

## **CHAPTER 54: GROUNDWATER PROTECTION REGULATIONS**

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### **§ 54.01 ABBREVIATIONS AND DEFINITIONS**

(A) The following abbreviations, when used in this Chapter, shall have the designated meanings:

- (1) C.F.R. - Code of Federal Regulations

(B) Except as stated in this Chapter, and unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Chapter shall have the meanings hereinafter designated and shall be the same as those used in the Illinois Environmental Protection Act and the Illinois Groundwater Protection Act (415 ILCS 5/14 et seq.), as amended from time to time. Fully capitalized definitions are statutory, and if there is any conflict between the definition set forth in this Chapter and the definition in the Illinois Environmental Protection Act or the Illinois Groundwater Protection Act, the statutory definition shall govern. Where there is a reference to a provision of the C.F.R. or any other state or federal statute or regulation, the reference shall include any subsequent amendment to such statute or regulation and to include any statute or regulation which is intended to replace or supersede the referenced statute or regulation.

- (1) “Chemical Substance” means any “Extremely Hazardous Substance” listed in Appendix A of 40 C.F.R. Part 355; or any “Hazardous Substance” listed in 40 C.F.R. Section 302.4; or any petroleum product including crude oil or any fraction thereof, or any herbicides, pesticides,

dyes, or fertilizers, or any of the following chemicals, metals and/or compounds, or any combination thereof, whether in solid, liquid, or gaseous form:

0-DICHLOROBENZENE	BARIUM
1,1,1-TRICHLOROETHANE	BENZENE
1,1,2-TRICHLOROETHANE	BENZO (A) PYRENE
1,1-DICHLOROETHYLENE	BERYLLIUM
1,2,4-TRICHLOROBENZENE	BHC-GAMMA (LINDANE)
1,2-DICHLOROETHANE	CADMIUM
1,2-DICHLOROPROPANE	CARBOFURAN
2,4,5-TP (SILVEX)	CARBON TETRACHLORIDE
2,4-D ALACHLOR (LASSO)	CHLORDANE
ALDICARB	CHROMIUM
ALDICARB SULFONE	CIS 1,2- DICHLOROETHYLENE
ALDICARB SULFOXIDE	CUTTING OILS
ALDRIN	CYANIDE
ANTI FREEZE	DALAPON
ANTIMONY	DI(2-ETHYLHEXYL) - ADIPATE
ARSENIC	DI(2-ETHYLHEXYL) - PHTHALATE
ATRAZINE	DIBROMOCHLOROPROPANE (DBCP)
	DICHLOROMETHANE
DIELDRINDINOSEB	HEPTACHLOR EPOXIDE
DIQUAT	HEXACHLOROBENZENE
ENDOTHALL	HEXACHLORO-CYCLOPENTADIENE
ENDRIN	LEACHATE
ETHYLBENZENE	MERCURY
ETHYLENE DIBROMIDE	METHOXYCHLOR
FLUORIDE	MINERAL OIL
GLYPHOSATE	MONOCHLOROBENZENE
HEPTACHLOR	STYRENE
N-C PHOSPHONOMETHYL	TETRACHLOROETHYLENE
OXAMYL (VYDATE)	THALLIUM
P-DICHLOROBENZENE	TOLUENE
PENTACHLOROPHENOL	TOXAPHENE
PICLORAM	TRANS-1,2-DICHLOROETHYLENE
POLYCHLORINATED BIPHENYLS (PCB)	TRICHLOROETHYLENEXYLENE
SELENIUM	
SIMAZINE	

“Chemical Substances” also include, but are not limited, to the following:

- (a) Paints, varnishes, and solvents;
- (b) Oil and other automotive fluids;
- (c) Non-hazardous liquid and solid wastes and yard wastes;
- (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution;
- (e) Floatables;
- (f) Pesticides, herbicides, and fertilizers;
- (g) Hazardous substances and wastes;

