, in its sole discretion and as limited by law, may require Utility Providers to enter into a franchise agreement, license or similar agreement for the privilege of locating their Facilities on, over, above, along, upon, under, across or within the Village of Franklin, Illinois', Public Ways. Utility Providers that are not required by law to enter into such an agreement may request the Village of Franklin, Illinois, enter into such an agreement. In such an agreement, the Village of Franklin, Illinois, may provide for terms and conditions inconsistent with this Ordinance.

A. **Effect of Franchises, Licenses or Similar Agreements**.

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

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

SECTION VIII: CONFLICTS WITH OTHER ORDINANCES. This Ordinance supersedes all ordinances or parts of ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

SECTION IX: CONFLICTS WITH STATE AND FEDERAL LAWS. In the event applicable federal laws, State laws, or regulations conflict with the requirements of this Ordinance, the Utility Provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal laws, State laws, or regulations.

SECTION X: The Village of Franklin, Illinois, in administering this Ordinance, may vary the standards, methods, conditions, and requirements expressed in this Ordinance when the Village of Franklin, Illinois, in its sole discretion, so determines. Nothing herein shall be construed to limit the ability of the Village of Franklin, Illinois, to regulate its Public Ways for the protection of the public health, safety and welfare.

SECTION XI: ANNUAL REGISTRATION REQUIRED. Every Utility Provider occupying Public Ways within the Village of Franklin, Illinois, shall register on January 1 of each year with the Superintendent, providing the Utility Provider's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the Utility Provider in connection with emergencies involving the Utility Provider's Facilities in the Public Way and a 24-hour telephone number for each such person, and evidence of insurance as required in Section XVI of this Ordinance.

SECTION XII: PERMIT REQUIRED; APPLICATIONS AND FEES.

A. Permit Required. No Person shall Construct any Facility on, over, above, along, upon, under, across or within any Village of Franklin, Illinois, Public Way which (i) changes the location of the Facility, (ii) adds a new Facility, (iii) disrupts the Public Way, or (iv) materially increases the amount of area or space occupied by the Facility on, over, above, along, upon, under, across or within the Public Way, without first filing an application with the Superintendent and obtaining a permit from the Village of Franklin, Illinois, therefore, except as otherwise provided in

this Ordinance. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the Public Way.

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

C. Minimum General Application Requirements. The application shall be made by the Utility Provider, or its duly authorized representative, and shall contain, at a minimum, the following:

1) The Utility Provider's name and address and telephone and telecopy numbers;

2) The Applicant's name and address, if different than the Utility Provider, its telephone and telecopy numbers, e-mail address and its interest in the work;

3) The names, addresses, telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the Applicant with respect to the application;

4) A general description of the proposed work and the purposes and intent of the Facility and the uses to which the Facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;

5) Evidence that the Utility Provider has placed on file with the Village of Franklin, Illinois, the following items:

   i) A written traffic control plan demonstrating the protective measures and devices that will be employed by the Utility Provider consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and,

   ii) An Emergency contingency plan which shall specify the nature of potential Emergencies, including, without limitation, Construction and Hazardous Materials emergencies and the intended response by the Utility Provider. The intended response shall include notification to the Village of Franklin, Illinois, and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for Emergency contingency plans constitutes

compliance with this Section unless the Village of Franklin, Illinois, finds that additional information or assurances are needed;

6) Drawings, plans and specifications showing the existing Facilities and work proposed, including the certification of an Illinois Professional Engineer that such drawings, plans, and specifications comply with applicable rules and regulations and are located within the surveyed Public Way(s);

7) Evidence that the Applicant is a member of Joint Utility Locating Information for Excavators (J.U.L.I.E.), and also evidence that Applicant has successfully completed the JULIE Essentials for Excavators Online training;

8) Evidence of insurance as required in Section XVI of this Ordinance;

9) Evidence of posting of the Security Fund as required in Section XVIII of this Ordinance;

10) Any request for a Variance from one or more provisions of this Ordinance pursuant to Section XXXII; and,

11) Such additional information as may be reasonably required by the Village of Franklin, Illinois.

D. Supplemental Application Requirements for Specific Types of Utilities. In addition to the requirements of Subsection C of this Section, the permit application shall include the following items, as applicable to the specific Utility Provider subject to the permit application:

1) In the case of the installation of a new electric power, communications, Telecommunications, Cable Service, Video Service or natural gas distribution system: evidence of any "Certificate of Public Convenience and Necessity" or other regulatory authorization Applicant is required by law to obtain, or evidence the Applicant has elected to obtain, has been issued by the ICC, IDOT, or other jurisdictional authority said authorizations;

2) In the case of natural gas systems, state the proposed pipe size, design, Construction class and operating pressures;

3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied, and attach a copy of any permit required by the Illinois Environmental Protection Agency;

4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control, have been satisfied, and attach a copy of any permit required by the Illinois Environmental Protection Agency; or,

5) In the case of Petroleum Products Pipelines, state the type or types of petroleum products, pipe size, maximum working pressure and the design standard to be followed.

E. Applicant's Duty to Update Information. Throughout the entire permit application review period and the Construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the Utility Provider in writing to the Village of Franklin, Illinois, within thirty (30) calendar days after the change necessitating the amendment.

F. Application Fees. Unless otherwise provided by franchise, license or similar agreement, all applications for permits pursuant to this Ordinance shall be accompanied by a fee in the amount of $1,500.00. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act, 35 ILCS 645/5-1, *et. seq.*

SECTION XIII: ACTIONS ON PERMIT APPLICATIONS.

A. Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the Superintendent within forty-five (45) calendar days after filing. If the application does not conform to the requirements of all applicable ordinances, laws, rules and regulations, the Superintendent shall reject such application in writing, stating the reasons therefor. Furthermore, if the Superintendent requests additional information and/or documentation as part of the permit application, and the Applicant fails to provide said information and/or documentation in a timely manner, said permit application shall be rejected and said Applicant shall be required to resubmit a new permit application. If the Superintendent is satisfied the proposed work conforms to the requirements of this Ordinance and all other applicable ordinances, laws, rules and regulations, the Superintendent shall issue a permit therefor as soon as Practicable. In all instances, it shall be the duty of the Applicant to demonstrate, to the satisfaction of the Superintendent, in his/her sole discretion, that the Construction proposed under the application shall be in full compliance with the requirements of this Ordinance.

B. Additional Review Requirements of Applications of Telecommunications Retailers.

1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a Telecommunications Retailer shall provide written notice to the Village of Franklin, Illinois, that it intends to commence work governed by this Ordinance for Facilities for the provision of Telecommunications services. Such written notice shall consist of plans, specifications and other documentation sufficient to demonstrate the purpose and intent of the Facilities, and shall be provided by the Telecommunications Retailer to the Village of Franklin, Illinois, not less than ten (10) calendar days prior to the

commencement of work requiring no Excavation and not less than thirty (30) calendar days prior to the commencement of work requiring Excavation. The Superintendent shall specify the portion of the Public Way upon which the Facility may be placed, used and Constructed.

