

**Revised Code  
-of-  
Ordinances  
of  
*Macon,  
Illinois***

**[Supplemented July 1, 2020]**

**PREPARED BY:**  
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# **CITY OF MACON**

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## **ORDINANCE NO. 2019-01**

**AN ORDINANCE ADOPTING  
A CODE OF ORDINANCES  
FOR THE  
CITY OF MACON, ILLINOIS**

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**ADOPTED BY THE  
CITY COUNCIL  
OF THE  
CITY OF MACON, ILLINOIS**

**THIS 14<sup>TH</sup> DAY OF OCTOBER, 2019**

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**Published in book form by authority of the Mayor and the City Council of  
the City of Macon, Macon County, Illinois this 14<sup>th</sup> day of October, 2019.**

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## ORDINANCE NO. 2019-01

**AN ORDINANCE ADOPTING A REVISED CODE OF ORDINANCES OF THE CITY OF MACON, MACON COUNTY, ILLINOIS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MACON, MACON COUNTY, ILLINOIS, THAT:**

**Section 1:** The following exhibit shall be "**The Revised Code of Ordinances**" of the **City of Macon, Macon County, Illinois**" and shall be as follows:

**Section II. Severability of Provisions.** Each section, paragraph, sentence, clause and provision of this Ordinance is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance, nor any part thereof, other than that part affected by such decision.

**Section III. Conflicting Ordinances.** Any conflicting ordinances, code provisions or pertinent portions thereof in effect at the time this ordinance takes effect are hereby repealed.

**Section IV. Effective.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

### SEE EXHIBIT "A" FOLLOWING

Passed this 14<sup>th</sup> day of October, 2019 by the City Council of the City of Macon, Macon County, Illinois, and deposited and filed in the office of the City Clerk in said City on that date.

/s/ Pam Windell  
PAM WINDELL, CITY CLERK  
MACON, ILLINOIS

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT OF INTEREST
Caleb Beasley				X	
Kimberly Claussen	X				
Doug McGuire	X				
Doug Huggins	X				
Chad Rappe	X				
Brandon Windell	X				

Approved by the Mayor of the City of Macon, Macon County, Illinois, this 14<sup>th</sup> day of October, 2019.

/s/ Frank Dunmire  
FRANK DUNMIRE, MAYOR  
MACON, ILLINOIS

ATTEST:

/s/ Pam Windell  
PAM WINDELL, CITY CLERK  
MACON, ILLINOIS

**(SEAL)**

## **CITY CLERK'S CERTIFICATE**

**STATE OF ILLINOIS  
COUNTY OF MACON  
CITY OF MACON**

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)  
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**ss.**

**CITY CLERK'S OFFICE**

I, Pam Windell, City Clerk of the City of Colchester, do hereby certify that the following Revised Code of Ordinances of the City of Macon, Macon County, Illinois, published by authority of the City Council was duly passed by the City Council of the City of Macon, Illinois, approved by the Mayor, and published in book form according to law on this date, and that these ordinances are true and perfect copies of the ordinances, as passed, approved, and now of record and on file in my office as provided by law.

In witness whereof, I have set and affixed the Corporate Seal of the City of Macon, Illinois, this 14<sup>th</sup> day of October, 2019.

/s/ Pam Windell

PAM WINDELL, CITY CLERK  
MACON, ILLINOIS

**(SEAL)**

## **CHAPTER TITLES**

<b>1.</b>	<b>Administration</b>	<b>1-1</b>
<b>3.</b>	<b>Animals</b>	<b>3-1</b>
<b>6.</b>	<b>Building Regulations</b>	<b>6-1</b>
<b>7.</b>	<b>Business Code</b>	<b>7-1</b>
<b>8.</b>	<b>Communications Services</b>	<b>8-1</b>
<b>11.</b>	<b>Employee Policies</b>	<b>11-1</b>
<b>13.</b>	<b>Fireworks Regulations</b>	<b>13-1</b>
<b>15.</b>	<b>Franchises</b>	<b>15-1</b>
<b>16.</b>	<b>Health</b>	<b>16-1</b>
<b>21.</b>	<b>Liquor</b>	<b>21-1</b>
<b>22.</b>	<b>Mandated Policies</b>	<b>22-1</b>
<b>23.</b>	<b>Manufactured Housing Code</b>	<b>23-1</b>
<b>24.</b>	<b>Motor Vehicle Code</b>	<b>24-1</b>
<b>25.</b>	<b>Nuisances</b>	<b>25-1</b>
<b>27.</b>	<b>Offenses</b>	<b>27-1</b>
<b>28.</b>	<b>Parks</b>	<b>28-1</b>
<b>30.</b>	<b>Public Safety</b>	<b>30-1</b>
<b>33.</b>	<b>Street Regulations</b>	<b>33-1</b>
<b>34.</b>	<b>Subdivision Code</b>	<b>34-1</b>
<b>36.</b>	<b>Taxation</b>	<b>36-1</b>
<b>38.</b>	<b>Utilities</b>	<b>38-1</b>
<b>40.</b>	<b>Zoning</b>	<b>40-1</b>

## MACON, ILLINOIS

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
1970-1	Appropriation	07/13/70	Special Legislation
1970-1	Streets: Excavations	06/08/70	Repealed
1970-2	Streets: Excavations	11/09/70	Repealed
1970-2	Zoning Map: Roush	10/12/70	Special Legislation
1970-2	Tax Levy	08/10/70	Special Legislation
1971-1	Election Publication	03/08/71	Special Legislation
1971-2	Election Judges	03/08/71	Special Legislation
1971-3	Appropriation	06/14/71	Special Legislation
1971-4	Tax Levy	08/09/71	Special Legislation
1971-5	Liquor	09/13/71	Chapter 21
1972-1	Zoning Map: Harshbarger	04/10/72	Special Legislation
1972-2	Appropriation	08/14/72	Special Legislation
1972-3	Tax Levy	09/11/72	Special Legislation
1972-4	Subdivision Code	10/09/72	Chapter 34
1973-1	Street: Numbering	03/12/73	Chapter 33
1973-2	Zoning Map: Perry	1973	Special Legislation
1973-3	Zoning Map	1973	Special Legislation
1973-4	Zoning Variance: Perry	1973	Special Legislation
1973-5	Appropriation	08/06/73	Special Legislation
1973-6	Zoning Map: Erickson	08/13/73	Special Legislation
1973-7	Zoning Map: Macon Farm	08/13/73	Special Legislation
1973-8	Tax Levy	08/30/73	Special Legislation
1973-9	Utility - Water	10/08/73	Repealed
1974-1	Zoning Map: Pease	02/11/74	Special Legislation
1974-2	Appropriation	07/08/74	Special Legislation
1974-3	Tax Levy	08/12/74	Special Legislation
1974-4	IMRF	09/10/74	Chapter 1
1975-1	Liquor: Classes	03/10/75	Chapter 21
1975-2	Business: Racetracks	03/10/75	Chapter 7
1975-3	Appropriation	07/23/75	Special Legislation
1975-4	Tax Levy	09/08/75	Special Legislation
1975-5	GTE Franchise	12/08/75	See #77-1
1976-1	Sheriff's Contract	03/08/76	Special Legislation
1976-2	Animals: Dogs	03/08/76	Chapter 3
1976-3	CIPS - Electric	03/08/76	Special Legislation
1976-4	Motor Vehicles: Parking	05/10/76	Chapter 24
1976-5	Utilities: Water	07/12/76	Repealed
1976-6	Appropriation	08/09/76	Special Legislation
1976-7	Tax Levy	09/13/76	Special Legislation
1976-8	Sheriff's Contract	11/08/76	Chapter 30
1976-9	Zoning Maps: Carr-Collins	10/11/76	Special Legislation
1977-1	GTE	04/11/77	Special Legislation

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
1977-3	Appropriation	08/24/78	Special Legislation
1977-4	Tax Levy	09/12/78	Special Legislation
1978-2	Appropriation	08/14/78	Special Legislation
1978-3	Utilities: Water	08/14/78	Repealed
1978-4	Tax Levy	09/11/78	Special Legislation
1978-5	Appropriation	08/13/79	Special Legislation
1978-6	Tax Levy	09/11/79	Special Legislation
1979-9	CIPS: Street Lights	12/19/79	Special Legislation
1980-2	Zoning Map: Pogue	08/11/80	Special Legislation
1980-3	Appropriation	09/08/80	Special Legislation
1980-4	Tax Levy	09/08/80	Special Legislation
1980-5	Cable TV	09/08/80	Chapter 8
1980-6	R.O. Tax	09/08/80	Repealed
1980-6A	S.O. Tax	09/08/80	Repealed
1981-1	Animals: Dogs	05/11/81	
1981-2	Appropriation	07/13/81	Special Legislation
1981-3	Tax Levy	07/13/81	Special Legislation
1981-4	Utilities: Water Taps	12/14/81	Repealed
1982-1	Utilities: Water	01/11/82	Ch. 38; Art. IV
1982-2	Businesses: Racetracks	04/12/82	Chapter 7
1982-3	Appropriation	08/10/82	Special Legislation
1982-4	Tax Levy	09/13/82	Special Legislation
1983-1	R.O. Tax	02/14/83	Repealed
1983-2	CIPS Street Lights	03/14/83	Special Legislation
1983-3	Motor Vehicle: No Parking	05/09/83	Chapter 24
1983-4	Appropriation	07/25/83	Special Legislation
1983-5	Tax Levy	08/22/83	Special Legislation
1983-6	Utilities: Water Taps	08/22/83	Chapter 38
1983-7	Motor Vehicles: Snow Routes	11/14/83	Chapter 24
1983-8	Motor Vehicles: Snow Routes	11/14/83	Chapter 24
1984-1	Liquor	01/09/84	Chapter 21
1984-2	Liquor	06/11/84	Chapter 21
1984-3	Appropriation	07/26/84	Special Legislation
1984-4	Tax Levy	09/10/84	Special Legislation
1985-1	Utilities: Water	03/11/85	Repealed
1985-2	Real Estate - Murphy	07/08/85	Special Legislation
1985-3	Appropriation	07/08/85	Special Legislation
1985-4	Tax Levy	07/08/85	Special Legislation
1985-5	Utilities: Water	09/09/85	Repealed
1985-6	Satellite Dish Permit	10/14/85	Chapter 6
1986-1	Nuisance: Garbage	04/14/86	Chapter 25
1986-2	Utilities: Cross-Connection	04/14/86	Chapter 38
1986-3	Appropriation	06/09/86	Special Legislation
1986-4	Tax Levy	06/09/86	Special Legislation
1986-5	Corporate Map	10/13/86	Special Legislation