- (h) Sewage, fecal coliform, and pathogens;
  - (i) Dissolved and particulate metals;
  - (j) Human and/or animal wastes;
  - (k) Construction materials and/or waste;
  - (l) Noxious or offensive matter of any kind;
  - (m) Waste oil, cooking oil, or any water or waste containing fats, wax, grease, or oils;
  - (n) Any coal tar sealant product.
- (2) “Chemical Substance Storage Permit” means an authorization by the Village for a person to store, handle, use, or produce any Chemical Substance(s) or combination of Chemical Substances, in excess of ten (10) pounds or more than five (5) gallons, whether in solid, liquid, or gaseous form.
- (3) “Coal Tar Sealant Product” means a surface applied sealing product containing any amount of coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.
- (4) “Containment Device” means a device that is designed to contain a release, retain it for cleanup, and prevent released materials from penetrating into the ground.
- (5) “Facility” means the buildings and all real property contiguous thereto, and the equipment at a single location used for the conduct of business.
- (6) “Groundwater” means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure.
- (7) “Occupant” means any person who leases or rents from an owner or who otherwise has the right to occupy a site, facility or unit or part of a site, facility or unit, or the land on which the site, facility or unit is located.
- (8) “Operator” means any person in control of or having responsibility for daily operation of a facility.
- (9) “Owner” means any person who owns any property, site, facility or unit or part of a property, site, facility or unit, or who owns the land on which the site, facility or unit is located. Where real property is subject to a leasehold, the term owner includes both the lessor and the lessee.
- (10) “Person” means any individual person, corporation, firm, association, joint venture, trust, partnership, unit of local government that is subject to the regulatory authority of the Village as exercised in this Chapter or other legal entity that is subject to the regulatory authority of the Village as exercised in this Chapter.
- (11) “Premises” means the property, site, facility and/or unit and the land or leasehold on which the site, facility or unit where a Chemical Substance has been or is being stored or where a Release of a Chemical Substance has occurred. If the release occurs from a vehicle on a public right of way, then the term “premises” as used in this Chapter shall mean the vehicle from which the release occurred.
- (12) “Village Administrator” means the Village of Port Barrington Village Administrator, or his or her designee.

(13) “Release” means any spilling, leaking, emitting, discharging, escaping, leaching, discharging or disposing of a Chemical Substance into a containment device, into the air, into the groundwater, surface water, surface soils or subsurface soils, or into sanitary or storm sewers. Releases do not include: intentional withdrawals of Chemical Substances for the purpose of legitimate sale, use, or disposal; and discharges permitted under federal, state, or local law.

(14) “Village” means the Village of Port Barrington, Illinois.

(Ord. 2015-07-01, passed 7-15-2015; Amd. Ord. 2017-02-15-01, passed 02-15-2017)

#### **§ 54.02 PURPOSE; APPLICABILITY AND ADMINISTRATION**

- (A) The purpose of this Chapter is to protect the environment in general, and groundwater and surface water, in particular, from pollution and to protect the Village’s potable water supply from contamination.
- (B) This Chapter applies to all persons who own or who occupy real property in the Village of Port Barrington or real property which is provided with potable water by the Village of Port Barrington, and all such real property. The owner(s) and occupant(s) of real property subject to this Chapter are jointly and severally responsible for complying with the applicable provisions of this Chapter. The failure of an owner or occupant of real property to comply with the requirements of this Chapter shall not be excused because of a lack of knowledge as to such requirements or their applicability.
- (C) Except as otherwise provided in this Chapter, the Village Administrator shall administer, implement and enforce the provisions of this Chapter. The Village Administrator, the Village Administrator’s designees, and any other person who is a peace officer or a conservator of the peace shall have the authority to issue citations or sign complaints on behalf of the Village for the purpose of enforcing the provisions of this Chapter. Any powers granted to or duties imposed on the Village Administrator by this Chapter may be delegated by the Village Administrator to other employees, officers or agents of the Village.
- (D) Compliance with this Chapter does not necessarily ensure that no pollution or unauthorized discharge of pollutants will occur, and the ultimate legal responsibility for any such pollution or unauthorized discharge of pollutants shall be and remain the responsibility of the person causing or permitting the discharge of such pollutants, and the owner and occupants of the premises from which such pollutants are released.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.03 RELEASE OF CHEMICAL SUBSTANCES PROHIBITED**

It shall be unlawful for any person to release any Chemical Substance or combination of Chemical Substances in such a manner or at such a location where there is a reasonable possibility that the Chemical Substance will come into contact with or be absorbed into groundwater or will enter into the Village’s potable water supply system.