2) In the event the Superintendent fails to provide such specification of location to the Telecommunications Retailer within either (i) ten (10) calendar days after service of notice to the Village of Franklin, Illinois, by the Telecommunications Retailer in the case of work not involving Excavation for new Construction or (ii) thirty (30) calendar days after service of notice by the Telecommunications Retailer in the case of work involving Excavation for new Construction, the Telecommunications Retailer may commence work without obtaining a permit under this Ordinance, provided, however, that the Telecommunications Retailer shall provide written notice to the Superintendent of the date in which the Telecommunications Retailer will commence work and provide evidence of the payment of the Application Fee as required in Section XII of this Ordinance, posting of the Security Fund as required in Section XVIII of this Ordinance, and evidence of insurance as required in Section XVI of this Ordinance.

3) Upon the provision of such specification by the Village of Franklin, Illinois, where a permit is required for work pursuant to Section XXI of this Ordinance, the Telecommunications Retailer shall submit to the Village of Franklin, Illinois, an application for a permit and any and all plans, specifications and documentation available regarding the Facility to be Constructed. Such application shall be subject to the requirements of Subsection A of this Section.

C. Additional Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007. Applications by a Utility Provider that is a Holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted forty-five (45) days after submission to the Village of Franklin, Illinois, unless otherwise acted upon by the Village of Franklin, Illinois, provided the Holder has complied with all applicable Village of Franklin, Illinois, ordinances, and regulations and has provided evidence of the payment of the Application Fee as required in Section XII of this Ordinance, posting of the Security Fund as required in Section XVIII of this Ordinance, and evidence of insurance as required in Section XVI of this Ordinance.

SECTION XIV: EFFECT OF PERMIT.

A. Authority Granted; No Property Right or Other Interest Created. A permit from the Village of Franklin, Illinois, authorizes a Permittee to undertake only certain activities in accordance with this Ordinance on the Public Ways within the Village of Franklin, Illinois, and does not create a property right or grant authority

to the Permittee to impinge upon the rights of others who may have an interest in the Public Way.

B. **Duration**. No permit issued under this Ordinance shall be valid for a period longer than six (6) months unless Construction has begun within that period and is thereafter diligently pursued to completion. Notwithstanding the foregoing, any permit issued under this Ordinance shall expire two (2) years after issuance.

C. **Pre-construction meeting required**. No Construction shall begin pursuant to a permit issued under this Ordinance prior to attendance by the Permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the Village of Franklin, Illinois, with such Village of Franklin, Illinois, representatives in attendance as the Superintendent deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, but not limited to, presence or absence of other utility Facilities in the area and their locations, procedures to avoid disruption of other utilities, use of Public Way by the public during Construction and ingress and egress by adjacent property owners, and methods of Construction.

D. **Compliance with All Laws Required.** The issuance of a permit under this Ordinance by the Village of Franklin, Illinois, does not excuse the Permittee from complying with other requirements of the Village of Franklin, Illinois, and applicable statutes, laws, ordinances, rules and regulations.

SECTION XV: REVISED PERMIT DRAWINGS. In the event the actual location of any Facilities deviates in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the Permittee shall submit a revised set of drawings or plans to the Village of Franklin, Illinois, within ninety (90) calendar days after the completion of the permitted work. The revised drawings or plans shall specifically identify where and how the locations of the actual Facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Ordinance, it shall be treated as a request for Variance in accordance with Section XXXII of this Ordinance. If the Village of Franklin, Illinois, denies the request for a Variance, then the Permittee shall either remove the facility from the Public Way or modify the Facility so it conforms to the permit and submit revised drawings or plans therefore. If the Permittee fails to remove or modify the Facility Promptly, as required by the Village, then the Village may remove said Facility at the Permittee's expense.

SECTION XVI: INSURANCE.

A. **Required Coverage and Limits.** Unless otherwise provided by franchise, license or similar agreement, each Utility Provider occupying Public Way or Constructing any Facility in the Public Way shall secure and maintain the following liability insurance policies insuring the Utility Provider as named insured and naming the Village of Franklin, Illinois, and its elected and appointed officers, officials, agents,

and employees as additional insureds, on a primary, non-contributory basis, on the policies listed in paragraphs 1 and 2 below:

1) Commercial general liability insurance, including premises-operations, explosion, collapse and underground hazard (commonly referred to as "X," "C," and "U" coverages) and products-completed operations coverage with limits not less than:

   i) Five million dollars ($5,000,000) for bodily injury or death to each person;

   ii) Five million dollars ($5,000,000) for property damage resulting from any one accident; and,

   iii) Five million dollars ($5,000,000) for all other types of liability;

2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of one million dollars ($1,000,000) for personal injury and property damage for each accident;

3) Worker's compensation insurance with the prescribed statutory limits; and,

4) Employer's liability insurance with limits of not less than one million dollars ($1,000,000) per employee and per accident.

B. **Contractor and Subcontractor Insurance**. If the Utility Provider is not providing such insurance to protect contractors and subcontractors performing the work, then such contractors and subcontractors of the Utility Provider shall comply with the requirements of this Section.

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

D. **Copies Required.** The Utility Provider shall provide copies of any of the policies required by this Section to the Village of Franklin, Illinois, within ten (10) calendar days following receipt of a written request therefore from the Village of Franklin, Illinois.

E. **Maintenance and Renewal of Required Coverages**. The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until thirty (30) calendar days after receipt by the Village of Franklin, Illinois, by

registered mail or certified mail, return receipt requested, of a written notice addressed to the Village Administrator of the Village of Franklin, Illinois, of such intent to cancel or not to renew." Within ten (10) calendar days after receipt by the Village of Franklin, Illinois, of said notice, and in no event later than ten (10) calendar days prior to said cancellation, the Utility Provider shall obtain and furnish to the Village of Franklin, Illinois, evidence of replacement insurance policies meeting the requirements of this Section.

F. **Self-Insurance**. A Utility Provider may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection A) of this Section. A Utility Provider that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection A), or the requirements of Subsections B), C) and D) of this Section. A Utility Provider that elects to self-insure shall provide to the Village of Franklin, Illinois, evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection A) of this Section, such as evidence that the Utility Provider is a "private self-insurer" under the Illinois Workers Compensation Act.

G. **Effect of Insurance and Self-Insurance on Utility's Liability**. The legal liability of the Utility Provider to the Village of Franklin, Illinois, and any person for any of the matters subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

H. **Insurance Companies.** All insurance provided pursuant to this Section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. All insurance carriers and surplus line carriers shall be rated "A-" or better and of a class size "X" or higher by A.M. Best Company.

SECTION XVII: INDEMNIFICATION. By occupying or Constructing Facilities in Public Ways, a Utility Provider shall be deemed to agree to indemnify, defend and hold harmless the Village of Franklin, Illinois, and its elected and appointed officials, officers, employees, agents and representatives, from and against any and all injuries, claims, demands, judgments, damages, losses, causes of action, liabilities, settlement payments, costs, interest, awards and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or in relation to the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the Utility Provider or its affiliates, officers, employees, agents, contractors or subcontractors, as said conduct relates to any action required or contemplated pursuant to this Ordinance, whether such acts or omissions are authorized, allowed or prohibited by this Ordinance or by a franchise, license or similar agreement; provided, however, the Utility Provider's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses

directly caused by the willful negligence or willful misconduct by the Village of Franklin, Illinois, and its officials, officers, employees, agents or representatives.