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
1987-1	Appropriation	06/08/87	Special Legislation
1987-2	Tax Levy	08/10/87	Special Legislation
1988-1	Utilities: Water Rates	01/11/88	Chapter 38
1988-2	Appropriation	06/13/88	Special Legislation
1988-3	Tax Levy	08/08/88	Special Legislation
1989-1	Offenses: Burning	05/08/89	Chapter 27
1989-2	Offenses: Skateboards	05/08/89	Chapter 27
1989-3	Appropriation	09/10/89	Special Legislation
1989-4	Tax Levy	09/10/89	Special Legislation
1989-5	Prevailing Wages	08/14/89	Special Legislation
1990-1	IML Membership	05/14/90	Special Legislation
1990-2	Appropriation	08/13/90	Special Legislation
1990-3	Tax Levy	09/10/90	Special Legislation
1991-1	Appropriation	07/08/91	Special Legislation
1991-2	Tax Levy	09/09/91	Special Legislation
1992-1	Offenses	07/13/92	Chapter 27
1992-2	Appropriation	06/08/92	Special Legislation
1992-3	Tax Levy	07/13/92	Special Legislation
1992-4	Utilities: Water Rates	08/10/92	Chapter 38
1993-1	Sanitary District: Agreement	01/11/93	Ch. 38 - Addendum
1993-2	Health: Trash Contract	01/11/93	Chapter 16
1993-3	Offenses - Curfew	06/14/93	Chapter 27
1993-4	Appropriation	07/12/93	Special Legislation
1993-5	Offenses - Various	07/12/93	Chapter 27
1993-6	Prevailing Wages	08/09/93	Special Legislation
1993-7	Zoning: Special-Use: Jacobs	10/11/93	Special Legislation
1993-8	Motor Vehicle: Parking	11/08/93	Chapter 24
1993-9	Tax Levy	12/13/93	Special Legislation
1994-1	Prevailing Wages	07/11/94	Special Legislation
1994-2	Recyclable Materials	07/11/94	Chapter 16
1994-3	Utilities: Water Rates	07/11/94	Chapter 38
1994-4	Exchange of Property	08/08/94	Special Legislation
1994-5	Zoning: Variance - Baker	08/08/94	Special Legislation
1994-6	Appropriation	08/08/94	Special Legislation
1994-7	Property Sale: Hogan	09/12/94	Special Legislation
1994-8	Zoning: Variance - Hogan	11/14/94	Special Legislation
1994-9	Zoning Code - Content	11/14/94	Chapter 40
1994-10	Tax Levy	11/14/94	Special Legislation
1995-1	Motor Vehicles: Speed	03/13/95	Chapter 24
1995-2	Nuisances: Garbage - Debris	05/08/95	Chapter 25
1995-3	Deed: Reverter - Central Shippers	06/12/95	Special Legislation
1995-4	Prevailing Wages	06/12/95	Special Legislation
1995-5	Appropriation	07/10/95	Special Legislation
1995-6	CIPS	09/11/95	Special Legislation
1995-7	Tax Levy	11/13/95	Special Legislation



<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
1996-1	Zoning: Variance - Zehnacker	01/08/96	Special Legislation
1996-2	Zoning: Variance - Arndt	03/11/96	Special Legislation
1996-3	Water Revenue Bonds	04/08/96	Special Legislation
1996-4	Streets: Culverts	05/13/96	Chapter 33
1996-5	Prevailing Wages	06/10/96	Special Legislation
1996-6	Zoning: Variance - Thompson	06/10/96	Special Legislation
1996-7	Appropriation	07/08/96	Special Legislation
1996-8	Equal Employment Policy	07/08/96	Chapter 12
1996-9	Fair Housing	07/08/96	Chapter 13
1996-10	Zoning: Variance - Jesse	08/12/96	Special Legislation
1996-11	Zoning: Variance - Damery	08/12/96	Special Legislation
1996-12	Zoning: Variance - Burns	10/14/96	Special Legislation
1996-13	Appropriation	10/14/96	Special Legislation
1996-14	Tax Levy	11/11/96	Special Legislation
1996-15	Administration: Salaries	08/13/96	Ch. 1-3-1
1996-16	Utilities: Water Regulations	12/09/96	Chapter 38
1996-17	Rezoning: Railroad Addition	12/09/96	Special Legislation
1997-1	Zoning: Salaries	01/13/97	Chapter 40
1997-2	Appropriation	05/12/97	Special Legislation
1997-3	Prevailing Wages	06/08/97	Special Legislation
1997-4	Animals - Dogs	08/11/97	Chapter 3
1997-5	Tax Levy	10/13/97	Special Legislation
1998-5	Revised Code	09/14/98	New Code
1998-	Business: Race Tracks	11/09/98	Ch. 7; Art. I
1999-9	Annexation: Hogan Hills	02/15/99	Special Legislation
1999-10	Motor Vehicles: Speed Limit	04/12/99	Chapter 24
1999-11	Zoning: Variance	06/14/99	Special Legislation
1999-12	Administration: Gift Ban	06/14/99	Repealed
1999-13	Prevailing Wages	06/14/99	Special Legislation
1999-14	Appropriation	06/14/99	Special Legislation
1999-15	Annexation: Hogan Hills	07/12/99	Repeals #99-9
1999-16	Annexation: Spalding	07/12/99	Special Legislation
1999-18	Zoning: Code Content	08/09/99	Sec. 40-10-20
1999-19	Zoning: Variance – Putsch	08/09/99	Special Legislation
1999-20	Hogan Hills: Plat & Variances	11/08/99	Special Legislation
1999-21	Tax Levy	11/08/99	Special Legislation
1999-22	Mandated Policies: Investment Policy	11/08/99	Chapter 22
1999-23	Wall St. Addition – Rte. 51	11/08/99	Special Legislation
1999-24	Administration: Collector	11/08/99	Chapter 1

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
06/12/2000-1	Prevailing Wage	06/12/00	Special Legislation
07/10/2000-1	Budget and Appropriation	07/10/00	Special Legislation
11/13/2000-1	Tax Levy	11/13/00	Special Legislation
12/11/2000-1	Acceptance of Sanitary Dist. Real Estate, Interests, Property	12/11/00	Special Legislation
01/08/2001-1	Annexation of Community Center	01/08/01	Special Legislation
01/08/2001-2	Utilities: Sanitary Services	01/08/01	Ch. 38; Art. IV
02/12/2001-1	Taxation: Taxpayer's Rights Code	02/12/01	Chapter 38
02/12/2001-2	Zoning: Map – Amendment	02/12/01	Special Legislation
04/09/2001-1	Utilities: Water Purchase Contract	04/09/01	Chapter 38
04/09/2001-2	Mandated Policies: FOIA	04/09/01	Chapter 22
04/09/2001-3	Liquor Code	04/09/01	Ch. 21; Art. I
05/14/2001-1	Liquor Code	05/14/01	Ch. 21; Art. III
06/11/2001-1	Prevailing Wage	06/11/01	Special Legislation
07/09/2001-1	Appropriation	07/09/01	Special Legislation
08/13/2001-1	Liquor: Hours	08/13/01	Section 21-3-1
09/10/2001-1	Contract with Sheriff's Office	09/10/01	Special Legislation
09/10/2001-2	Zoning: Variance – Herbert	09/10/01	Special Legislation
11/12/2001-1	Subdivision & Zoning Codes	11/12/01	Ch. 34 & 40
11/12/2001-2	Motor Vehicles: Stop Signs	11/12/01	Ch. 24; Schd. "A" & "E"
11/12/2001-3	Business Code	11/12/01	Chapter 7
11/12/2001-4	Offenses	11/12/01	Chapter 27
11/12/2001-5	Tax Levy	11/12/01	Special Legislation
01/14/2002-1	Administration: Remote Meeting Attendance	01/14/02	Chapter 1
03/11/2002-1	Liquor Code	03/11/02	Chapter 21
04/08/2002-1	Administration	04/08/02	Chapter 1
04/08/2002-2	Motor Vehicles: Speed Zones	04/08/02	Ch. 24; Schd. "D"
04/08/2002-3	Star Lane Dedications	04/08/02	Special Legislation
01/10/2002-1	Prevailing Wage	01/10/02	Special Legislation
06/10/2002-2	Liquor Code	06/10/02	Ch. 21; Art. II
08/12/2002-1	Appropriation	08/12/02	Special Legislation
09/09/2002-1	Taxation: Simplified Telecommunications	09/09/02	Chapter 36
10/14/2002-1	Taxation: Simplified Telecommunications	10/14/02	Chapter 36
10/14/2002-2	Motor Vehicles: No Parking	10/14/02	Ch. 24; Schd. "E"
11/11/2002-1	Tax Levy	11/11/02	Special Legislation
11/11/2002-2	Motor Vehicles: Stop Intersections	11/11/02	Ch. 24; Schd. "A"
11/11/2002-3	Liquor: Hours	11/11/02	Section 21-3-1
12/09/2002-1	Liquor Code	12/09/02	Ch. 21; Art. III
12/09/2002-2	Administration	12/09/02	Ch. 1; Art. VII
12/09/2002-3	Liquor: Hours	12/09/02	Section 21-3-1
12/09/2002-4	Sale of Real Estate	12/09/02	Special Legislation
04/14/2003-1	Zoning: Variance	04/14/03	Special Legislation
05/12/2003-1	Offenses	05/12/03	Ch. 27; Art. III
06/03/2003-1	Prevailing Wage	06/03/03	Special Legislation
07/14/2003-1	Appropriation	07/14/03	Special Legislation
08/11/2003-1	Offenses: Tobacco Products	08/11/03	Ch. 27; Art. II
10/13/2003-1	Zoning: Variance	10/13/03	Special Legislation
11/10/2003-1	Nuisances: Weeds	11/10/03	Ch. 25; Art. II
12/08/2003-1	Tax Levy	12/08/03	Special Legislation
12/18/2003-1	TIF District	12/18/03	Special Legislation
12/18/2003-2	TIF District	12/18/03	Special Legislation