(Ord. 2015-07-01, passed 7-15-2015)

**§ 54.04 REPORTING REQUIREMENTS IN THE EVENT OF A RELEASE OF A CHEMICAL SUBSTANCE**

- (A) Whenever there is any release of a Chemical Substance or combination of Chemical Substances that exceeds more than ten (10) pounds in weight or more than five (5) gallons in volume, whether in solid, liquid, or gaseous form, in such a manner or at such a location where, unless remediated, there is a reasonable possibility that the Chemical Substance may come into contact with or be absorbed into groundwater or may enter into the Village's potable water supply system, the owner and the occupant of the Premises where the release occurred shall immediately notify the Village Administrator and provide the following information:
- (1) The name of the Chemical Substance(s) which were released.
  - (2) Any and all actions that have been and are intended to be taken to halt the release of the Chemical Substance.
  - (3) An estimate of the quantity of the Chemical Substance released.
  - (4) The methods that are to be used to clean up and otherwise remediate the Chemical Substance that was released.
- (B) The notification provided for in Section 54.04(A) must be given even if the release would not constitute a violation of this Chapter. The initial notification of a Chemical Substance release may be made by telephoning the Village Administrator and the applicable Fire Department. If initial notification of a release is made by telephone or other oral communication, then a written notification of the release containing the information required under Section 54.04(A) must be made to the Village Administrator no later than twenty-four (24) hours after the release occurred or was first discovered, whichever occurs last.
- (C) It shall be unlawful for any person to fail to give the notification of a release of a Chemical Substance or combination of Chemical Substances as provided in this Chapter.

(Ord. 2015-07-01, passed 7-15-2015)

**§ 54.05 REMEDIATION OF RELEASES**

- (A) If a release occurs for which notification is required under this Chapter, then the owner and occupant of the Premises where the release occurred, shall be required to submit a plan to the Village for the remediation of the release. Such plan must be submitted to the Village within the time period specified by the Village Administrator, but no later than seven (7) days after the date on which the Release was first discovered to have occurred.
- (B) Following the submission of the remediation plan provided for in Paragraph (A) above, the Village Administrator shall schedule a conference with the person(s) who submitted the remediation plan. The purpose of the conference shall be to discuss and establish the procedures, investigations, studies and compliance measures that the Village deems necessary in order to control and prevent any Chemical Substances from coming into contact with or being absorbed into groundwater or entering into the Village's potable water supply system as a result of the release. Following the conference, the Village Administrator shall issue a "Remediation Order" which sets forth in writing the steps which the owner and any occupants of the Premises on which the release occurred must take in order to remediate the release and the time periods within which such steps must be taken.

- (C) It shall be unlawful for the owner or occupant of Premises on which a release has occurred to fail to comply with a Remediation Order.
- (D) The owner and occupant of any Premises on which a release has occurred shall be jointly and severally liable to reimburse the Village for any costs and expenses which the Village may incur as the result of the release. Payment of any such costs and expenses must be made to the Village not more than forty-five (45) days after the date that the Village issues an invoice for the costs and expenses.
- (E) If an owner or occupant fails to comply with a Remediation Order, or if it otherwise becomes reasonably necessary for the Village to remediate the effects of a release in order to prevent a Chemical Substance from coming into contact with or being absorbed into groundwater or will enter into the Village's potable water supply system or to eliminate a Chemical Substance from the ground water or the Village's potable water supply, then the Village may take whatever steps it determines in the reasonable exercise of its discretion are necessary to remediate. The owner and any occupants of the Premises on which the release of the Chemical Substance occurred and any other person who caused the release of the Chemical Substance or the contamination of the groundwater or the Village's potable water supply with the Chemical Substance shall be jointly and severally liable to reimburse the Village for the cost of any such remediation work performed by or on behalf of the Village. Such reimbursement shall be made not less than forty-five (45) days after the Village issues an invoice for the cost of the remediation work.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.06 CHEMICAL SUBSTANCE STORAGE PERMIT REQUIRED**

- (A) Except as provided in Paragraphs (B) and (C) below, it shall be unlawful for any person to store any Chemical Substances in any single container on any property located within the Village, regardless of whether or not such Chemical Substances weigh more than ten (10) pounds or have a volume of more than five (5) gallons, whether in solid, liquid, or gaseous form, without first obtaining a Chemical Substance Storage Permit from the Village Administrator.
- (B) No Chemical Substances shall be stored outside, whether or not they are in a container or in another form of containment.
- (C) The permit requirements contained in Paragraph (A) of this Section shall not apply to the following:
  - (1) Fuel tanks and fluid reservoirs which are attached to motor vehicles licensed by the federal or a state government and which are used in the operation of such vehicles.
  - (2) Fuel containers and fluid reservoirs that are attached to lawn or yard maintenance equipment and which are used in the operation of such equipment.
  - (3) Fuel containers that are attached to or associated with watercraft and which are used in the operation of the watercraft.