SECTION XVIII: SECURITY.

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

1) The faithful performance by the Permittee of all the requirements of this Ordinance;

2) Any expenditure, damage or loss incurred by the Village of Franklin, Illinois, due to the Permittee's failure to comply with any ordinances, rules, regulations, orders, permits and other directives of the Village of Franklin, Illinois, issued pursuant to this Ordinance; and,

3) The payment by Permittee of all liens and all damages, claims, costs or expenses the Village of Franklin, Illinois, may pay or incur by reason of any action or non-performance by Permittee in violation of this Ordinance, including, but not limited to, any damage to public property or Restoration work the Permittee is required by this Ordinance to perform which the Village of Franklin, Illinois, must perform itself or have completed as a consequence of the Permittee's failure to perform or complete, and all other payments due the Village of Franklin, Illinois, from the Permittee pursuant to this Ordinance or any other applicable law.

B. **Form.** The Permittee shall provide the Security Fund to the Village of Franklin, Illinois, in the form, at the Permittee's election, of cash, a surety bond in a form acceptable to the Village of Franklin, Illinois, or an unconditional irrevocable letter of credit in a form acceptable to the Village of Franklin, Illinois. Any surety bond or letter of credit provided pursuant to this Subsection shall, at a minimum:

1) Provide it will not be canceled without prior written notice to the Village of Franklin, Illinois, and the Permittee;

2) Not require the consent of the Permittee prior to the collection by the Village of Franklin, Illinois, of any amounts covered by it; and,

3) Provide a location convenient to the Village of Franklin, Illinois, and within the State of Illinois at which it can be drawn.

C. **Amount**. The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the Public Way to at least as good a condition as existing prior to the Construction under the permit, as determined by the Superintendent, in his/her sole discretion, and may also include reasonable,

directly related costs the Village of Franklin, Illinois, estimates are likely to be incurred if the Permittee fails to perform such Restoration. Where the Construction of Facilities proposed under the permit will be performed in phases in multiple locations within the Village of Franklin, Illinois, with each phase consisting of Construction of Facilities in one location or a related group of locations and where Construction in another phase will not be undertaken prior to substantial completion of Restoration in the previous phase or phases, the Superintendent may, in the exercise of his/her sole discretion, allow the Permittee to post a single amount of security which shall be applicable to each individual phase of the Construction allowed under the permit. The amount of the Security Fund for individual phases of Construction shall be equal to the greatest amount which would have been required under the provisions of this Subsection for any single phase.

D. **Withdrawals.** The Village of Franklin, Illinois, upon fourteen (14) calendar days advance written notice clearly stating the reason for and its intention to exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund, provided the Permittee has not reimbursed the Village of Franklin, Illinois, for such amount within the fourteen (14) calendar day notice period. Withdrawals may be made if the Permittee:

1) Fails to make any payment required to be made by the Permittee hereunder;

2) Fails to pay any liens relating to the Facilities which are due and unpaid;

3) Fails to reimburse the Village of Franklin, Illinois, for any damages, claims, costs or expenses which the Village of Franklin, Illinois, has been compelled to pay or incur by reason of any action or non-performance by the Permittee; or,

4) Fails to comply with any provision of this Ordinance which the Village of Franklin, Illinois, determines can be remedied by an expenditure of an amount sufficient from the Security Fund.

E. **Replenishment.** Within fourteen (14) calendar days after receipt of written notice from the Village of Franklin, Illinois, that any amount has been withdrawn from the Security Fund, the Permittee shall restore the Security Fund to the amount specified in Subsection C of this Section.

F. **Interest.** The Permittee may request any and all interest accrued on the amount in the Security Fund be returned to the Permittee by the Village of Franklin, Illinois, upon written request for said withdrawal to the Village of Franklin, Illinois, provided any such withdrawal does not reduce the Security Fund below the minimum balance required in Subsection C of this Section.

G. **Closing and Return of Security Fund**. Upon completion of the work authorized under the permit, the Permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village of Franklin, Illinois, for

failure by the Permittee to comply with any provisions of this Ordinance or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the Village of Franklin, Illinois, to the extent necessary to cover any reasonable costs, losses or damages incurred by the Village of Franklin, Illinois, as a result the revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the Permittee.

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

SECTION XIX: PERMIT SUSPENSION AND REVOCATION.

A. Right to Revoke Permit. The Village of Franklin, Illinois, may revoke or suspend a permit issued pursuant to this Ordinance for one or more of the following reasons:

1) Fraudulent, false, misrepresenting or materially incomplete statements contained in the permit application;

2) Non-compliance with the requirements of this Ordinance or any other applicable law;

3) Permittee's physical presence or presence of Permittee's Facilities on, over, above, along, upon, under, across or within the Public Way presenting a direct or imminent threat to the public health, safety or welfare; or,

4) Permittee's failure to Construct Facilities substantially in accordance with the permit and approved plans.

B. Notice of Revocation or Suspension. The Village of Franklin, Illinois, shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Ordinance stating the reason or reasons for the revocation or suspension and the alternatives available to Permittee under this Section XIX.

C. Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension. Upon receipt of a written notice of revocation or suspension from the Village of Franklin, Illinois, the Permittee shall have the following options:

1) Immediately provide the Village of Franklin, Illinois, with evidence that no cause exists for the revocation or suspension;

2) Immediately correct, to the satisfaction of the Village of Franklin, Illinois, the deficiencies stated in the written notice, providing written proof of such correction to the Village of Franklin, Illinois, within five (5) business days after receipt of the written notice of revocation; or,

3) Immediately remove the Facilities located on, over, above, along, upon, under, across or within the Public Way and restore the Public Way to the satisfaction of the Village of Franklin, Illinois, providing written proof of such removal to the Village of Franklin, Illinois, within ten (10) calendar days after receipt of the written notice of revocation.

D. Extension of Time. The Village of Franklin, Illinois, may, in its discretion, for good cause shown, extend the time periods provided in Subsection C.

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

F. Failure or Refusal of the Permittee to Comply. If the Permittee fails to comply with the provisions of Subsection C of this Section, the Village of Franklin, Illinois, or its designee may, at its option: (i) correct the deficiencies; (ii) upon not less than twenty (20) calendar days written notice to the Permittee, remove the subject Facilities or equipment; or (iii) after not less than thirty (30) calendar days written notice to the Permittee of failure to cure the non-compliance, deem them abandoned and property of the Village of Franklin, Illinois. The Permittee shall be liable in all events to the Village of Franklin, Illinois, for all costs and expenses associated with the removal.

SECTION XX: CHANGE IN OWNERSHIP OR CHANGE IN OWNER'S IDENTITY OR LEGAL STATUS.

A. Notification of Change. A Utility Provider shall provide written notice to the Village of Franklin, Illinois, no less than thirty (30) calendar days prior to the transfer of ownership of any Facility in the Public Way or change in identity or legal status of the Utility Provider. The new owner of the Utility Provider or the Facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and applicable laws, ordinances, rules, and regulations, including this Ordinance with respect to the work and Facilities in the Public Way.

B. Amended Permit. The new owner shall request any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit and this Ordinance, including, but not limited to, the indemnification provisions contained in Section XVII hereof, if the new owner uses the Facility or allows it to remain on the Public Way of the Village of Franklin, Illinois.