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
12/18/2003-3	Professional Services Agreement	12/18/03	Special Legislation
01/12/2004-1	Professional Services Agreement	01/12/04	Special Legislation
02/09/2004-1	Annexation: Benson	02/09/04	Special Legislation
02/09/2004-2	Annexation: Corn Belt FS	02/09/04	Special Legislation
02/09/2004-3	Annexation: Coverstone	02/09/04	Special Legislation
02/09/2004-4	Annexation: Maton	02/09/04	Special Legislation
02/09/2004-5	Annexation: Stringer	02/04/09	Special Legislation
02/09/2004-6	Annexation: Benson	02/09/04	Special Legislation
02/09/2004-7	Annexation: Corn Belt FS	02/09/04	Special Legislation
02/09/2004-8	Annexation: Prairie State Bank	02/09/04	Special Legislation
02/09/2004-9	Annexation: Stringer	02/04/09	Special Legislation
02/09/2004-10	Annexation: Maton	02/09/04	Special Legislation
02/09/2004-11	Annexation: Macon Sanitary Sewer	02/09/04	Special Legislation
02/09/2004-12	Zoning: Variance – Dempster	02/09/04	Special Legislation
02/09/2004-13	Zoning: Amendment	02/09/04	Chapter 40
02/09/2004-14	Zoning: Map – Maton	02/09/04	Special Legislation
02/09/2004-15	Zoning: Map – Stringer	02/09/04	Special Legislation
02/09/2004-16	Zoning: Map – Prairie State Bank	02/09/04	Special Legislation
02/09/2004-17	Zoning: Map – Corn Belt FS	02/09/04	Special Legislation
02/09/2004-18	Zoning: Map – Benson	02/09/04	Special Legislation
02/09/2004-19	Zoning: Map – Archer Daniels Midland	02/09/04	Special Legislation
02/09/2004-20	Zoning: Map – Sanitary Sewer Property	02/09/04	Special Legislation
02/09/2004-21	Zoning: Map – Mathias Development	02/09/04	Special Legislation
02/09/2004-22	Zoning: Map – Mathias	02/09/04	Special Legislation
02/09/2004-23	Zoning: Special-Use – Corn Belt FS	02/09/04	Special Legislation
02/18/2004-1	TIF District	02/18/04	Special Legislation
02/18/2004-2	TIF District Area	02/18/04	Special Legislation
02/18/2004-3	TIF District	02/18/04	Special Legislation
03/08/2004-1	Nuisances: Mobile Homes	03/08/04	Ch. 25; Art. VII
03/08/2004-2	Professional Agreement – Thomas Jacobs	03/08/04	Special Legislation
03/08/2004-3	TIF Agreement: Macon DG LLC	03/08/04	Special Legislation
03/08/2004-4	TIF Agreement: Hogan Hills Inc	03/08/04	Special Legislation
06/14/2004-2	Motor Vehicles: Speed Limits	06/14/04	Chapter 24
06/14/2004-3	Motor Vehicles: No Parking	06/14/04	Chapter 24
06/14/2004-4	Zoning: Variance – Goaley	06/14/04	Special Legislation
06/14/2004-5	Zoning: Map – Damery	06/14/04	Special Legislation
06/14/2004-6	Prevailing Wage	06/14/04	Special Legislation
07/12/2004-1	Appropriation	07/12/04	Special Legislation
07/12/2004-2	Purchase/Condemnation – Renfro Addition	07/12/04	Special Legislation
07/12/2004-3	Evacuation of Intergovernmental Agreement	07/12/04	Special Legislation
07/12/2004-4	Zoning: Variance	07/12/04	Special Legislation
08/09/2004-1	TIF Agreement: Mathias Development	08/09/04	Special Legislation
08/09/2004-2	Condemnation/Purchase: Renfro Addition	08/09/04	Special Legislation
10/11/2004-1	Administration: Salaries	10/11/04	Section 1-3-1
10/11/2004-2	Mandated Policies: Ethics Act	10/11/04	Chapter 22
11/08/2004-1	TIF Agreement: Maton	11/08/04	Special Legislation
11/08/2004-2	Tax Levy	11/08/04	Special Legislation
04/11/2005-1	Nuisances: Buildings	04/11/05	Chapter 25
05/09/2005-1	Utilities	05/09/05	Section 38-2-1(H)
06/13/2005-2	Intergovernmental Agreement: Macon Township	06/13/05	Special Legislation

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
07/18/2005-1	Appropriation	07/18/05	Special Legislation
07/18/2005-2	Zoning: Variance – Wantland	07/18/05	Special Legislation
07/18/2005-3	Contract: Macon & Macon County	07/18/05	Special Legislation
08/08/2005-1	Zoning: Map	08/08/05	Chapter 40
09/12/2005-1	Subdivision Code	09/12/05	Ch. 34; Art. V; Div. XII
11/14/2005-1	Zoning: Map – Dawson & Wikoff	11/14/05	Special Legislation
11/14/2005-2	Tax Levy	11/14/05	Special Legislation
01/09/2006-1	Contract: Boody & City of Macon	01/09/06	Special Legislation
01/09/2006-2	Cable Television Franchise	01/09/06	Chapter 8
03/13/2006-1	Correcting Sec. #s in #05/12/2003-1	03/13/06	Special Legislation
03/13/2006-2	Correcting Sec. #s in #10/11/2004-2	03/13/06	Special Legislation
03/13/2006-3	Correcting Sec. #s in #01/11/2005-1	03/13/06	Special Legislation
04/10/2006-1	Zoning: Variance	04/10/06	Special Legislation
06/12/2006-1	Prevailing Wage	06/12/06	Special Legislation
06/12/2006-2	Zoning: Variance	06/12/06	Special Legislation
06/12/2006-3	Condemnation of Easement	06/12/06	Special Legislation
06/12/2005-4	Garbage Code	06/12/05	Chapter 16
08/14/2006-1	Fiscal Year Dates	08/14/06	Special Legislation
08/14/2006-2	Appropriation	08/14/06	Special Legislation
08/14/2006-3	Annexation: Hogan	08/14/06	Special Legislation
09/11/2006-1	Annexation: Hogan	09/11/06	Special Legislation
09/11/2006-2	Zoning: Hogan	09/11/06	Special Legislation
09/11/2006-3	Zoning: Notice Requirements	09/11/06	Chapter 40
09/11/2006-4	Fiscal Year Dates	09/11/06	Special Legislation
09/11/2006-5	TIF Agreement: Mathias Development	09/11/06	Special Legislation
09/11/2006-6	Administration: IMLRMA	09/11/06	Chapter 1
09/11/2006-7	Appropriation Supplement	09/11/06	Special Legislation
09/11/2006-8	Purchase of Old Bus Barn	09/11/06	Special Legislation
10/09/2006-1	Agreement: City & Gil Benson	10/09/06	Special Legislation
10/09/2006-2	Waiver of Health Insurance: Kendall	10/09/06	Special Legislation
10/09/2006-4	Administration: Salaries	10/09/06	Section 1-3-1
11/13/2006-1	Tax Levy	11/13/06	Special Legislation
11/13/2006-2	Nuisances	11/13/06	Ch. 25; Art. IV
04/09/2007-1	Subdivision Code	04/09/07	Ch. 34; Art. I & II
05/14/2007-1	Appropriation	05/14/07	Special Legislation
05/14/2007-2	Intergovernmental Agreement: Meridian School	05/14/07	Special Legislation
05/14/2007-3	Subdivision Code	05/14/07	Ch. 34; Art. I & II
06/11/2007-1	Motor Vehicles: Load Limits	06/11/07	Chapter 24
06/11/2007-2	Subdivision Code	06/11/07	Chapter 34
08/13/2007-1	Garbage	08/13/07	Chapter 16
09/10/2007-1	Zoning: Variance	09/10/07	Special Legislation
09/10/2007-2	TIF Agreement: Macon Motor Sports	09/10/07	Special Legislation
10/08/2007-1	Tax Levy	10/08/07	Special Legislation
10/08/2007-2	Zoning: Billboards	10/08/07	Section 40-6-12
11/12/2007-1	Borrowing of Money	11/12/07	Special Legislation
04/08/2008-1	Annexation: Stonewood	04/08/08	Special Legislation
04/14/2008-2	Annexation: Stonewood	04/14/08	Special Legislation
04/14/2008-3	Zoning: Agricultural	04/14/08	Section 40-4-84
04/14/2008-4	Zoning Map	04/14/08	Special Legislation

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
05/12/2008-1	Intergovernmental Agreement: Assumption	05/12/08	Special Legislation
06/09/2008-1	Redevelopment Agreement: Layne-Western	06/09/08	Special Legislation
07/14/2008-1	Prevailing Wage	07/14/08	Special Legislation
07/14/2008-2	Animals	07/14/08	Chapter 3
08/11/2008-1	Agreement: Computer Techniques Inc	08/11/08	Special Legislation
09/08/2008-1	Zoning Map Amendment	09/08/08	Special Legislation
09/08/2008-2	Zoning: Special Use – Macon Motor Sports	09/08/08	Special Legislation
10/01/2008-1	Administration	10/01/08	Ch. 1; Art. II
10/01/2008-2	Business: Peddlers	10/01/08	Ch. 7; Art. II
11/10/2008-1	Annexation: Macon Motorsports	11/10/08	Special Legislation
11/10/2008-2	Approve Phase II – Mathias Development	11/10/08	Special Legislation
12/08/2008-2	Tax Levy	12/08/08	Special Legislation
01/12/2009-1	Zoning Map	01/12/09	Special Legislation
04/13/2009-1	Mandated Policies: Identity Theft	04/13/09	Chapter 22
05/11/2009-1	Nuisances: Unsafe Buildings	05/11/09	Chapter 25
05/11/2009-2	Intergovernmental Agreement: Macon Co.	05/11/09	Special Legislation
05/11/2009-3	Administration: Bidding & Contracts	05/11/09	Repealed
05/11/2009-4	Public Safety: Mutual Aid	05/11/09	Chapter 30
06/08/2009-1	Prevailing Wage	06/08/09	Special Legislation
07/13/2008-1	Administration: City Administrator	07/13/09	Chapter 1
08/10/2009-1	Appropriation	08/10/09	Special Legislation
08/10/2009-2	Administration: City Administrator	08/10/09	Chapter 1
08/10/2009-3	Contract: Moran Economic Development	08/10/09	Special Legislation
09/14/2009-1	Nuisances: Weeds	09/14/09	Ch. 25; Art. II
09/14/2009-2	Annexation: Long	09/14/09	Special Legislation
10/12/2009-1	Utilities	10/12/09	Section 38-4-12
11/09/2009-1	Tax Levy	11/09/09	Special Legislation
03/08/2010-1	Intergovernmental Agreement: Macon County Animal Control	03/08/10	Chapter 3
03/08/2010-2	Animal Control	03/08/10	Chapter 3
04/12/2010-1	Motor Vehicles: Truck Routes	04/12/10	Ch. 24; Schd. "F"
06/07/2010-1	Prevailing Wage	06/07/10	Special Legislation
06/07/2010-2	Motor Vehicles: Speed Zones	06/07/10	Ch. 24; Schd. "D"
06/07/2010-3	Appropriation	06/07/10	Special Legislation
09/13/2010-1	Utilities: Water Rates	09/13/10	Chapter 38
11/08/2010-1	Tax Levy	11/08/10	Special Legislation
11/08/2010-2	Whispering Pines Plat	11/08/10	Special Legislation
11/08/2010-3	Zoning: Map – Whispering Pines	11/08/10	Special Legislation
12/13/2010-1	Engineering Services Contract: Water Tower	12/13/10	Special Legislation
12/13/2010-2	Final Plat: Whispering Pines	12/13/10	Special Legislation
02/11/2011-1	Franchises: Gas Franchise Agreement	02/11/11	Chapter 15
04/11/2011-1	Zoning: Variances	04/11/11	Special Legislation
05/09/2011-1	Gas Franchise: Ameren	05/09/11	Chapter 15
06/13/2011-1	Appropriation	06/13/11	Special Legislation
06/13/2011-2	Prevailing Wage	06/13/11	Special Legislation
06/13/2011-3	Zoning: Variances	06/13/11	Special Legislation
08/08/2011-1	Administration: Public Comment	08/08/11	Section 1-2-13
11/14/2011-1	Tax Levy	11/14/11	Special Legislation