(Ord. 2015-07-01, passed 7-15-2015)

## § 54.07 APPLICATIONS FOR CHEMICAL SUBSTANCE STORAGE PERMITS

- (A) Persons required to obtain a Chemical Substance Storage Permit shall submit to the Village Administrator a permit application supplied by the Village, as well as any required attachments thereto, which application includes, but is not limited to, a request for the following:
- (1) Each application must be signed by the Applicant or proposed Licensee, or his/her/its authorized agent;
  - (2) If the licensed premises is leased, the application must also be signed by the registered owner of the licensed premises acknowledging his/her/its agreement to the storage of chemical substance(s) on the licensed premises, and a copy of the respective lease must accompany the application;
  - (3) Description of activities, facilities, and processes conducted on the premises to be covered by the permit (“licensed premises”), including a list of all of the Chemical Substances to be used or stored on the licensed premises;
  - (4) Number and type of employees, and hours of operation of the proposed Licensee, if any;
  - (5) Site plans, floor plans for the licensed premises;
  - (6) A statement describing the type of containment and/or the manner in which each such permitted chemical substance is to be stored;
  - (7) Each application must be accompanied by a Release Prevention, Containment and Control Plan in compliance with Section 54.08 of this Chapter; and
  - (8) Such other information as the Village Administrator and/or Village Engineer in the reasonable exercise of his or her discretion determines is required in order to be able to evaluate whether a Chemical Substance Storage Permit should be issued and what, if any conditions should be attached to the permit.
- (B) The application for a Chemical Substance Storage Permit must be submitted using the application form provided by the Village.
- (C) Incomplete or inaccurate applications may be rejected in their entirety and/or may be returned to the applicant for correction prior to review and action by the Village Administrator.
- (D) Applications for a Chemical Substance Storage Permit shall include the following certification statement:
- “I certify that the information contained in the attached application for a Chemical Substance Storage Permit is, to the best of my knowledge and belief, true, accurate, and complete, and that I understand that the submission of false or inaccurate information is unlawful and will subject me to being fined.”
- (E) The application fee for a Chemical Substance Storage Permit shall be \$100.00.

- (F) The permit fee for a Chemical Substance Storage Permit shall be \$100.00 per year, and the fee for a current license holder who wishes to renew an existing license at the same location shall be \$100.00 per year.

(Ord. 2015-07-01, passed 7-15-2015)

**§ 54.08 RELEASE PREVENTION, CONTAINMENT AND CONTROL PLAN**

- (A) Each application for a Chemical Substance Storage Permit shall be accompanied by a Release Prevention, Containment and Control Plan for the premises where the Chemical Substances are to be stored. The Release Prevention, Containment and Control Plan shall include, at a minimum, the following components:
- (1) Emergency contact information;
  - (2) Description of activities, facilities, and plant processes on the premises;
  - (3) Description of stored Chemical Substances, locations, and quantities;
  - (4) Description of Chemical Substance disposal practices;
  - (5) Procedures for immediately notifying the Village Administrator of any release as required by Section 54.04 of this Chapter; and
  - (6) Procedures to prevent accidental releases and to eliminate or minimize adverse impacts from accidental releases. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of Chemical Substances, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing Chemical Substances, and/or measures and equipment for emergency response.
- (B) The Release Prevention, Containment and Control Plan shall also contain such additional information and components which the Village Administrator determines in the reasonable exercise of his or her discretion, are necessary in order to provide a plan of action which will protect against Chemical Substances from coming into contact with or being absorbed into groundwater or entering into the Village's potable water supply system and/or which will reduce the likelihood that an accidental release of Chemical Substances might occur.
- (C) After the issuance of the initial permit allowing the storage of Chemical Substances on a premises, the Release Prevention, Containment and Control Plan shall be updated not less than once every three (3) years. The updated Release Prevention, Containment and Control Plan shall be submitted to the Village Administrator, for the Village Administrator's review and approval. The Village Administrator, may in the reasonable exercise of his or her discretion, require that a Release Prevention, Containment and Control Plan for a premises be updated more frequently than once every three (3) years if he or she determines that the Release Prevention, Containment and Control Plan needs to be updated in order to protect against Chemical Substances from coming into contact with or being absorbed into groundwater or entering into any public or private water well and/or in order to reduce the likelihood that an accidental release of Chemical Substances might occur.