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

SECTION XXI: GENERAL CONSTRUCTION STANDARDS.

A. Standards and Principles. All Construction in the Public Way shall be consistent and in accordance with the Village's management of the Village right-of-way, applicable ordinances, laws, rules and regulations, and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

1) Standard Specifications for Road and Bridge Construction;

2) Supplemental Specifications and Recurring Special Provisions;

3) Highway Design Manual;

4) Highway Standards Manual;

5) Standard Specifications for Traffic Control Items;

6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);

7) Flagger's Handbook; and,

8) Work Site Protection Manual for Daylight Maintenance Operations.

B. Interpretation of Municipal Standards and Principles. If a discrepancy exists between or among differing principles and standards required by this Ordinance, the Superintendent shall determine, in the exercise of his/her sole discretion, in accordance with the Village's management of the Public Ways, which principles apply and such decision shall be final. If requested, the Superintendent shall state which standard or principle will apply to the Construction, maintenance or operation of a Facility in the future.

SECTION XXII: TRAFFIC CONTROL.

A. Minimum Requirements. The Village of Franklin, Illinois', minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices, IDOT's Highway Standards Manual, and this Ordinance.

B. Warning Signs, Protective Devices, and Flaggers. The Utility Provider is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting applicable federal, state and local requirements for protection of the public and the Utility Provider's workers when performing any work on the Public Way.

C. **Interference with Traffic.** All work shall be phased and conducted in a manner so there is minimal interference with pedestrian and vehicular traffic.

D. **Notice When Access is Blocked.** At least forty-eight (48) hours prior to beginning work which will partially or completely block access to any residence, business or institution, the Utility Provider shall provide written notice to the Village as well as to the resident, business or institution of the approximate beginning time and duration of such work; provided, however, in cases involving Emergency repairs pursuant to Section XXX of this Ordinance, the Utility Provider shall provide such notice as is reasonable and Practicable under the circumstances.

E. **Compliance.** The Utility Provider shall take immediate action to correct any deficiencies in traffic protection requirements brought to the Utility Provider's attention by the Village of Franklin, Illinois.

SECTION XXIII: LOCATION OF FACILITIES.

A. **General Requirements.** In addition to location requirements applicable to specific types of Facilities, all Facilities, regardless of type, shall be subject to the general location requirements of this subsection.

1) No Interference with Facilities Owned by the Village of Franklin, Illinois. No Facilities shall be placed in any location the Superintendent determines which location will require the relocation or displacement of any of the Village of Franklin, Illinois', Facilities or will otherwise interfere with the operation or maintenance of any of the Village of Franklin, Illinois', Facilities. Notwithstanding anything contained in this Ordinance to the contrary, Facilities shall be placed no less than 48 inches from the center of any Village of Franklin, Illinois', Facilities.

2) Minimum Interference and Impact. The proposed location shall cause only minimal interference with the use of the Public Way and shall cause only minimal impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said Public Way.

3) No Interference with Travel. No Facility shall be placed in any location that in any way interferes with the usual travel on such Public Way.

4) No Limitations on Visibility. No Facility shall be placed in any location so as to limit visibility of or by users of the Public Way.

5) Size of Utility Facilities. The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals and/or cabinets then in use by the Facility owner, regardless of location, for the particular application.

B. **Parallel Facilities Located Within Highways.**

1) Overhead Parallel Facilities. An overhead Parallel Facility may be located within the Public Way lines of a Highway, only if:

i) Lines are located as near as Practicable to the Public Way line and as nearly parallel to the Public Way line as reasonable pole alignment will permit;

ii) Where pavement is curbed, poles are as remote as Practicable from the curb with a minimum distance of two feet (0.6 m) behind the face of the curb, where available;

iii) Where pavement is uncurbed, poles are as remote from pavement edge and/or gutter as Practicable with minimum distance of four feet (1.2 m) outside the outer Shoulder line or gutter of the Roadway and are not within the Clear Zone;

iv) No pole is located in the ditch line of a Highway; and,

v) Any ground-mounted appurtenance is located within one foot (0.3 m) of the Public Way line or as near as possible to the Public Way line.

2) Underground Parallel Facilities. An underground Parallel Facility may be located within the Public Way lines of a Highway only if:

i) The Facility is located as near the Public Way line as Practicable and not more than eight (8) feet (2.4 m) from and parallel to the Public Way line;

ii) A new Facility may, in the sole discretion of the Village, be located under the paved portion of a Highway only if other locations are impracticable or inconsistent (e.g., a new cable may be installed in existing Conduit without disrupting the pavement); and,

iii) In the case of an underground power or communications line, the Facility shall be located as near the Public Way line as Practicable and not more than five (5) feet (1.5 m) from the Public Way line and any above-grounded appurtenance shall be located within one foot (0.3 m) of the Public Way line or as near as Practicable.

C. Facilities Crossing Highways.

1) No Future Disruption. The Construction and design of crossing Facilities installed between the ditch lines or curb lines of the Highways of the Village of Franklin, Illinois, may require the incorporation of materials and protections (such as Encasement or additional Cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing Facilities.

2) Cattle Passes, Culverts or Drainage Facilities. Crossing Facilities shall not be located in cattle passes, culverts, storm sewers, sanitary sewers, Water Lines, or drainage Facilities.

3) 90 Degree Crossing Required. Crossing Facilities shall cross at or as near to a ninety (90) degree angle to the centerline as possible.

4) Overhead Power or Communication Facility. An overhead power or communication Facility may cross a Highway only if:

i) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);

ii) Poles are located within one foot (0.3 m) of the Public Way line of the Highway and outside of the Clear Zone; and,

iii) Overhead crossings at Major Intersections are avoided.

5) Underground Power or Communication Facility. An underground power or communication Facility may cross a Highway only if:

i) The design materials and Construction methods will provide maximum maintenance-free service life; and,

ii) Capacity for the Utility Provider's foreseeable future expansion needs is provided in the initial installation.

6) Markers. The Village of Franklin, Illinois, may require the Utility Provider to provide a marker at each Public Way line where an underground facility other than a power or communication facility crosses a Highway. Each marker shall identify the type of Facility, the Utility Provider's name, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations found at 49 C.F.R. §192.707 (1989).

D. Facilities to be Located Within Particular Public Way. The Village of Franklin, Illinois, may require in its sole discretion, Utility Providers to locate Facilities within particular Public Ways that are not Highways, rather than within particular Highways.

E. Freestanding Facilities.

1) The Village of Franklin, Illinois, may restrict the location and size of any Freestanding Facility located within a Public Way.

2) The Village of Franklin, Illinois, may require any Freestanding Facility located within a Public Way to be screened from view.

F. Facilities Installed Above Ground. Above ground Facilities may only be installed if:

1) No other existing Facilities in the area are located underground; and,

2) New underground installation is not technically feasible, as determined by the Superintendent, in his/her sole discretion; and,

3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole Construction with vertical configuration of Conductors and cable. Existing utility poles and light standards shall be used wherever Practicable; the installation of additional utility poles is strongly discouraged.