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
01/09/2012-1	Utilities: Water Rates	01/09/12	Chapter 38
01/09/2012-2	Correcting Deed	01/09/12	Special Legislation
02/13/2012-1	Liquor: Licenses	02/13/12	Section 21-2-6(E)
03/13/2012-1	Zoning Code	03/13/12	Chapter 40
04/09/2012-1	TIF Agreement: Steve Coffman	04/09/12	Special Legislation
05/14/2012-1	Zoning: Variance – Lovelace	05/14/12	Special Legislation
05/14/2012-2	Zoning: Building Regulations	05/14/12	Chapter 40
06/11/2012-1	Prevailing Wage	06/11/12	Special Legislation
06/11/2012-2	Appropriation	06/11/12	Special Legislation
08/13/2012-1	Business: Video Gaming Terminals	08/13/12	Ch. 7; Art. III
08/13/2012-2	Zoning: Variance – Damery	08/13/12	Special Legislation
10/08/2012-1	Utilities: Water Rates	10/08/12	Chapter 38
10/08/2012-2	TIF Agreement: Norsen	10/08/12	Special Legislation
11/12/2012-1	Utilities: Sewer Rates	11/12/12	Chapter 38
11/12/2012-2	Tax Levy	11/12/12	Special Legislation
12/10/2012-2	Electrical Aggregation Question	12/10/12	Special Legislation
01/14/2013-1	Employees	01/14/13	Chapter 11
02/11/2013-1	Sale of Real Estate	02/11/13	Special Legislation
05/13/2013-1	Appropriation	05/13/13	Special Legislation
06/10/2013-1	Prevailing Wage	06/10/13	Special Legislation
07/08/2013-1	Zoning: Variance – West Frick Street	07/08/13	Special Legislation
07/08/2013-2	Zoning: Variance – North Towson	07/08/13	Special Legislation
08/12/2013-1	TIF Agreement: Hogan Hills	08/12/13	Special Legislation
09/09/2013-1	Zoning: Variance – Lovelace	09/09/13	Special Legislation
10/14/2013-1	TIF Agreement: Double J Hardware	10/14/13	Special Legislation
10/13/2013-2	TIF Agreement: Dean Conaway	10/13/13	Special Legislation
11/11/2013-2	Tax Levy	11/11/13	Special Legislation
12/09/2013-1	TIF Agreement: Christopher Miller	12/09/13	Special Legislation
12/09/2013-2	TIF Agreement: Darrick Hulva	12/09/13	Special Legislation
05/12/2014-1	Appropriation	05/12/14	Special Legislation
06/09/2014-1	Prevailing Wage	06/09/14	Special Legislation
09/08/2014-1	Utilities: Water Rates	09/08/14	Section 38-3-95
09/08/2014-2	Contract for Economic Development Services	09/08/14	Special Legislation
10/13/2014-1	Tax Levy	10/13/14	Special Legislation
12/08/2014-1	Utilities	12/08/14	Section 38-3-87
01/12/2015-1	Sale of Municipal Property	01/12/15	Special Legislation
04/13/2015-2	Employees	04/13/15	Section 11-1-8(B)
05/11/2015-1	Appropriation	05/11/15	Special Legislation
05/11/2015-2	Intergovernmental Agreement: Macon Co.	05/11/15	Special Legislation
07/13/2015-1	Prevailing Wage	07/13/15	Special Legislation
09/14/2015-1	Motor Vehicles: Golf Carts	09/14/15	Ch. 24; Art. VIII
10/09/2015-1	Tax Levy	10/09/15	Special Legislation
12/14/2015-1	Intergovernmental Agreement: Macon Co.	12/14/15	Special Legislation
04/11/2016-1	Sale of Municipal Property	04/11/16	Special Legislation
04/11/2016-2	TIF Agreement: Bill Brown	04/11/16	Special Legislation
05/09/2016-1	Appropriation	05/09/16	Special Legislation
06/13/2016-1	Prevailing Wage	06/13/16	Special Legislation
06/13/2016-2	Acquisition of Real Estate from Meridian	06/13/16	Special Legislation
08/08/2016-1	TIF Agreement: Moran Economic Dev.	08/08/16	Special Legislation

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
08/08/2016-2	Agreement: Moran Economic Development	08/08/16	Special Legislation
08/08/2016-3	Liquor Code	08/08/16	Section 21-2-4(W)
09/12/2016-1	Establishment of TIF	09/12/16	Special Legislation
10/10/2016-1	Vacation of Right-of-way	10/10/16	Special Legislation
11/14/2016-1	TIF Hearing Date	11/14/16	Special Legislation
11/14/2016-2	Business District Hearing Date	11/14/16	Special Legislation
12/12/2016-1	Tax Levy	12/12/16	Special Legislation
02/13/2017-1	TIF Redevelopment Agreement: Zion Pros LLC	02/13/17	Special Legislation
02/13/2017-2	Zoning Map Amendment	02/13/17	Special Legislation
02/13/2017-3	TIF I Project Area	02/13/17	Special Legislation
02/13/2017-4	TIF II Plan	02/13/17	Special Legislation
02/13/2017-5	TIF II Project Area	02/13/17	Special Legislation
02/13/2017-6	Adopt TIF II	02/13/17	Special Legislation
02/13/2017-7	Business District Established	02/13/17	Special Legislation
03/13/2017-1	Business District & Tax Rate Established	03/13/17	Special Legislation
06/12/2017-1	Prevailing Wage	06/12/17	Special Legislation
09/11/2017-2	Business Code	09/11/17	Ch. 7; Art. II
09/11/2017-3	Utilities	09/11/17	Ch. 38; Art. III; Div. V
12/11/2017-1	Tax Levy	12/11/17	Special Legislation
20170108-2	Appropriation	01/08/18	Special Legislation
20180108-2	Mandated Policies: Sexual Harassment	01/08/18	Repealed
05/14/2018-1	Annexation: Faith, Life, Family Church	04/14/18	Special Legislation
20180611-1	Appropriation	06/11/18	Special Legislation
20180611-2	Prevailing Wage	06/11/18	Special Legislation
20180709-1	Cable TV: New Wave Fee	07/09/18	Ch. 8; Art. II
20181008-1	Motor Vehicles: Non-Highway Vehicles	10/08/18	Chapter 24
20180910-1	S. Macon Public Library District Agreement	09/10/18	Special Legislation
20181112-01	Tax Levy	11/12/18	Special Legislation
20181210-01	Mandated Policies: Sexual Harassment	12/10/18	Chapter 22
20190114-01	TIF: Brian Ray	01/14/19	Special Legislation
20190610-01	Appropriation	06/10/19	Special Legislation
20190812-01	Zoning: Map: I-1	08/12/19	Special Legislation
2019-01	Revised Code	10/14/19	New Code
2019-02	Tax Levy	12/09/19	Special Legislation
2019-03	Administration: IMLRMA	12/09/19	Ch. 1; Art. V
2020-04	Zoning: Variance: 400 W Dunn St	01/13/20	Special Legislation
2020-05	Cable TV: Fiber Optic Internet	02/10/20	Ch. 8; Art. III
2020-06	Zoning: Map: 285 S Front St	03/09/20	Special Legislation
2020-07	Zoning: Map: 257 S Front St	03/09/20	Special Legislation
2020-08	Zoning: Map	03/09/20	Special Legislation
2020-09	Intergovernmental Agreement	04/13/20	Special Legislation
2020-10	Appropriation	06/08/20	Special Legislation
2020-11	Mandated Policies: Sexual Harassment	06/08/20	Ch. 22; Art. VII

## **CHAPTER 1 - ADMINISTRATION**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b>GENERAL CODE PROVISIONS</b>	
	<i>Division I - Title</i>	
	Section 1-1-1 - Title	1-1
	Section 1-1-2 - Acceptance	1-1
	Section 1-1-3 - Amendments	1-1
	Section 1-1-4 - Code Alteration	1-1
	Section 1-1-5 - Jurisdiction	1-1
	Section 1-1-6 - 1-1-7 Reserved	
	<i>Division II - Saving Clause</i>	
	Section 1-1-8 - Repeal of General Ordinances	1-2
	Section 1-1-9 - Public Utility Ordinances	1-2
	Section 1-1-10 - Court Proceedings	1-2
	Section 1-1-11 - Severability of Provisions	1-2
	Section 1-1-12 - City Clerk's Certificate	1-2
	Section 1-1-13 - 1-1-14 Reserved	
	<i>Division III - Definitions</i>	
	Section 1-1-15 - Construction of Words	1-3
	Section 1-1-16 - Definitions	1-3
	Section 1-1-17 - Catchlines	1-5
	Section 1-1-18 - 1-1-19 Reserved	
	<i>Division IV - General Penalty</i>	
	Section 1-1-20 - Penalty	1-6
	Section 1-1-21 - Service by Certified Mail	1-6
	Section 1-1-22 - Application	1-6
	Section 1-1-23 - Liability of Officers	1-6
	Section 1-1-24 - License	1-6
<b><i>II</i></b>	<b>CITY OFFICIALS</b>	
	<i>Division I – City Council</i>	
	Section 1-2-1 - City Council	1-7
	Section 1-2-2 - Regular Meetings	1-7
	Section 1-2-3 - Special Meetings	1-7
	Section 1-2-4 - Committees	1-7
	Section 1-2-5 - Special Committees	1-7
	Section 1-2-6 - Quorum	1-7
	Section 1-2-7 - 1-2-10 Reserved	
	<i>Division II – Rules of the City Council</i>	
	Section 1-2-11 - Rules of the Council	1-8
	Section 1-2-12 - Agenda	1-11
	Section 1-2-13 - Address by Non-Members	1-11



<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>II</b>	<b>CITY OFFICIALS (CONTINUED)</b>	
	<i>Division III – Ordinances</i>	
	Section 1-2-14 - Ordinances	1-12
	Section 1-2-15 - Reconsideration—Passing Over Veto	1-13
	Section 1-2-16 - No Vote to be Reconsidered at Special Meeting	1-13
	Section 1-2-17 - 1-2-18 Reserved	
	<i>Division IV - General Provisions</i>	
	Section 1-2-19 - Corporate Seal	1-13
	Section 1-2-20 - Elections	1-13
	Section 1-2-21 - Appointment of Elected Officials	1-13
	Section 1-2-22 - Municipal Officers - Regulations	1-13
	Section 1-2-23 - Resignation of Appointed Officials	1-15
	Section 1-2-24 - Qualifications; Elective Office	1-15
	Section 1-2-25 - Bonds of City Officers	1-15
	Section 1-2-26 - Liability Insurance	1-16
	Section 1-2-27 - Bidding and Contract Procedures	1-16
	Section 1-2-28 - Interests in Contracts Prohibited	1-18
	Section 1-2-29 - Salaries Regulation	1-20
	Section 1-2-30 - Claims Presentation	1-20
	Section 1-2-31 - Municipal Year	1-21
	Section 1-2-32 - Expense Reimbursement Policy	1-21
	Section 1-2-33 - Official Records	1-21
	Section 1-2-34 - Federal Old Age and Survivor's Insurance System	1-21
	Section 1-2-35 - Illinois Municipal Retirement Fund	1-22
	Section 1-2-36 - Control of Property Owned by City Outside of City Limits	1-22
	Section 1-2-37 - Certificates of Insurance	1-22
	Section 1-2-38 - Territorial Jurisdiction Established	1-22
	<i>Division V – Vacancies</i>	
	Section 1-2-39 - Vacancy by Resignation	1-22
	Section 1-2-40 - Vacancy by Death or Disability	1-23
	Section 1-2-41 - Vacancy by Other Causes	1-23
	Section 1-2-42 - Election of an Acting Mayor	1-23
	Section 1-2-43 - Appointment to Fill Alderman Vacancy	1-23
	Section 1-2-44 - Election to Fill Vacancies in Municipal Offices With Four (4) Year Terms	1-24
	Section 1-2-45 - Vacancies Due to Election Being Declared Void	1-24
	Section 1-2-46 - Owing a Debt to the Municipality	1-24
	Section 1-2-47 - Regulations for Public Buildings and Facilities	1-24
	Section 1-2-48 - 1-2-49 Reserved	
<b>III</b>	<b>OFFICIALS</b>	
	<i>Division I – Mayor</i>	
	Section 1-3-1 - Election	1-25
	Section 1-3-2 - Mayor Pro-Tem; Temporary Chairman	1-25
	Section 1-3-3 - Chief Executive Officer	1-25
	Section 1-3-4 - Mayor's Signature	1-25
	Section 1-3-5 - Appointment of Officers	1-25
	Section 1-3-6 - Supervise Conduct of Officers; Removal of Officers	1-26