(Ord. 2015-07-01, passed 7-15-2015)



**§ 54.09 CHEMICAL SUBSTANCE STORAGE PERMIT ISSUANCE, DURATION AND CONTENTS**

- (A) The Village Administrator shall review each Chemical Substance Storage Permit application in consultation with the Village Engineer and within forty-five (45) days of receipt of a complete permit application, the Village Administrator shall issue a decision as to whether the Chemical Substance Storage Permit should be issued. The Village Administrator may not issue a Chemical Substance Storage Permit for reasons which include, but are not limited to, the following:
- (B) The permit application is incomplete or inaccurate.
- (1) The proposed Release Prevention, Containment and Control Plan does not meet the requirements of Section 54.08 or will not provide adequate protection against Chemical Substances coming into contact with or being absorbed into groundwater or entering into the Village's potable water supply system or does not adequately reduce the likelihood that an accidental release of Chemical Substances might occur.
  - (2) The storage of the Chemical Substance for which permission to store is being sought will create an unacceptable risk to the public health if stored on the premises in the application in the manner described in the application.
  - (3) The licensed premises is leased and the registered owner of the licensed premises has not executed the permit application acknowledging his/her/its agreement with and acknowledgement of the proposed storage of Chemical Substance(s) on the licensed premises.
  - (4) A Chemical Substance Storage Permit shall not be issued to any person and/or entity where it has been determined that:
    - (a) The Applicant and/or proposed licensee is not of good character and reputation;
    - (b) The Applicant and/or proposed licensee has been convicted of a felony;
    - (c) A license issued by the Village to the Applicant and/or proposed licensee has been revoked for cause;
    - (d) The Applicant and/or proposed licensee would not be eligible to receive the requested license, based upon other state and/or federal rules and/or regulations;
    - (e) The business of the proposed licensee is conducted by a manager or agent who does not possess the same qualifications required of the proposed licensee by any local, state, and/or federal rules and/or regulations;
- If the Village Administrator does not issue the requested Chemical Substance Storage Permit, he or she shall inform the applicant in writing of the reasons the Chemical Substance Storage Permit was not issued.
- (C) The duration of a Chemical Substance Storage Permit shall be determined by the Village Administrator, provided that no Chemical Substance Storage Permit shall have a duration of more than three (3) years from the effective date of the permit. The Village Administrator may issue a Chemical Substance Storage Permit which has a duration of less than three (3) years if (1) the period of time that the Chemical Substance will be stored on the premises described in the permit application is to be less than three (3) years; or (2) the storage of the Chemical Substance presents a potential hazard which requires that the premises covered by the permit be inspected or that the Release Prevention, Containment and Control Plan for the premises covered by the permit be reviewed and updated more frequently than once every three (3) years.

- (D) A Chemical Substance Storage Permit shall include those conditions which the Village Administrator determines are reasonably necessary to protect against the release of the Chemical Substances covered by the permit. A Chemical Substance Storage Permit shall also include the following:
- (1) The expiration date of the permit.
  - (2) A description of the premises for which the permit is being issued.
  - (3) A statement that the permit is not transferable to a new permittee unless the transfer is approved as provided in Section 54.12.
  - (4) A list of the Chemical Substances which the permit allows to be stored on the premises described in the permit.
  - (5) A statement that any release of a Chemical Substance must be reported immediately as provided in Section 54.04.
  - (6) A statement that the permit is conditioned upon compliance with the Release Prevention, Containment and Control Plan.
- (E) Each Chemical Substance Storage Permit issued by the Village shall be posted in a fully visible location on the licensed premises at a location where the subject chemical(s) are stored.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.10 APPEALS OF DECISIONS RELATING TO THE ISSUANCE OF A CHEMICAL SUBSTANCE STORAGE PERMIT**