G. Facility Attachments to Bridges or Roadway Structures.

1) Facilities may be installed as attachments to bridges or Roadway structures only where the Utility Provider has demonstrated all other means of accommodating the Facility are not Practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or Roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.

2) A Utility Provider shall include in its request to accommodate a Facility installation on a bridge or Roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for Facility attachment to a bridge or Roadway structure will be based upon the following considerations:

   i) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;

   ii) The type, length, value and relative importance of the Highway structure in the transportation system;

   iii) The alternative routings available to the Utility Provider and their comparative practicability;

   iv) The proposed method of attachment;

v) The ability of the structure to bear the increased load of the proposed Facility;

vi) The degree of interference with bridge maintenance and painting;

vii) The effect on the visual quality of the structure; and,

viii) The public benefit expected from the utility service as compared to the risk involved.

H. Appearance Standards.

1) The Village of Franklin, Illinois, may prohibit the installation of Facilities in particular locations in order to preserve the aesthetic and visual qualities of the area.

2) A Facility may only be constructed if its Construction does not require extensive removal or alteration of trees or terrain features visible to the Public Way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

SECTION XXIV: RELOCATION OF PUBLIC UTILITIES. In the event a Utility Provider must relocate utilities owned by the Village of Franklin, Illinois, the Utility Provider's plans must be approved by the Village Engineer. The proposed relocation shall meet all applicable standards of the Village of Franklin, Illinois, for electric, gas, water, sewers (storm and sanitary) and street.

SECTION XXV: CONSTRUCTION METHODS AND MATERIALS.

A. General Standards and Safety Requirements. The Construction, operation and maintenance of Facilities located in the Public Way shall be performed in an orderly and workmanlike manner and shall further be performed in such a manner to maintain customer service. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations, as well as the National Electric Safety Code.

B. Standards and Requirements for Particular Types of Construction Methods.

1) No Borings or Trenches will be allowed in the Public Way within ten feet (10') of culverts, storm sewer, drainage structures, water mains, sanitary sewer mains, sanitary forcemains or any other underground utility unless prior approval has been obtained from the Superintendent.

2) Jacking, Jetting, Tunneling and Pipe Bursting/Ramming for a pipe, Conduit, wire or cable greater than two inches (2") in diameter for a roadway crossing shall not be allowed.

3) The Superintendent shall, in his/her sole discretion, approve any roadway crossing by Bore or open Trench of a pipe, Conduit, wire or cable six inches (6") in diameter or larger or multiple pipes, Conduits, wires or cables. A separate plan sheet showing the plan and profile of a roadway crossing shall be included in the plans. The plan view shall show dimensions from the proposed crossing to such visible features as to reasonably locate the location of the proposed crossing. The profile view shall show the existing surface at the proposed with elevations at but not limited to ditch flowlines, each edge of right of way and/or easement, each edge of pavement, each center of lane(s), each edge of lane(s), centerline of pavement and depths of existing utilities. The benchmark from which the elevations were derived shall be included on sheets in the plans.

4) A pipe, Conduit, wire or cable six inches (6") in diameter or larger installed by Boring shall be in a Casing Pipe.

5) Multiple pipes, Conduits, wires or cables may be laid in the same open Trench unless other regulations, rules or requirements prohibit placement in the same Trench. Multiple pipes, Conduits, wires or cables placed by Boring will require Casing Pipe. If more than one Bore is required, the minimum width between the Bores shall be the width of the largest pipe but no less than three feet (3').

6) A record of any Bore six inches (6") in diameter or larger shall be submitted to the Superintendent within one (1) business day after completion of the Bore. Elevations shall be taken at each edge of pavement, each center of lane(s), each edge of lane(s). and centerline of pavement and recorded on the plan and profile sheet in the plans.

7) Any damage to the roadway by Boring, including, but not limited to raising or cracking the pavement shall be repaired or replaced.

8) Jack and Auger Boring. Jack and Auger Boring may be utilized for installation, repair, or maintenance of a Facility on the Public Way if authorized and/or required by the Superintendent, in his/her sole discretion, but is typically utilized for larger Borings under roadways, railroads, streams and similar areas where open cut/Trenches are not practical or allowed. If Jack and Auger Boring is authorized and/or required, the Jack and Auger Boring shall be completed in compliance with the following requirements:

   i) Pits and Shoring. Pits shall be a minimum of ten feet (10') from the back of curb, edge of gutter, edge of pavement shoulder or edge of pavement. Pits shall be excavated no more than 48 hours in advance of the operations and shall be backfilled within 48 hours after operations are completed. While pits are open, they shall be clearly marked and protected by barricades and temporary fencing. Shoring

shall be designed, erected, supported, braced and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it until backfill operations are completed.

ii) Drilling Fluid/Mud. Water or a mixture of water and bentonite and/or polymer may be pumped to the rotating cutting head to ease cutting of soil material and auger to the back of the Casing Pipe.

iii) Rotating Cutting Head. The rotating cutting edge shall not be extended so as to be completely past the leading edge of the pipe casing.

9) Horizontal Directional Boring or Drilling. Horizontal Directional Boring or Drilling may be utilized for installation, repair, or maintenance of a Facility on the Public Way if authorized and/or required by the Superintendent, in his/her sole discretion. If Horizontal Directional Boring or Drilling is authorized and/or required, the Horizontal Directional Boring or Drilling shall be completed in compliance with the following requirements:

i) Pits and Shoring. Pits shall be a minimum of ten feet (10') from the back of curb, edge of gutter, edge of pavement shoulder or edge of pavement. Pits shall be excavated no more than 48 hours in advance of the operations and shall be backfilled within 48 hours after operations are completed. While pits are open, they shall be clearly marked and protected by barricades and temporary fencing. Shoring shall be designed, erected, supported, braced and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it until backfill operations are completed.

ii) Surface Launch Bore. A Horizontal Directional Boring or Drilling may be launched from the existing ground surface if sufficient easement and/or right of way is available. A surface launch Bore shall be such that the required depth is achieved at the right of way or easement line.

iii) Drilling Fluid/Mud. Water or a mixture of water and bentonite and/or polymer may be pumped to the back reamer to ease cutting of soil material, consolidating the materials, and lubrication of the pipe or Casing following the backreamer. Drilling Fluid/Mud that has escaped the Bore, bore pit or is otherwise not contained shall be cleaned up. Under no circumstances is the fluid/mud to be washed into a drain, storm sewer, ditch, creek, stream, river or other bodies of water.

iv) Backreamer. The cutting diameter of the backreamer shall not exceed the greatest outside diameter of the Casing Pipe by more than two inches (2").

v) Casing Pipe. Under no circumstances shall a backreamer with a diameter of six inches (6") or more be pulled back without the Casing Pipe.

10) Trenching. Trenching for Facility installation, repair or maintenance on the Public Way shall be done in accordance with the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction".

i) Length. The length of open Trench shall be kept to the Practicable minimum, consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open Trench at any time unless special permission is obtained from the Superintendent.

ii) Open Trench and Excavated Material. Open Trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where Practicable, the excavated material shall be deposited between the Roadway and the Trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the Roadway. Where Public Way width does not allow for windrowing excavated material off the paved portion of the Roadway, excavated material shall be hauled to an off-road location.

iii) Drip Line of Trees. The Utility Provider shall not Trench within the drip line of any tree designated by the Village of Franklin, Illinois, to be preserved.