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>OFFICIALS (CONTINUED)</b>	
	<i>Division I – Mayor (Continued)</i>	
	Section 1-3-7 - Designation of Officers’ Duties	1-26
	Section 1-3-8 - Formal Occasions	1-26
	Section 1-3-9 - General Duties	1-26
	Section 1-3-10 - Business License Commissioner	1-26
	Section 1-3-11 - Local Liquor Commissioner	1-26
	Section 1-3-12 - Health Commissioner	1-26
	Section 1-3-13 - Deciding Vote – Mayor	1-27
	Section 1-3-14 - 1-3-15 Reserved	
	<i>Division II – City Clerk</i>	
	Section 1-3-16 - Elected	1-27
	Section 1-3-17 - Vacancy	1-27
	Section 1-3-18 - Publication of Ordinances; Council Minutes; Records	1-27
	Section 1-3-19 - Delivery of Papers to Officers	1-28
	Section 1-3-20 - Preparation of Documents, Commissions and Licenses	1-28
	Section 1-3-21 - City Licenses	1-28
	Section 1-3-22 - Report of Licenses	1-28
	Section 1-3-23 - Administration of Oaths	1-28
	Section 1-3-24 - Outstanding Bonds	1-28
	Section 1-3-25 - Reports	1-28
	Section 1-3-26 - Successor	1-28
	Section 1-3-27 - Payments	1-29
	Section 1-3-28 - Notification to Persons Appointed to Office	1-29
	Section 1-3-29 - Other Duties	1-29
	Section 1-3-30 - Deputy Clerk	1-29
	Section 1-3-31 - Reserved	
	<i>Division III – City Treasurer</i>	
	Section 1-3-32 - Department Established	1-29
	Section 1-3-33 - Finance Committee	1-29
	Section 1-3-34 - Treasurer Elected; Vacancy	1-29
	Section 1-3-35 - Money; Warrants; Accounts; Payments	1-30
	Section 1-3-36 - Warrant Register	1-30
	Section 1-3-37 - Personal Use of Funds	1-30
	Section 1-3-38 - Bond	1-30
	Section 1-3-39 - Special Assessments	1-30
	Section 1-3-40 - Bookkeeping	1-30
	Section 1-3-41 - Statements	1-30
	Section 1-3-42 - Report Delinquent Officers	1-30
	Section 1-3-43 - Year-End Report	1-31
	Section 1-3-44 - Other Duties	1-31
	Section 1-3-45 - Deposit of Funds	1-31
	Section 1-3-46 - 1-3-47 Reserved	
	<i>Division IV – Judiciary</i>	
	Section 1-3-48 - Appointment of Attorney	1-32
	Section 1-3-49 - Duties	1-32
	Section 1-3-50 - 1-3-53 Reserved	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>OFFICIALS (CONTINUED)</b>	
	<i>Division V – City Collector</i>	
	<i>Section 1-3-54 - Position Established</i>	<i>1-33</i>
	<i>Section 1-3-55 - Appointment</i>	<i>1-33</i>
	<i>Section 1-3-56 - Duties</i>	<i>1-33</i>
	<i>Section 1-3-57 - Salary Established</i>	<i>1-33</i>
	<i>Division VI – City Engineer</i>	
	<i>Section 1-3-58 - Appointment</i>	<i>1-33</i>
	<i>Section 1-3-59 - Duties - Salary</i>	<i>1-33</i>
	<i>Section 1-3-60 - Reserved</i>	
	<i>Division VII – Superintendent of Public Works</i>	
	<i>Section 1-3-61 - Office Created</i>	<i>1-34</i>
	<i>Section 1-3-62 - Department Employees</i>	<i>1-34</i>
	<i>Section 1-3-63 - Property Custodian</i>	<i>1-34</i>
	<i>Section 1-3-64 - Reserved</i>	
	<i>Division VIII – Superintendent of Streets</i>	
	<i>Section 1-3-65 - Creation of Position</i>	<i>1-34</i>
	<i>Section 1-3-66 - Streets</i>	<i>1-34</i>
	<i>Section 1-3-67 - Animal Control</i>	<i>1-34</i>
	<i>Section 1-3-68 - 1-3-69 Reserved</i>	
	<i>Division IX – City Administrator</i>	
	<i>Section 1-3-70 - Creation of Position</i>	<i>1-34</i>
	<i>Section 1-3-71 - Management of the City</i>	<i>1-34</i>
<b>IV</b>	<b>SALARIES</b>	
	<i>Section 1-4-1 - Salaries of City Officials</i>	<i>1-35</i>
<b>V</b>	<b>MANAGEMENT ASSOCIATION</b>	
	<i>Section 1-5-1 - Participation</i>	<i>1-35</i>
	<i>Section 1-5-2 - Contribution</i>	<i>1-35</i>
<b>VI</b>	<b>MEETING PROCEDURES</b>	
	<i>Division I - Recording Closed Meetings</i>	
	<i>Section 1-6-1 - Recording Closed Sessions</i>	<i>1-36</i>
	<i>Section 1-6-2 - Responsibility for Recording Closed Sessions and Maintaining Recordings</i>	<i>1-36</i>
	<i>Section 1-6-3 - Closed Session Minutes</i>	<i>1-36</i>
	<i>Section 1-6-4 - Procedure for Recording</i>	<i>1-36</i>
	<i>Section 1-6-5 - Back-Up Equipment/Procedure for Equipment Malfunction</i>	<i>1-36</i>
	<i>Section 1-6-6 - Procedure for Review of Closed Session Minutes and Recordings</i>	<i>1-36</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VI</b>	<b>MEETING PROCEDURES (CONTINUED)</b>	
	<i>Division I - Recording Closed Meetings (Continued)</i>	
	Section 1-6-7 - Maintenance and Public Release of Recordings and Access to Tapes	1-37
	Section 1-6-8 - Procedure for Destruction of Recordings	1-37
	Section 1-6-9 - 1-6-10 Reserved	
	<i>Division II - Remote Meeting Participation</i>	
	Section 1-6-11 - Statutory Authority for Participation	1-37
	Section 1-6-12 - Definition of Meeting	1-37
	Section 1-6-13 - Amendment of Previous Terms	1-37
	Section 1-6-14 - Remote Participation Policy	1-37
	Addendum "A" - Government Unit Remote Attendance Policy	1-38
	Addendum "B" - Request for Auxiliary Aid(s) and/or Service(s)	1-39

## **EXHIBIT 'A'**

### **CHAPTER 1**

#### **ADMINISTRATION**

#### **ARTICLE I - GENERAL CODE PROVISIONS**

##### **DIVISION I - TITLE**

**1-1-1      TITLE.** Upon the adoption by the City Council, this City Code is hereby declared to be and shall hereafter constitute the official **"Revised Code of Ordinances of the City of Macon"**. The Revised Code of Ordinances shall be known and cited as the **"City Code"**, and it is hereby published by authority of the City Council and shall be kept up-to-date as provided in **Section 1-1-3** under the direction of the City Attorney, acting for said City Council. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and article heading and to the general penalty clause relating thereto as well as to the section itself when reference is made to this City Code by title in any legal document. **(65 ILCS 5/1-2-3)**

**1-1-2      ACCEPTANCE.** The City Code as hereby presented in printed form shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of the City of general and permanent effect, except the excluded ordinances enumerated in **Section 1-1-8**. **(65 ILCS 5/1-2-6)**

**1-1-3      AMENDMENTS.** Any ordinance amending this City Code shall set forth the article, chapter, and section number of the section or sections to be amended, and this shall constitute a sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this City Code. All such amendments or revisions by ordinance shall be forwarded to the codifiers on an annual basis and the ordinance material shall be prepared for insertion in its proper place in each copy of this City Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code on an annual basis. **(65 ILCS 5/1-2-3)**

**1-1-4      CODE ALTERATION.** It shall be deemed unlawful for any person to alter, change, replace or deface in any way, any section or any page of this Code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the City Council. The Clerk shall see that the replacement pages are properly inserted in the official copies maintained in the office of the Clerk.

Any person having in his custody an official copy of this Code shall make every effort to maintain said Code in an up-to-date and efficient manner. He shall see to the immediate insertion of new or replacement pages when such are delivered to him or made available to him through the office of the City Clerk. Said Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the City and shall be returned to the office of the Clerk upon termination of office or separation of duties.

**1-1-5      JURISDICTION.** Unless otherwise provided herein, this Code applies to acts performed within the corporate limits of the City. Provisions of this Code also apply to acts performed outside the corporate limits and up to the limits prescribed by law, where the law confers power on the City to regulate such particular acts outside the corporate limits.

**1-1-6 - 1-1-7      RESERVED.**

## **DIVISION II - SAVING CLAUSE**

**1-1-8            REPEAL OF GENERAL ORDINANCES.** All general ordinances of the City passed prior to the adoption of this Code are hereby repealed, except such as are referred to herein as being still in force or are, by necessary implication, herein reserved from repeal **[subject to the saving clauses contained in the following sections]**, from which are excluded the following ordinances, which are not hereby repealed:

Tax Levy Ordinances; Appropriation Ordinances; Ordinances Relating to Boundaries and Annexations; Franchise Ordinances and other Ordinances Granting Special Rights to Persons or Corporations; Contract Ordinances and Ordinances Authorizing the Execution of a Contract or the Issuance of Warrants; Ordinances Establishing, Naming, or Vacating Streets, Alleys, or Other Public Places; Improvement Ordinances; Bond Ordinances; Ordinances Relating to Elections; Ordinances Relating to the Transfer or Acceptance of Real Estate by or from the City; and all Special Ordinances.

**1-1-9            PUBLIC UTILITY ORDINANCES.** No ordinance relating to railroads or railroad crossings with streets and other public ways or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this Code or by virtue of the preceding section, excepting as this Code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

**1-1-10          COURT PROCEEDINGS.** No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any claim arising under the former ordinance or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this Chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the City herein repealed and the provisions of all general ordinances contained in this Code shall be deemed to be continuing provisions and not a new enactment of the same provision; nor shall this Chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any ordinance or provision thereof in force at the time of the adoption of this Code.

**1-1-11          SEVERABILITY OF PROVISIONS.** Each section, paragraph, sentence, clause and provision of this Code is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Code, nor any part thereof, other than that part affected by such decision.

**1-1-12          CITY CLERK'S CERTIFICATE.** The City Clerk's Certificate shall be substantially in the following form:

## CITY CLERK'S CERTIFICATE

STATE OF ILLINOIS       )  
COUNTY OF MACON       ) ss.  
CITY OF MACON            )

CITY CLERK'S OFFICE

I, Pam Windell, City Clerk of the **City of Macon, Illinois**, do hereby certify that the following **Revised Code of Ordinances of the City of Macon, Illinois of 2018**, published by authority of the City Council were duly passed by the City Council of the **City of Macon, Illinois**, approved by the Mayor and published in book form according to law on this date, and that these ordinances are true and perfect copies of the ordinances, as passed, approved and now of record and on file in my office as provided by law.