- (A) If the Village Administrator denies an application for a Chemical Substance Storage Permit, the applicant may file a written request for reconsideration of the decision by the Village Administrator. The request for reconsideration shall state in detail the reasons why the applicant believes the decision denying the application for a Chemical Substance Storage Permit should be reconsidered and the permit should be issued. The request for reconsideration shall be filed with the Village Clerk.
- (B) The Village Administrator shall provide notice of the issuance of a Chemical Substance Storage Permit by posting a notice of the issuance of the permit in the building where the office of the Village Clerk is located and by publishing a notice in a newspaper which has a general circulation within the Village. Any person residing in the Village, any person who owns or occupies real property that is connected to the Village's potable water supply system and the applicant shall be entitled to request in writing that the Village Administrator reconsider the terms and conditions contained in a Chemical Substance Storage Permit by filing the request with the Village Clerk. Any request for reconsideration must state the conditions or terms in the permit which the person making the request wants to be modified. The request for reconsideration may also request that the permit not be issued or that additional conditions be included in the permit. Any request for reconsideration shall state in detail the reasons the request for reconsideration is being made.
- (C) Any request for the reconsideration of the issuance or denial of a permit must be made not more than thirty (30) days after the date notice of the issuance of the permit is published in a newspaper of general circulation in the Village as provided in Section 54.10(B). If no request for reconsideration is filed with the Village Clerk within such thirty (30) day time period, the decision to issue the permit shall become final for purposes of judicial review.

- (D) If a request for reconsideration of the issuance of a Chemical Substance Storage Permit is made by a person other than the applicant, then the Village Administrator shall promptly notify the applicant by sending a copy of the request for reconsideration to the applicant along with a notice stating that the applicant has seven (7) days from the date of the notice to file a written response to the request for reconsideration with the Village Clerk.
  - (E) If the Village Administrator fails to act on a request for reconsideration within thirty (30) days after the request for reconsideration is filed, then the request for reconsideration shall be considered to have been denied, provided that the Village Administrator may extend for a period not to exceed ninety (90) days the time within which the Village Administrator will decide whether to grant or deny the petition for reconsideration. Any decision by the Village Administrator to deny a request for reconsideration shall constitute a final decision for purposes of judicial review.
- (Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.11 MODIFICATION OF CHEMICAL SUBSTANCE STORAGE PERMITS**

- (A) The Village Administrator may modify a Chemical Substance Storage Permit for any of the following reasons:
  - (1) To incorporate any requirements resulting from a new or revised Federal, State or local law, ordinance, rule or regulation.
  - (2) To take into account any technological developments.
  - (3) To take into account any new information relating to the storage or potential dangers or hazards of the Chemical Substances allowed to be stored under the Chemical Substance Storage Permit.
  - (4) To take into consideration and address any substantial alterations or additions to the operations or activities which occur on the premises covered by the Chemical Substance Storage Permit that have occurred since the date the permit was issued.
  - (5) Because of a violation of this Ordinance or another applicable law, rule or regulation, or because of a failure to comply with a term or condition contained in the Chemical Substance Storage Permit.
  - (6) To correct typographical or other errors in the Chemical Substance Storage Permit or in the Release Prevention, Containment and Control Plan.
  - (7) To correct misrepresentations or the failure to disclose information in the application for the Chemical Substance Storage Permit.
  - (8) To reflect a transfer in the ownership or occupancy of the premises covered by the Chemical Substance Storage Permit, provided that the transfer has been approved as provided in Section 54.12.
  - (9) To protect against Chemical Substances covered by the permit from coming into contact with or being absorbed into groundwater or entering into any public or private water well and/or in order to reduce the likelihood that an accidental release of Chemical Substances might occur.

- (B) If the Village Administrator proposes to modify a Chemical Substance Storage Permit, the Village Administrator shall notify the permit holder of the modifications the Village Administrator proposes to make to the permit and the reasons for the modifications. The permit holder shall be given not less than thirty (30) days to respond in writing to the Village Administrator as to why the modifications should not be made as proposed and to otherwise comment on the proposed modifications.
- (C) If a Chemical Substances Storage Permit is modified as provided in this Section, the Village Administrator shall give notice of the modification in the same manner provided for giving public notice of the issuance of permits in Section 54.10(B). Any person who occupies property that is connected to the Village's potable water supply system and the person to whom the permit has been issued shall be entitled to request in writing that the Village Administrator reconsider the terms and conditions contained in a Chemical Substance Storage Permit by filing the request with the Village Clerk as provided in Section 54.10(B). The procedures set forth in Section 54.10(B) applicable to the reconsideration of decisions to issue a Chemical Substance Storage Permit shall be applicable to requests for reconsideration of decisions to modify the conditions contained in a Chemical Substance Storage Permit.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.12 TRANSFER AND ASSIGNMENT OF CHEMICAL SUBSTANCE STORAGE PERMITS**