11) Backfilling.

i) Any pit, Trench or Excavation created during the installation of Facilities shall be Backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction". When excavated material is hauled away or is unsuitable for Backfill, suitable granular Backfill shall be used. If the Utility Provider utilizes an open Trench, the Trench shall be Backfilled and compacted with CA6 gradation and the surface of Public Ways shall be replaced with the same depth and material as previously existed.

ii) For a period of three years from the date construction of a Facility is completed, the Utility Provider shall be responsible to remove and restore any Backfilled area that has settled due to Construction of the Facility. If so ordered by the Superintendent, the Utility

Provider, at its expense, shall remove any pavement and Backfill material to the top of the installed Facility, place and properly compact new Backfill material, and restore new pavement, sidewalk, curbs and driveways to the proper grades, as determined by the Superintendent.

12) Pavement Cuts. Pavement Cuts for Facility installation or repair shall be permitted on a Highway only if that portion of the Highway is closed to traffic. If a Variance to the limitation set forth in this Paragraph 12 is permitted under Section XXXII, the following requirements shall apply:

i) Any Excavation under pavements shall be Backfilled and compacted by mechanical means as soon as Practicable with granular material of CA-6 or CA-10 gradation, as designated by the Superintendent.

ii) Restoration of pavement, in kind, shall be accomplished as soon as Practicable and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the Restoration shall be rebuilt upon notification by the Village of Franklin, Illinois.

iii) All saw cuts shall be full depth.

iv) For all Public Way's which have been reconstructed with a concrete surface/base in the last seven (7) years, or resurfaced in the last five (5) years, permits shall not be issued unless such work is determined to be an Emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a Pavement Cut is necessary for a J.U.L.I.E. locate.

13) Encasement.

i) Casing Pipe shall be designed to withstand the load of the Highway and any other superimposed loads. The Casing Pipe shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the Village of Franklin, Illinois.

ii) The Venting, if any, of any Encasement shall extend within one foot (0.3 m) of the Public Way line. No above-ground Vent pipes shall be located in the area established as Clear Zone for that particular section of the Highway.

iii) In the case of water main or service crossing, Encasement shall be furnished between Bore pits unless continuous pipe or jointed pipe approved by the Village of Franklin, Illinois, is used under the Roadway. Casing may be omitted only if pipe is installed prior to Highway Construction and is continuous or mechanical joints are of

a type approved by the Village of Franklin, Illinois. Bell and spigot type pipe shall be encased regardless of installation method.

iv) In the case of gas pipelines of 60 psig or less, Encasement may be eliminated.

v) In the case of gas pipelines or Petroleum Products Pipelines with installations of more than 60 psig, Encasement may be eliminated only if: (1) Extra Heavy Pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided.

vi) If Encasement is eliminated for a gas or Petroleum Products Pipeline, the Facility shall be located so as to provide that Construction does not Disrupt the Public Way.

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

TYPE OF FACILITY	MINIMUM COVER
Electric Lines	**30 Inches**
Communication, Cable or Video Service Lines	**24 Inches**
Gas or Petroleum Products	**30 Inches**
Water Line	**Sufficient to Provide Freeze Protection per IEPA requirements**
Sanitary Sewer, Storm Sewer, or Drainage Line	**Sufficient to Provide Freeze Protection per IEPA requirements**

Notwithstanding anything contained in this Ordinance to the contrary, Facilities shall be placed no less than 48 inches from the center of any Village of Franklin, Illinois', Facilities.

C) Standards and Requirements for Particular Types of Facilities.

1) Electric Power or Communication Lines.

i) Code Compliance. Electric power or communications Facilities along any Public Way in the Village of Franklin, Illinois, shall be Constructed, operated and maintained in conformity with the provisions of 83 Ill. Adm. Code Part 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines" and the National Electrical Safety Code.

ii) Overhead Facilities. Overhead power or communication Facilities shall use single pole Construction and, where Practicable, joint use of poles shall be used. Utility Providers shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.

iii) Underground Facilities. (i) Cable may be installed by Trenching or plowing, provided that special consideration is given to Boring in order to minimize damage when crossing improved entrances and side roads. (ii) If a crossing is installed by Boring or Jacking, Encasement shall be provided between Jacking or Bore pits. Encasement may be eliminated only if: (a) the crossing is installed by the use of "moles," "whip augers," or other approved method which compresses the earth to make the opening for cable installation, or (b) the installation is by the open Trench method which is only permitted prior to Roadway Construction. Notwithstanding the foregoing, any Cable or group of Cables measuring six (6) inches or more in diameter must be encased. (iii) Cable shall be grounded in accordance with the National Electrical Safety Code.

iv) Burial of Drops. All temporary service drops placed between November 1 of the prior year and March 31 of the current year, also known as snowdrops, shall be buried by May 1 of the current year, weather permitting, unless otherwise permitted by the Village of Franklin, Illinois. Weather permitting, Utility Providers shall bury all temporary drops, excluding snowdrops, within ten (10) business days after placement.

2) Underground Facilities Other than Electric Power or Communication Lines. Underground Facilities other than electric power or communication lines may be installed by:

i) the use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;

ii) Jacking, Boring, or horizontal directional drilling with Vented Encasement provided between the ditch lines or toes of slopes of the Highway; or,

iii) open Trench with Vented Encasement between ultimate ditch lines or toes of slopes, but only if prior to Roadway Construction.

3) Gas Transmission, Distribution and Service. Gas pipelines within a Public Way shall be Constructed, maintained and operated in a manner approved

by the Village of Franklin, Illinois, and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT's "Standard Specifications for Road and Bridge Construction", and all other applicable laws, rules and regulations.

4) Petroleum Products Pipelines. Petroleum Products Pipelines within a Public Way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).

5) Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines. Water lines, sanitary sewer lines, storm sewer lines and drainage lines within a Public Way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois" and any applicable IEPA requirements.

6) Ground Mounted Appurtenances. Ground mounted appurtenances to overhead or underground, when permitted within a Public Way, shall be provided with a vegetation-free area extending one (1) foot in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad or by heavy duty plastic or similar material approved by the Superintendent. With the approval of the Superintendent, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

D. Materials.

1) General Standards. The materials used in Constructing Facilities within Public Ways shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standards Specifications for Road and Bridge Construction", the requirements of the Illinois Commerce Commission or the standards established by other official regulatory agencies for the appropriate industry.

2) Material Storage on Public Way. No material shall be stored on the Public Way without the prior written approval of the Superintendent. When such storage is permitted, all pipe, Conduit, wire, poles, cross arms or other materials shall be distributed along the Public Way prior to and during installation in a manner to minimize hazards to the public or an obstacle to Public Way maintenance or damage to the Public Way and other property. If material is to be stored on Public Way, prior approval must be obtained from the Village of Franklin, Illinois.

3) Hazardous Materials. The plans submitted by the Utility Provider to the Village of Franklin, Illinois, shall identify any Hazardous Materials that may be involved in the Construction of the new Facilities or removal of any existing Facilities.