In witness whereof, I have set my hand and affixed the corporate seal of the **City of Macon, Illinois**, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

---

PAM WINDELL, CITY CLERK  
CITY OF MACON

(SEAL)

**1-1-13 - 1-1-14       RESERVED.**

## DIVISION III - DEFINITIONS

**1-1-15       CONSTRUCTION OF WORDS.** Whenever any word in any section of this Code, importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used.

When any subject matter, party or person is referred to in this Code by words importing the singular number only, or the masculine gender, several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included; provided that these rules of construction shall not be applied to any section of this Code which contains any express provision excluding such construction or where the subject matter or content may be repugnant thereto.

**1-1-16       DEFINITIONS.** Whenever the following words or terms are used in this Code, they shall have the meanings herein ascribed to them unless the context makes such meaning repugnant thereto:

**"AGENT"**, as used in this Code shall mean a person acting on behalf of another.

**"CITY"** shall mean the City of Macon, Illinois.

**"CODE" OR "THIS CODE"**, shall mean the **"Revised Code of Ordinances of the City of Macon"**.

**"CORPORATE AUTHORITIES"** shall mean the Mayor and the City Council. **(65 ILCS 5/1-1-2)**

**"COUNCIL"** unless otherwise indicated shall mean the City Council of this City.

**"COUNTY"** shall mean the **County of Macon**.

**"EMPLOYEES"** shall mean the following: Whenever reference is made in this Code to a City employee by title only, this shall be construed as though followed by the words **"of the City"**.

**"FEE" OR "FEES"** as used in this Code shall mean a sum of money charged by the City for carrying on of a business, profession or occupation.

**"FISCAL YEAR"**. The "fiscal year" for the City shall begin on **May 1<sup>st</sup> of each year and end on April 30<sup>th</sup> of the following year. (65 ILCS 5/1-1-2[5])**

**"KNOWINGLY"** imports only a knowledge that the facts exist which bring the act or omission within the provisions of this Code. It does not require any knowledge of the unlawfulness of such act or omission.

**"LAW"** denotes applicable federal law, the Constitution and statutes of the State of Illinois, the ordinances of the City and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

**"LEGAL HOLIDAY"** shall mean the holidays as authorized and recognized by the City Council in the employee agreement.

**"LICENSE"** as used in this Code shall mean the permission granted for the carrying on of a business, profession or occupation.

**"MAY"**. The word "may" is permissive.

**"MAYOR"** as used in this Code shall mean the Mayor of this City.

**"MISDEMEANOR"** as used in this Code shall mean any offense deemed a violation of the provisions of this Code which is a lesser offense than a felony as defined by state law.

**"NEGLECT", "NEGLIGENCE", "NEGLIGENT" AND "NEGLIGENTLY"** import a want of such attention to the nature of probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concern.

**"NUISANCE"** shall mean anything offensive or obnoxious to the health and welfare of the inhabitants of the City or any act or thing repugnant to or creating a hazard to or having a detrimental effect on the property of another person or to the community.

**"OCCUPANT"** as applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

**"OFFENSE"** shall mean any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

**"OFFICERS AND EMPLOYEES"**. Whenever reference is made in this Code to a City Officer or employee by title only, this shall be construed as though followed by the words **"of the City"** and shall be taken to mean the officer or employee of this City having the title mentioned or performing the duties indicated.

No provision of this Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this Code for a failure to perform such duty, unless the intention of the City Council to impose such a fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

**"OFFICIAL TIME"**. Central Standard Time shall be the official time for the transaction of City business, except during applicable Daylight Savings Time set by National or State standards when the official time shall be advanced one (1) hour. All clocks and other timepieces in or upon public buildings or other



premises maintained by or at the expense of the City shall be set and run at the official time prescribed by this paragraph.

**"OPERATOR"** as used in this Code shall mean the person who is in charge of any operation, business or profession.

**"OWNER"** as applied to a building or land shall include any part-owner, joint-owner, tenant-in-common, joint-tenant or lessee of the whole or of a part of such building or land.

**"PERSON"** shall mean any natural individual, firm, trust, partnership, association, or corporation in his or its own capacity as administrator, conservator, executor, trustee, receiver or other representative appointed by the Court. Whenever the word "person" is used in any section of this Code prescribing a penalty or fine as applied to partnerships or any such word as applied to corporations, it shall include the officers, agents, or employees thereof who are responsible for any violation of said section.

**"PERSONAL PROPERTY"** shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

**"RETAILER"** as used in this Code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things in small quantities direct to the consumer.

**"SHALL"**. The word "shall" is mandatory and not discretionary.

**"STATE" OR "THIS STATE"** unless otherwise indicated shall mean the **"State of Illinois"**.

**"STREET"** shall include alleys, lanes, courts, boulevards, public squares, public places and sidewalks.

**"TENANT"** as applied to a building or land shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

**"WILLFULLY"** when applied to the intent with which an act is done or omitted implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire an advantage.

**"WRITTEN" AND "IN WRITING"** may include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond required by law, it shall be in the proper handwriting of such person, or in case he is unable to write, by his proper mark. **(65 ILCS 5/1-1-2)**

**1-1-17      CATCHLINES.** The catchlines of the several sections of this Code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

**1-1-18 - 1-1-19      RESERVED.**

## **DIVISION IV - GENERAL PENALTY**

### **1-1-20      PENALTY.**

(A) Any person convicted of a violation of any section of this Code shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for any **one (1) offense**.

(B) Any minor or person designated a juvenile by this State convicted of a violation of any section of this Code shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for any **one (1) offense**, but may not be confined except by provisions of the **Juvenile Court Act of the State of Illinois**.

(C) Whoever commits an offense against the City or aids, abets, counsels, commands, induces or procures its commission is punishable as a principal.

(D) Whoever willfully causes an act to be done which, if directly performed by him or another would be an offense against the City, is punishable as a principal.

(E) All municipal ordinance offenses may be satisfied without a court appearance by written plea of guilty and payment of the minimum fine, plus court costs, unless a court appearance is required by the ordinance violated. **(65 ILCS 5/1-2-7 and 5/1-2-8)**

(F) In addition to any penalties specified under this Section, the City may request, from a court of competent jurisdiction, any equitable or injunctive relief necessary to aid in the enforcement of its ordinances and may request a court of competent jurisdiction to enter an order requiring any person convicted of a violation of the Code, to refrain from further violation. **(Ord. No. 04-08-2002-1)**

**1-1-21      SERVICE BY CERTIFIED MAIL.** In all actions for violation of any municipal ordinance where the fine would not be in excess of **Seven Hundred Fifty Dollars (\$750.00)** and no jail term could be imposed, service of summons may be made by the municipal clerk by certified mail, return receipt requested, whether service is to be within or without the State. **(65 ILCS 5/1-2-9.1)**

### **1-1-22      APPLICATION.**

(A) The penalty provided in this Chapter shall be applicable to every section of this City Code, the same as though it were a part of each and every separate section. Any person convicted of a violation of any section of this City Code, where any duty is prescribed or obligation imposed, or where any act which is of a continuing nature or declared to be unlawful, shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this City Code.

(B) In all cases where the same offense is made punishable or is created by different clauses or sections of this City Code, the prosecuting officer may elect under which to proceed; but not more than one (1) recovery shall be had against the same person for the same offense; provided that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

(C) Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this City Code, and there shall be no fine or penalty specifically declared for such breach, the provisions of this Code shall apply and a separate offense shall be deemed committed upon each day during or on which a breach or violation occurs or continues.

**1-1-23      LIABILITY OF OFFICERS.** The failure of any officer or employee to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code, unless a penalty is specifically provided for.

**1-1-24      LICENSE.** When a person is convicted of a violation of any Section of this Code, any license previously issued to him by the City may be revoked by the court or by the City Council.

## ARTICLE II - CITY OFFICIALS

### DIVISION I - CITY COUNCIL

**1-2-1 CITY COUNCIL.** The City Council shall consist of the Mayor and **six (6)** Aldermen, and their term of office shall be for **four (4) years**, and until their successors are elected and have qualified. **(65 ILCS 5/3.1-10-50(D) and 5/3.1-20-10)**

**1-2-2 REGULAR MEETINGS.** The regular stated meetings of the City Council shall be held in the City Hall Building on the **second (2<sup>nd</sup>) Monday** in each month at **6:00 P.M.** When said meeting date falls upon a legal holiday, the meeting shall be held on the same day at the same hour. Adjourned meetings may be held at such times as may be determined by the Council. Public notice of regular meetings shall be given in accordance with the **Meetings of Public Agencies Act of the State of Illinois, Illinois Compiled Statutes, Ch. 5, Sections 120/1 through 120/5. (65 ILCS 5/3.1-40-25)**

**1-2-3 SPECIAL MEETINGS.** Special meetings of the City Council may be called by the Mayor or any **three (3)** Aldermen by giving **at least forty-eight (48) hours notice** thereof by delivering to them personally written or printed notices of the time of such meeting at the residences of the Aldermen; such notices shall be served by mail, by the Chief of Police or his designated representative. Said notices shall specify the purpose of said special meeting and the business to be taken up at that time and place. Such notice shall be posted at the City Hall and shall be provided to any local newspaper of general circulation or any local radio or television station that has filed an annual request for such notice. The notice shall be provided to such news media in the same manner as said notice is given to the Mayor and members of the City Council, provided such news media has given the City an address within the City at which such notice may be given. **(65 ILCS 5/3.1-40-25 and 5 ILCS 120/2.02 and 120/2.03)**

**1-2-4 COMMITTEES.** The following standing committees of the City Council are hereby established, to-wit:

(A)	(1) Water & Sewer	(5) Parks & Public Buildings
	(2) Personnel & Finance	(6) Safety & Insurance & Police
	(3) Streets/Alleys	
	(4) Zoning	

(B) The committees shall be appointed annually by the Mayor.  
(C) The Mayor shall be ex-officio chairman of each and every standing committee.  
(D) So far as is practicable, reports of committees shall be in writing.  
(E) As provided by law, any report of a committee of the Council shall be deferred for final action thereon to the next regular meeting of the same after the report is made, upon the request of any **two (2)** Aldermen present. **(65 ILCS 5/3.1-40-35)**  
(F) All committee meetings are subject to the Open Meetings Act requirements and minutes shall be taken. **(5 ILCS 120/1 and 120/2.06)**

**1-2-5 SPECIAL COMMITTEES.** Special Committees may be appointed by the Mayor, subject to the advice and consent of the Aldermen, as may be needed from time to time.

**1-2-6 QUORUM.** At all meetings of the City Council, a majority of the corporate authorities shall constitute a quorum for the transaction of business, and if no such quorum attends such meeting of the Council, the Aldermen may adjourn from day to day until a quorum is present; and shall

have power to compel the attendance of absent members, except when such members are physically unable to attend such meetings. **(65 ILCS 5/3.1-40-20)**

**EDITOR'S NOTE:** When the Council has a Mayor and six (6) Aldermen, a quorum is four (4), which may consist of the Mayor and three (3) Aldermen, or four (4) Aldermen.