- (A) Chemical Substance Storage Permits are valid only for the premises described in the permit and for the permittee identified in the permit. Chemical Substance Storage Permits cannot be transferred or assigned without the prior written approval of the Village Administrator. If the premises for which a Chemical Substance Storage Permit has been issued is sold or otherwise transferred to a new owner who will maintain the same operation in the same premises, whether or not the seller will continue to operate the equipment or the equipment is leased to another entity for its operation at the site of the original permittee, then the permit held by the seller and/or owner shall be reissued by the Village to the new owner and/or operator as a temporary permit; provided:
  - (1) The new owner and/or operator notifies the Village thirty (30) calendar days in advance of the transaction, and
  - (2) The new owner and/or operator confirms to the Village, within two (2) business days of the transaction, of completion of the sale or execution of an operating contract, and
  - (3) The new owner and/or operator immediately applies for a new permit in accordance with this Chapter.
- (B) A temporary permit shall be valid for a period of not more than ninety (90) days.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.13 VIOLATIONS OF STATE AND FEDERAL WATER QUALITY STANDARDS**

If the Village is fined by the State of Illinois or the United States Environmental Protection Agency for a violation of water quality standards as the result of a release, then the Village shall, in addition to any other remedy which may be available, also be entitled to recover from any person or persons who caused the release or whose failure to comply with the requirements of this Chapter resulted in the occurrence of

the release, the amount of any such fine as well as any costs incurred by the Village as a result of the violation of the water quality standards, including but not limited to all Village legal, sampling and analytical testing costs.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.14 REVOCATION OF CHEMICAL SUBSTANCES STORAGE PERMIT**

- (A) The Village President, or his or her designee, may revoke a Chemical Substance Storage Permit for good cause, including, but not limited to, the following reasons:
- (1) Failure by the permit holder and/or property owner(s) to notify the Village Administrator of substantial changes relating to the use or storage of Chemical Substances on the premises for which the permit was issued prior to the occurrence of the change;
  - (2) Misrepresentation or failure by the permit holder and/or property owner(s) to fully disclose all relevant facts in the Chemical Substance Storage Permit application;
  - (3) Failure by the permit holder and/or property owner(s) to pay fines;
  - (4) Failure by the permit holder and/or property owner(s) to meet compliance schedules;
  - (5) Failure by the permit holder and/or property owner(s) to provide advance notice of the transfer of business or operation ownership of a permitted facility; or
  - (6) Violation by the permit holder and/or property owner(s) of any standard or requirement, or any terms of the Chemical Substance Storage Permit or this Chapter.
- (B) The Village Administrator may order any person whose Chemical Substance Storage Permit is subject to revocation to show cause as to why the Chemical Substance Storage Permit should not be revoked. Written notice shall be served on the permit holder, specifying the time and place of a hearing to be held by the Village President at which the person to whom the Chemical Substance Storage Permit has been issued shall show cause as to why the Chemical Substance Storage Permit should not be revoked. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten (10) days before the hearing. The notice shall specify the reason or reasons as to why the Chemical Substance Storage Permit is subject to revocation.
- (C) The Village President, or his or her designee, may conduct the hearing and take the evidence or may designate a hearing officer to conduct the hearing. The Village President or hearing officer shall have the authority to:
- (1) Issue, in the name of the Board, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
  - (2) Take the evidence;

If the hearing is conducted by a hearing officer, the hearing officer shall transmit a report of the evidence and hearing, including transcripts and other evidence, together with the hearing officer's recommendation to the Village President as to whether the Chemical Substance Storage Permit should be revoked.