E. Operational Restrictions.

1) Construction operations on Public Way may, at the discretion of the Village of Franklin, Illinois, be required to be discontinued when such operations would create hazards to traffic or the public health, safety and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that Construction would result in extensive damage to the Public Way or other property.

2) These restrictions may be waived by the Superintendent if Emergency work is required to restore vital utility services.

3) Unless otherwise permitted or required by the Village of Franklin, Illinois, the days and hours of Construction shall be Monday through Friday from 7a.m. to 4p.m. Furthermore, no Construction shall occur on any state or federal holiday or during the seven (7) day period prior to Independence Day.

4) Construction operations on the Public Way shall be accomplished by competent workers with supervision, by at least one supervisor on-site during Construction operations, who is proficient in English.

F. Location of Existing Facilities. Any Utility Provider proposing to Construct Facilities in the Village of Franklin, Illinois, shall contact J.U.L.I.E. and ascertain the presence and location of existing above ground and underground Facilities within Public Ways to be occupied by its proposed Facilities. When notified of an Excavation or when requested by the Village of Franklin, Illinois, or by J.U.L.I.E., a Utility Provider shall locate and physically mark its underground Facilities within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq*.).

SECTION XXVI: VEGETATION CONTROL/REPAIR.

A. Electric Utilities – Compliance with State Laws and Regulations. An electric Utility Provider shall conduct all tree-trimming and vegetation control activities in the Public Way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the Village of Franklin, Illinois, as permitted by law.

B. Other Utility Provider's – Tree Trimming or Removal Permit Required. Tree trimming that is done by any other Utility Provider with Facilities in Public Ways and is not performed pursuant to applicable Illinois laws and regulations specifically governing the same, shall not be considered a normal maintenance

operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Ordinance.

1) Application for Tree Trimming or Removal Permit. Applications for tree trimming or removal permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning or removal practices. Tree trimming or removal permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

2) Damage to Trees. Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The Village of Franklin, Illinois, will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The Village of Franklin, Illinois, may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

3) Removal of Tree Stumps. The Utility Provider shall remove all tree stumps resulting from tree trimming or removing at the expense of the Utility Provider. Such removal shall include removal of the tree stump, by excavating and/or grinding the tree stump, not less than eighteen (18) inches below the surface of the ground. All tree stumps shall be removed no later than thirty (30) calendar days following the tree trimming or removal.

4) All Tree trimming and/or tree pruning shall meet the American National Standards Institute (ANSI) pruning standards and pruning methods, as endorsed by the International Society of Arborist (ISA). All crew foreman shall be certified line clearance tree trimmers, and all general foreman shall be arborists certified by the ISA. Evidence that the crew foreman and/or general foreman are properly certified shall be provided to the Village prior to commencement of any tree trimming and/or tree pruning activities.

C. Specimen Trees or Trees of Special Significance. The Village of Franklin, Illinois, may require special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, Covered wire or other means.

D. Chemical Use.

1) Except as provided in the following paragraph, no Utility Provider shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the Village of Franklin, Illinois, for any purpose, including the control of growth, insects or disease.

2) Spraying of any type of brush-killing chemicals will not be permitted on Public Way unless the Utility Provider demonstrates to the satisfaction and sole discretion of the Superintendent such spraying is the only Practicable method of vegetation control. If the Superintendent authorizes such spraying, the Utility Provider must provide a copy of its applicable Department of Agriculture applicator license.

E. **Repair of Landscaping.** If any Utility Provider disturbs any landscaping or surface area in Constructing any Facility on Public Way, said Utility Provider shall be obligated, at the Utility Provider's expense, to repair any and all landscaping and lime, seed, and mulch any damaged surface area within the Public Way in accordance with Class 1 or 1A temporary and final landscaping requirements contained within the IDOT Standard Specifications for Road and Bridge Construction, unless otherwise approved by the Superintendent. All landscaping and/or seeding shall be completed no later than thirty (30) calendar days following completion of the work on the Public Way. All materials utilized to repair landscaping and/or surface area shall be as designated by the Superintendent, at his/her sole discretion.

SECTION XXVII: REMOVAL, RELOCATION OR MODIFICATIONS OF UTILITY FACILITIES.

A. **Notice.** Within sixty (60) calendar days following written notice from the Village of Franklin, Illinois, a Utility Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility Facilities within Public Ways whenever the Village of Franklin, Illinois, has determined such removal, relocation, change, or alteration, is reasonably necessary for the Construction, repair, maintenance or installation of any Village of Franklin, Illinois, improvement in or upon, or the operations of the Village of Franklin, Illinois, in or upon, the Public Way.

B. **Removal of Unauthorized Facilities.** Within thirty (30) calendar days following written notice from the Village of Franklin, Illinois, any Utility Provider that owns, controls or maintains any unauthorized Facility or related appurtenances within the Public Way shall, at its own expense, remove all or any part of such Facilities or appurtenances from the Public Way. A Facility is unauthorized and subject to removal by the Village of Franklin, Illinois, in the following circumstances:

1) Upon expiration or termination of the Permittee's license or franchise, unless otherwise permitted by applicable law;

2) If the Facility was Constructed or installed without the prior grant of a license or franchise, if required;

3) If the Facility was Constructed or installed without prior issuance of a required permit in violation of this Ordinance; or,

4) If the Facility was Constructed or installed at a location not permitted by the Permittee's license or franchise.

C. Emergency Removal or Relocation of Facilities. The Village of Franklin, Illinois, retains the right and privilege to cut or move any Facilities located within the Public Ways of the Village of Franklin, Illinois, as deemed necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the Village of Franklin, Illinois, shall attempt to notify the Utility Provider, if known, prior to cutting or removing a Facility and shall notify the Utility Provider, if known, after cutting or removing a Facility.

D. Abandonment of Facilities. Upon abandonment of or useful life of a Facility within the Public Ways of the Village of Franklin, Illinois, the Utility Provider shall provide written notice to the Village of Franklin, Illinois, within ninety (90) calendar days. Following receipt of such notice the Village of Franklin, Illinois, may direct the Utility Provider to remove all or any portion of the Facility if the Superintendent determines, in his/her sole discretion, such removal will be in the best interest of the public health, safety and welfare. In the event that the Village of Franklin, Illinois, does not direct the Utility Provider which abandoned the Facility to remove it, by giving notice of abandonment to the Village of Franklin, Illinois, the abandoning Utility Provider shall be deemed to consent to the alteration or removal of all or any portion of the Facility by another Utility Provider or Person.

SECTION XXVIII: NO DELAY TO VILLAGE OF FRANKLIN, ILLINOIS, PROJECTS. A Utility Provider shall conduct all Construction, relocation and repairs to Facilities in a timely fashion so as not to delay any projects undertaken by the Village of Franklin, Illinois. All work shall be commenced and completed Promptly as defined in Section X of this Ordinance.

SECTION XXIX: CLEAN-UP AND RESTORATION OF PUBLIC WAYS. The Utility Provider shall remove all excess material and restore all turf and terrain and other property within ten (10) calendar days after any portion of the Public Ways are disturbed, damaged or destroyed due to Construction or maintenance by the Utility Provider. This shall be done to the satisfaction of the Village of Franklin, Illinois. This includes Restoration of entrances and side roads. Restoration of Roadway surfaces shall be made using materials and methods approved by the Superintendent. Such cleanup and repair may be required to consist of Backfilling, rough grading, final regrading, reseeding, resodding or any other requirement to restore the Public Way to a condition substantially equivalent to that which existed prior to the commencement of the project. Under no circumstances shall a Utility Provider dispose of any material into a storm or sanitary sewer line within the Village of Franklin, Illinois, without the prior approval of the Superintendent. The time period provided in this Section may be extended, in his/her sole discretion, by the Superintendent for good cause shown.