**1-2-7 - 1-2-10      RESERVED.**

## **DIVISION II - RULES OF THE CITY COUNCIL**

**1-2-11      RULES OF THE COUNCIL.** The following rules of order and procedure shall govern the deliberations and meetings of the City Council. **(65 ILCS 5/3.1-40-15)**

(A) **Order of Business.** The order of business shall be as follows:

- (1) Call to order by presiding officer.
- (2) Roll Call.
- (3) The reading of the journal of the proceedings of the last preceding meeting or meetings, and correction and approval of the same, unless dispensed with by the Aldermen and correction of the journal of the proceedings of previous meetings.
- (4) Reports and communications from the Mayor and other City Officers.
- (5) Visitors and Public Comment.\***
- (6) Reports of Standing Committees.
- (7) Reports of Special Committees.
- (8) Presentation of communications, petitions, resolutions, orders, and ordinances by the Aldermen.
- (9) Unfinished business.
- (10) Miscellaneous business.

All questions relating to the priority of business shall be decided by the chair without debate, subject to appeal.

**\*See Section 1-2-13.**

(B) **Duties of Presiding Officer.** The presiding officer shall preserve order and decorum and may speak to points of order in preference to other Aldermen, and shall decide all question of order, subject to appeal.

In case of any disturbance or disorderly conduct, the presiding officer shall have the power to require that the chamber be cleared.

(C) **Duties of Members.** While the presiding officer is putting the question, no member shall walk across or out of the Council Chamber.

Every member, previous to his speaking, making a motion or seconding the same shall not proceed with his remarks until recognized and named by the Chair. He shall confine himself to the question under debate, avoiding personalities and refraining from impugning the motives of any other member's argument or vote.

(D) **Visitors.** **After the public comment period, no person other than a member of the Council shall address that body unless permitted under the provisions of Section 1-2-13.**

(E) **Presentation of New Business.** When a member wishes to present a communication, petition, order, resolution, ordinance or other original matter, the member shall read such matter when reached in its proper order.

(F) **Debate.** No member shall speak more than once on the same question, except by consent of the Presiding Officer or unless **three-fourths (3/4)** of the corporate authorities agree that one's right to debate should be limited to speak only once and then not until every other Alderman desiring to speak shall have had an opportunity to do so; provided, however, that the proponent of the matter under consideration, as the case may be, shall have the right to open and close debate.

The City Council, by motion, may limit debate. The Presiding Officer shall have the right to participate in debate. While a member is speaking, no Alderman shall hold any private discussion, nor pass between the speaker and the Chair.

(G) **Call of Aldermen to Order.** A member, when called to order by the Chair, shall thereupon discontinue speaking and take his seat and the order or ruling of the Chair shall be binding and conclusive, subject only to the right to appeal.

(H) **Appeals from Decision of the Chair.** Any member may appeal to the Council from a ruling of the Chair, and if the appeal is seconded, the Alderman making the appeal may briefly state his reason for the same, and the Chair may briefly explain his ruling; but there shall be no debate on the appeal and no other person shall participate in the discussion. The Presiding Officer shall have the right to participate in debate.

The Chair shall then put the question, "**Shall the decision of the Chair be sustained?**". If a majority of the Aldermen present vote "**No**", the decision of the Chair shall be overruled; otherwise, it shall be sustained.

(I) **Question of Personal Privilege.** The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned or impugned.

(J) **Voting.** Every member who shall be present when a question is stated from the chair shall vote thereon, unless he is personally interested in the question, in which case, he shall take whatever steps are necessary to insure that his vote is not taken.

(K) **Special Order of Business.** Any matter before the City Council may be set down as a special order of business at a time certain if **two-thirds (2/3)** of the Aldermen present vote in the affirmative, but not otherwise.

(L) **Seconding of Motions Required; Written Motions.** No motion shall be put or debated in the meeting or in committee unless it be seconded. When a motion is seconded, it shall be stated by the presiding officer before debate, and every motion in the Council, except motions of procedure, shall be reduced to writing if required by a member, and the proposer of the motion shall be entitled to the floor.

(M) **Withdrawal of Motions.** After a motion or resolution is stated by the presiding officer, it shall be deemed to be in possession of the Aldermen, but it may be withdrawn at any time before decision, by consent of the Aldermen.

(N) **Division of Questions.** If any question under consideration contains several distinct propositions, the Aldermen, by a majority vote of the Aldermen present may divide such question.

(O) **Record of Motions.** **In all cases where a resolution or motion is entered in the journal, the name of the Aldermen moving the same shall be entered also.**

(P) **Taking and Entering the Votes - Explanations of Votes Not Permitted.** If any member required it, the "yeas" and "nays" upon any question shall be taken and entered in the journal; but the yeas and nays shall not be taken unless called for prior to any vote on the question.

When the Clerk has commenced to call the roll of the members for the taking of a vote by yeas and nays, all debate on the question before the City Council shall be deemed concluded, and during the taking of the vote, no member shall be permitted to explain his vote, but shall respond to the calling of his name by the Clerk, by answering yea or nay, as the case may be.

(Q) **Announcement and Changes of Vote.** The result of all votes by yeas and nays shall not be announced by the Clerk, but shall be handed to the chairman for announcement, and no vote shall be changed after the tally list has passed from the hands of the Clerk.

(R) **Precedence of Motions.** When a question is under debate, the following motions shall be in order and shall have precedence over each other in order, as listed:

- (1) To adjourn to a day certain.
- (2) To adjourn.
- (3) To take a recess.
- (4) To lay on the table.
- (5) The previous question.
- (6) To refer.
- (7) To amend.
- (8) To defer or postpone to a time certain.

(9) To defer or postpone (without reference to time.)

(10) To defer or postpone indefinitely.

Numbers (2), (4), and (5) to be decided without debate.

(S) **Motions to Adjourn.** A motion to adjourn the City Council shall always be in order, except:

(1) When an Alderman is in possession of the floor.

(2) While the yeas and nays are being called.

(3) When the members are voting.

(4) When adjournment was the last preceding motion.

(5) When it has been decided that the previous question shall be taken.

A motion simply to adjourn shall not be subject to amendment or debate, but a motion to adjourn to a time certain shall be.

The City Council may, at any time, adjourn over one (1) or more regular meetings on a vote of a majority of all the Aldermen authorized by law to be elected.

(T) **Previous Question.** When the previous question is moved on the main question and seconded, it shall be put on this form: "**Shall the main question now be put?**". If such motion be carried, all further amendments and all further motions and debate shall be excluded, and the question put without delay upon the pending amendment in proper order and then upon the main question.

(U) **Motions to Lay on the Table and to Take From the Table.** A motion to lay the question on the table shall not be debatable, but a motion to lay on the table and publish, or with any other condition shall be subject to amendment and debate.

A motion to take any motion or other proposition from the table may be proposed at the same meeting at which such motion or proposition was laid upon the table, provided **two-thirds (2/3)** of the Aldermen vote therefor.

A motion to lay any particular motion or proposition on the table shall apply to that motion or proposition only. An amendment to the main question or other pending question may be laid on the table and neither the main question nor such other pending question shall be affected thereby.

(V) **Indefinite Postponement; Motion to Defer or Postpone Without Any Reference to Time.** When consideration of a motion or other proposition is postponed indefinitely, it shall not be again taken up at the same meeting.

A motion to postpone indefinitely shall not open the main question to debate.

A motion to defer or postpone without any reference to time shall not be construed as a motion to postpone indefinitely, but shall be considered to be of the same general nature and to possess the same general attributes so far as applicable under these rules, as a motion to postpone indefinitely or to a time certain.

(W) **Motion to Refer.** A motion to refer to a standing committee shall take precedence over a similar motion to refer to a special committee.

(X) **Motion to Amend.** A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be entertained.

An amendment modifying the intention of a motion shall be in order; but an amendment relating to a different subject shall not be in order.

On an amendment to "**Strike Out and Insert**", the paragraph to be amended shall first be read as it stands, then the words proposed to be stricken out, then those to be inserted, and finally, the paragraph as it will stand if so amended shall be read.

An amendment to the main question or other pending questions may be referred to a committee and neither the main question nor such other pending question shall be affected thereby.

(Y) **Filling of Blanks.** When a blank is to be filled and different sums or times proposed, the question shall be taken first on the least sum or the longest time.

(Z) **Motion to Substitute.** A substitute for any original proposition under debate or for any pending amendment or such proposition may be entertained notwithstanding that at such time, further amendment is admissible; and if accepted by the Aldermen by a vote shall entirely supersede such original proposition or amendment, as the case may be, and cut off all amendments appertaining thereto.

(AA) **Reconsideration.** A vote or question may be reconsidered at any time during the same meeting, or at the first regular meeting held thereafter. A motion for reconsideration having

been once made and decided in the negative shall not be renewed, nor shall a motion to reconsider be reconsidered.

A motion to reconsider must be made and seconded by Aldermen who voted on the prevailing side of the question to be reconsidered, unless otherwise provided by law; provided, however, that where a motion has received a majority vote in the affirmative, but is declared lost solely on the ground that a greater number of affirmative votes is required by statute for the passage or adoption of such motion, then in such case, a motion to reconsider may be made and seconded only by those who voted in the affirmative on such question to be reconsidered.

(BB) **Adoption of Robert's "Rules of Order Revised"**. The rules of parliamentary practice comprised in the latest published edition of **Robert's "Rules of Order Revised"** shall govern the Council in all cases to which they are applicable and in which they are not inconsistent with the special rules of the Council.

(CC) **Temporary Suspension of Rules - Amendment of Rules**. These rules may be temporarily suspended by a vote of **two-thirds (2/3)** of the Aldermen entitled by law to be elected and shall not be repealed, altered or amended, unless by concurrence of **two-thirds (2/3)** of all the Aldermen entitled by law to be elected.

(DD) **Censure of Aldermen - Expulsion of Aldermen**. Any Alderman acting or appearing in a lewd or disgraceful manner, or who uses opprobrious, obscene and insulting language to or about any member of the Council, or who does not obey the order of the Chair, shall be, on motion, censured by a majority vote of the members present, or expelled by a **two-thirds (2/3)** vote of all Aldermen elected. **(65 ILCS 5/3.1-40-15)**

**1-2-12** **AGENDA**. An itemized agenda, along with all necessary supporting documentation shall be furnished to each member of the Council no later than **forty-eight (48) hours** prior to the regular Council meeting. In the case of emergency matters, which could not have been reasonably foreseen in sufficient time to comply with this section, a revised agenda will be furnished to each member of the Council prior to the opening of the Council meeting. **(5 ILCS 120/2.02)**

**1-2-13** **ADDRESS BY NON-MEMBERS**.  
(A) **Public Comment Request**. Any person not a member of the City Council may address the City Council with regard to items of proposed business under the following rules:

- (1) He or she shall rise (if not physically impaired) and state his or her name for the record and unless further time is granted by the Council to limit remarks to **five (5) minutes**. All remarks shall be addressed to the City Council, not to any member thereof.
- (2) No person other than the Council member recognizing the individual addressing the Council and the person having the floor shall be permitted to enter into any discussion directly or through a member of the Council without the permission of the Mayor. No questions shall be asked of an Alderman except through the Mayor. Any person making personal or impertinent remarks or who shall become disruptive addressing the City Council shall be forthwith evicted from the Council room by the Mayor.  
**(In Part Ord. No. 08-08-2011-1)**

(B) **Auxiliary Aid or Service**. The City shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with orders.