- (D) At any hearing held pursuant to this Chapter, testimony taken must be under oath and recorded stenographically or by recording. The transcript of said hearing shall be made available to any member of the public or any party to the hearing upon payment of the usual copying charges therefor. The hearing shall be an informal hearing and the rules of evidence applicable in courts of law shall not be applicable.
- (E) After the Village President has reviewed the evidence, the Village President may issue an order to the offending person responsible for the violation of this Chapter directing either: that the Chemical Substance Storage Permit be revoked; or that following a specified time, the Chemical Substance Storage Permit shall be revoked, unless adequate progress towards compliance is accomplished; or direct the offending person to remove the Chemical Substances from the premises within a specified period of time; or that such other action as deemed necessary by the Village President to abate the improper Chemical Substance storage. Further orders and directives as are necessary may be issued.
- (F) Notwithstanding any other provision of this Chapter, the Village Administrator shall have the authority, after informal notice to the offending person, to immediately and effectively halt or prevent any release of Chemical Substances that reasonably appears to present an imminent danger to the Village's potable water supply or to the health, safety or welfare of the public. When the Village Administrator determines that such an emergency situation exists, he or she shall issue a verbal order (followed as soon thereafter as is reasonably possible by a written order) to the person responsible for creating the dangerous situation, stating the reason for the order and the actions which must be taken to eliminate the reason for the emergency situation. Methods of informal notice shall include, but not be limited to, any of the following: personal conversation between the responsible person and the Village Administrator, telephone calls, letters, hand-delivered messages or notices posted at the responsible person's premises.
- (G) Any person who has their Chemical Substance Storage Permit revoked pursuant to this Section 54.14 shall have the right to request to make a presentation to the Board of Trustees of the Village, at which time the person shall be given the opportunity to explain why their permit should not be revoked. Following the presentation, the Board of Trustees may reconsider, uphold, overrule, or alter the Village President's decision to revoke the Chemical Substance Storage Permit and make a final decision on such issue.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.15 FALSE INFORMATION OR STATEMENTS**

It shall be unlawful for any person to knowingly make any false statement or certification in any application, record, report, plan or other document required to be filed with the Village under this Chapter, including, but not limited to, the application for a Chemical Substance Storage Permit or in any document filed with the Village or required to be maintained pursuant to this Chapter.

(Ord. 2015-07-01, passed 7-15-2015)

**§ 54.16 COAL TAR SEALANT PRODUCTS, USE AND/OR SALE PROHIBITED**

- (A) No person may knowingly cause or allow the sale at wholesale or retail of a coal tar sealant product within the Corporate Limits of the Village.
- (B) No person may knowingly cause or allow the application of a coal tar sealant product on any surface within the Corporate Limits of the Village, including but not limited to a permitted surface as defined in Chapter 72 of this Village Code or on any playground, sidewalk, bike trail, or roadway.

(Ord. 2016-12-21-01, passed 12-21-2016; Amd. Ord. 2019-04-02, passed 04-17-2019)

**§ 54.17 ENFORCEMENT MEASURES**

- (A) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation within ten (10) days of the date of such notice, then representatives of the Village are authorized to take any and all measures necessary to abate the violation and/or restore the property.
- (B) It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 2015-07-01, passed 7-15-2015)

**§ 54.18 COST OF ABATEMENT OF THE VIOLATION**

- (A) The owner(s) and occupant(s) of the property will be notified of the cost of abatement, including administrative and remediation costs.
- (B) If the amount due is not paid within a timely manner as determined by the decision of the municipal authority, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
- (C) Any person violating any of the provisions of this Section shall become liable to the Village by reason of the violation.
- (D) All amounts incurred for abatement shall be paid within forty-five (45) days after notice of such costs has been mailed via regular U.S. Mail, postage prepaid, to the owner(s).

(Ord. 2015-07-01, passed 7-15-2015)

**§ 54.19 INJUNCTIVE RELIEF**

- (A) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter.
- (B) If a person has violated or continues to violate the provisions of this Chapter, the Village may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.20 COMPENSATORY ACTION**

In lieu of penalties or other remedies authorized by this Chapter, the Village may agree to require a violator to take alternative compensatory action(s), but the Village shall have no obligation to enter into any such agreement.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.21 VIOLATIONS DEEMED A PUBLIC NUISANCE**

In addition to the enforcement processes and the penalties provided by this Code, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of nuisance may be taken.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.22 REMEDIES NOT EXCLUSIVE**

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and at the discretion of the Village, the Village may seek and obtain cumulative remedies.

(Ord. 2015-07-01, passed 7-15-2015)

#### **§ 54.99 PENALTY**

- (A) Any person that has violated or continues to violate this Chapter shall be liable and shall be subject to fine(s) of not less than \$250 nor more than \$750 for each offense.
- (B) Each day the violation exists or continues shall be considered a separate and distinct offense.
- (C) The Village may recover all attorneys' fees, court costs, and other expenses associated with the enforcement of and securing compliance with this Chapter, including sampling and monitoring expenses.
- (D) Any and all fines for violations of this Chapter shall be in addition to any and all costs that are to be paid to the Village pursuant to Section 10.99.

(Ord. 2015-07-01, passed 7-15-2015)