SECTION XXX: MAINTENANCE AND EMERGENCY MAINTENANCE.

A. General. Facilities on, over, above, along, upon, under, across or within Public Ways are to be maintained by or for the Utility Provider in a manner satisfactory to the Village of Franklin, Illinois, at the Utility Provider's expense.

B. **Emergency Maintenance Procedures.** Emergencies may justify non-compliance with normal procedures for securing a permit:

1) If an Emergency creates a hazard on the traveled portion of Public Ways, the Utility Provider shall take immediate steps to provide all necessary protection for traffic on the Highway or the public on the Public Way, including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled portion of the Public Way, but the nature of the Emergency is such as to require the parking on the Shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the Shoulder in such an Emergency will only be permitted when no other means of access to the Facility is available.

2) In an Emergency, the Utility Provider shall, as soon as possible, notify the Superintendent or his/her duly authorized agents of the Emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the Emergency is such as to interfere with the free movement of traffic, the Village of Franklin Police Department, the Morgan County Sherriff's Department and the Franklin Fire Protection District shall be notified immediately.

3) In an Emergency, the Utility Provider shall use all means at hand to complete repairs as rapidly as Practicable and with the least inconvenience to the traveling public.

C. **Emergency Repairs.** The Utility Provider must file in writing with the Village of Franklin, Illinois, a description of the repairs undertaken in the Public Way within forty-eighty (48) hours after an Emergency repair.

SECTION XXXI: DAMAGE TO ELECTRIC LINES, WATER LINES, GAS LINES SEWER LINES OR LATERAL PIPES. In the event a Utility Provider damages an electric line, gas line, water line, sewer (storm and sanitary) line or lateral pipe, or any appurtenances thereto and causes the Village of Franklin, Illinois, or any other Person, to incur expenses associated with repairing the damage to the line or appurtenances caused by the Utility Provider, the Utility Provider shall be liable for the costs of all repairs and damages incurred by the Village or private party as a result of the Utility Provider's damage to an electric line, gas line, water line, storm and/or sanitary sewer line or lateral pipe, or any appurtenances thereto.

SECTION XXXII: VARIANCES.

A. **Request for Variance.** A Utility Provider requesting a Variance from one or more of the provisions of this Ordinance must do so in writing to the Superintendent as a part of the permit application. The request shall identify each provision of this Ordinance from which a Variance is requested and the reasons why a Variance should be granted.

B. **Authority to Grant Variances.** The Superintendent shall decide whether a Variance is authorized for each provision of this Ordinance identified in the Variance request on an individual basis.

C. **Conditions for Granting of Variance.** The Superintendent may authorize a Variance only if the Utility Provider requesting the Variance has demonstrated that:

1) One or more conditions not under the control of the Utility Provider (such as terrain features or an irregular Public Way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and

2) All other designs, methods, materials, locations or Facilities that would conform to the provision from which a Variance is requested are impracticable in relation to the requested approach.

D. **Additional Conditions for Granting of a Variance.** As a condition for authorizing a Variance, the Superintendent may require the Utility Provider requesting the Variance to meet reasonable standards and conditions that may or may not be expressly contained within this Ordinance but which carry out the purposes of this Ordinance.

E. **Right to Appeal.** Any Utility Provider aggrieved by any order, requirement, decision or determination, including denial of a Variance, made by the Superintendent under the provisions of this Ordinance shall have the right to appeal to the Board of Trustees for the Village of Franklin, Illinois. The application for appeal shall be submitted in writing to the Village Clerk for the Village of Franklin, Illinois, within thirty (30) calendar days after the date of such order, requirement, decision or determination. The Village Board of Trustees shall issue a decision on the appeal within fourteen (14) calendar days after the filing of the appeal.

SECTION XXXIII: PENALTIES.

A. Any Person, Permittee, Utility Provider or entity which violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this Ordinance shall, upon conviction thereof, be deemed guilty of a civil ordinance violation and shall be fined not less than Two Hundred Fifty Dollars ($250.00) nor more than Seven Hundred Fifty Dollars ($750.00) for each offense. A separate offense shall be deemed to be committed on each day during or on which a violation occurs or continues. In addition to any fine, the Village may seek injunctive and declaratory relief directing the violator(s) to cure the violation, and the Village may revoke any permit authorized and issued pursuant to this Ordinance.

B. There may be times when the Village of Franklin, Illinois, will incur delay or other costs, including third party claims, because the Person, Permittee, or Utility Provider will not or cannot perform its duties under its permit and this Ordinance. Unless the

Person, Permittee, or Utility Provider shows another allocation of the cost of undertaking the requested action is appropriate, the Person, Permittee, or Utility Provider shall bear the Village of Franklin, Illinois', costs of damages and its costs of installing, maintaining, modifying, relocating or removing the Facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Village of Franklin, Illinois. Sanctions may be imposed upon a Utility Provider which does not pay the costs apportioned to it.

C. Every act or omission of whatsoever nature constituting a violation of any provision of this Ordinance, by any officer, director, manager or other agent or employee of any Person, Permittee, or Utility Provider, shall be deemed and held to be the act of such Person, Permittee, or Utility Provider and the Person, Permittee, or Utility Provider shall be punishable in the same manner as if the act or omission had been done or omitted by him personally.

SECTION XXXIV: ENFORCEMENT. Nothing in this Ordinance shall be construed as limiting any additional or further remedies that the Village of Franklin, Illinois, may have for enforcement of this Ordinance. Furthermore, nothing in this Ordinance shall be construed to limit the Village's ability to correct and require compliance with matters inadvertently excluded during any application and/or permit review process.

SECTION XXXV: SEVERABILITY. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

SECTION XXXVI: EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Published in pamphlet form this 6 day of March, 2024.

Presented, passed and approved this 6 day of March, 2024.

Vickie Adkins	YES
Lauren Anders	YES
Amanda Ahlers	
Sara Carter	YES
Abby Flynn	YES
Wyatt Smith	YES

YEAS: 5
NAYS: 0

VILLAGE OF FRANKLIN, ILLINOIS

Paul Turpin, Village President

ATTEST:

Ashley Turpin, Village Clerk

STATE OF ILLINOIS)
) **SS.**
COUNTY OF MORGAN)

CERTIFICATE

I, Ashley Turpin, certify that I am the duly elected and acting municipal clerk of the Village of Franklin, Morgan County, Illinois.

I further certify that on 6, March, 2024, the corporate authorities of such municipality passed and approved Ordinance No. 02-2024 entitled "An Ordinance Establishing Standards for the Construction of Utility Facilities within the Public Ways of the Village of Franklin, Illinois" which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 02-2024, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on 6, March, 2024 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at Franklin, Illinois, this 6 day of March, 2024.

(SEAL)

Ashley Turpin, Village Clerk