- (1) The City shall furnish appropriate auxiliary aid(s) and service(s) where necessary to afford qualified individuals with disabilities including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits, of a service, program, or activity of the City.
- (2) Auxiliary aids and services shall be provided in a timely manner.

- (3) Individuals shall notify the City Clerk **fourteen (14) days** in advance specifying the appropriate auxiliary aids or services required. **(See Addendum "B", Request for Auxiliary Aid(s) and/or Services)**

(C) The Chief of Police or his authorized designee shall be the Sergeant at Arms at the Council meetings. He or she shall carry out all orders and instructions of the Mayor for the purposes of maintaining order and decorum. The Sergeant at Arms shall remove any person violating order and decorum of the meeting. Such removal may be accompanied by further prosecution for any violation of any ordinance under this Code. **[5 ILCS 120/2.06]**

### **DIVISION III - ORDINANCES**

#### **1-2-14      ORDINANCES.**

(A) **Attorney.** It shall be the duty of the City Attorney to prepare such ordinances as may be required by the City Council.

(B) **Introduced.** When a proposed ordinance is introduced, it shall be read one time by title only and referred to the proper committee unless the City Council shall otherwise specifically direct.

(C) **Vote Required-Yeas and Nays Record.** The passage of all ordinances for whatever purpose, and of any resolution or motion (1) to create any liability against a city or (2) for the expenditure or appropriation of its money, shall require the concurrence of a majority of all members then holding office on the City Council, including the Mayor, unless otherwise expressly provided by the Code or any other act governing the passage of any ordinance, resolution, or motion; provided that, where the Council consists of an odd number of Aldermen, the vote of the majority of the Aldermen shall be sufficient to pass an ordinance. The yeas and nays shall be taken upon the question of the passage of the designated ordinances, resolutions, or motions and recorded in the journal of the City Council. In addition, the corporate authorities at any meeting may by unanimous consent to take a single vote by yeas or nays on the several questions of the passage on any two (2) or more of the designated ordinances, orders, resolutions or motions placed together for voting purposes in a single group. The single vote shall be entered separately in the journal under the designation "omnibus vote", and in such event the Clerk may enter the words "omnibus vote" or "consent agenda" in the journal in each case in lieu of entering names of the members of City Council voting "yea" and of those voting "nay" on the passage of each of the designated ordinances, orders, resolutions and motions included in such omnibus group or consent agenda. The taking of such single or omnibus vote and such entries of the words "omnibus vote" or "consent agenda" in the journal shall be a sufficient compliance with the requirements of this section to all intents and purposes and with like effect as if the vote in each case had been separately by yeas and nays on the question of the passage of each ordinance, order, resolution and motion included in such omnibus group, and separately recorded in the journal. Likewise, the yeas and nays shall be taken upon the question of the passage of any other resolution or motion at the request of any Alderman and shall be recorded in the journal. **(65 ILCS 5/3.1-40-40)**

(D) **Ordinances - Approval-Veto.** All resolutions and motions (1) which create any liability against the City, or (2) that provide for the expenditure or appropriation of its money, or (3) to sell any City property, and all ordinances, passed by the City Council shall be deposited with the City Clerk. If the Mayor approves an ordinance or resolution, the Mayor shall sign it. Those ordinances, resolutions and motions which the Mayor disapproves shall be returned to the City Council, with the Mayor's written objections, at the next regular meeting of the City Council occurring not less than five (5) days after their passage. The Mayor may disapprove of any one (1) or more sums appropriated in any ordinance, resolution, or motion making an appropriation, and, if so, the remainder shall be effective. However, the Mayor may disapprove entirely of an ordinance, resolution, or motion making an appropriation. If the Mayor fails to return any ordinance or any specified resolution or motion with his written objections, within the designated time, it shall become effective despite the absence of the Mayor's signature. **(65 ILCS 5/3.1-40-45)**



**1-2-15      RECONSIDERATION--PASSING OVER VETO.** Every resolution and motion, specified in **Section 1-2-14** and every ordinance, that is returned to the City Council by the Mayor shall be reconsidered by the City Council at the next regular meeting following the regular meeting at which the Village Board receives the Mayor's written objection. If, after reconsideration, **two-thirds (2/3)** of all the Aldermen then holding office on the City Council agree at that regular meeting to pass an ordinance, resolution, or motion, notwithstanding the Mayor's refusal to approve it, then it shall be effective. The vote on the question of passage over the Mayor's veto shall be by yeas and nays, and shall be recorded in the journal. **(65 ILCS 5/3.1-40-50)**

**1-2-16      NO VOTE TO BE RECONSIDERED AT SPECIAL MEETING.** No vote of the City Council shall be reconsidered or rescinded at a special meeting unless there are present at the special meeting at least as many Aldermen as were present when the vote was taken. **(65 ILCS 5/3.1-40-55)**

**1-2-17 - 1-2-18      RESERVED.**

#### **DIVISION IV - GENERAL PROVISIONS**

**1-2-19      CORPORATE SEAL.**  
(A) The Seal provided by the Council, shall be circular in form with the words "**City of Macon – Incorporated April 19, 1869**" in the outer circle and the figure of an "**Eagle**" in the center of the circle. **(65 ILCS 5/2-2-12)**

(B) The Corporate Seal shall be used as such seal in all cases provided for by law or by the ordinances of the City and in all other cases in which, by law and custom, it is usual and necessary for the corporation to use a seal. The seal shall be and remain with the City Clerk who shall be the legal custodian. **(65 ILCS 5/3.1-35-90)**

**1-2-20      ELECTIONS.**  
(A) **Election Procedure.** The provisions of the **Illinois Compiled Statutes, Chapter 10 and Chapter 65, Section 5/3.1-10-10** concerning municipal elections shall govern the conduct of the City elections.

(B) **Inauguration.** The inauguration of newly elected City officials shall occur at the first regular or special meeting of the City Council in the month of May following the general municipal election in April. **(65 ILCS 5/3.1-10-15)**

**1-2-21      APPOINTMENT OF ELECTED OFFICIALS.** No Alderman of this City, during the term of office for which he is elected, may accept or be appointed to or hold any office appointed by the Mayor except if such Alderman is granted a leave of absence from such office. However, such Alderman may serve as a volunteer fireman and receive compensation for such service. Any appointment in violation of this section is void. **(65 ILCS 5/3.1-15-15)**

**NOTE: One (1) member may serve on the Library Board, if one exists. (75 ILCS 5/4-1 and 50 ILCS 105/2)**

**1-2-22      MUNICIPAL OFFICERS - REGULATIONS.**  
(A) **Effect.** The provisions of this Division shall apply alike to all officers and employees of the City regardless of the time of creation of the office or position or the time of the appointment of the officer or employee.

(B) **Qualifications; Appointive Office.**

- (1) No person shall be eligible for any appointive municipal office unless that person is a qualified elector of the municipality or otherwise provided by law.
- (2) The residency requirements do not apply, however, to municipal engineers, health officers, attorneys, or other officers who require technical training or knowledge, to appointed city treasurers, or to appointed city collectors (unless the City has designated by ordinance that the City Clerk shall also hold the office of collector). **(65 ILCS 5/3.1-10-6)**

(C) **Bond.** Every officer and employee shall, if required by the City Council upon entering upon the duties of his office, give a bond in such amount and with such sureties as may be determined by the Council, conditioned upon the faithful performance of the duties of his office or position. **(65 ILCS 5/3.1-10-30)**

(D) **Books Delivered to Successor.** Every officer shall, upon going out of office, deliver to his successor, all books, papers, furniture, and other things appertaining to such office, and which are the property of the City. Within **five (5) days** after notification and request, any person who has been an officer of a municipality is required to deliver to his successor in office, all property, books and effects in his possession belonging to the municipality, or pertaining to the office he has held. Upon his refusal to do so, he shall be liable for all damages caused thereby, and shall, upon conviction, be penalized according to the provisions of **Section 1-1-20** of this Code. He shall not receive his final check until his City Code Book and keys are turned over to the City Clerk. **(65 ILCS 5/3.1-10-35)**

(E) **Books Open to Inspection.** Every officer shall, at all times when required, submit the books and papers of his office to the inspection of the Mayor or any committee or member of the City Council.

(F) **Fees; Report of Fees.** No officer of the municipality shall be entitled to charge or receive any fees as against the City. All officers of the City entitled to receive fees shall keep a correct account thereof, and make a report thereof under oath to the City Council prior to the regular meeting of each month. In the report, they shall specify from whom such fees were received, for what service, and when received. All fees received shall be paid over into the City Treasury.

(G) **Other Rules and Regulations.** Every officer of the City shall perform such other duties and be subject to such other rules and regulations as the City Council may provide by law. **(65 ILCS 5/3.1-10-40)**

(H) **Conservators of Peace.**

- (1) After receiving a certificate attesting to the successful completion of a training course administered by the Illinois Law Enforcement Training Standards Board, the Mayor, Aldermen and policemen in municipalities shall be conservators of the peace. Those persons and others authorized by ordinance shall have power:
  - (a) to arrest or cause to be arrested, with or without process, all persons who break the peace or are found violating any municipal ordinance or any criminal law of the State,
  - (b) to commit arrested persons for examination,
  - (c) if necessary, to detain arrested persons in custody over night or Sunday in any safe place or until they can be brought before the proper court, and
  - (d) to exercise all other powers as conservators of the peace prescribed by the corporate authorities.
- (2) All warrants for the violation of municipal ordinances or the State criminal law, directed to any person, may be served and executed within the limits of a municipality by any policeman of the municipality. For that purpose, policemen have all the common law and statutory powers of sheriffs. **(65 ILCS 5/3.1-15-25)**

(I) **Oath.** Before entering upon the duties of their respective offices, all municipal officers, whether elected or appointed shall take and subscribe to the following oath:

**"I, \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of \_\_\_\_\_ according to the best of my ability."**

The Mayor and the Clerk shall have the power to administer this oath or affirmation upon all lawful occasions.

**(65 ILCS 5/3.1-15-20)**

**(See "Administration of Oaths", Section 1-3-23)**

**1-2-23      RESIGNATION OF APPOINTED OFFICIALS.** Any officer of the City may resign from office. If such officer resigns he shall continue in office until his successor has been chosen and has qualified. If there is a failure to appoint a City officer, or the person appointed fails to qualify, the person filling the office shall continue in office until his successor has been chosen and has qualified. **(65 ILCS 5/3.1-10-50)**

**1-2-24      QUALIFICATIONS; ELECTIVE OFFICE.**

(A) A person is not eligible for an elective municipal office unless that person is a qualified elector of the municipality and has resided in the municipality at least **one (1) year** next preceding the election or appointment except as provided by Illinois Statutes.

(B) A person is not eligible to take the oath of office for a municipal office if that person is, at the time required for taking the oath of office, in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

(C) A person is not eligible for the office of Alderman unless that person has resided in the municipality, at least **one (1) year** next preceding the election or appointment, except as provided in Illinois Statutes.

(D) If a person (i) is a resident of a municipality immediately prior to the active duty military service of that person or that person's spouse, (ii) resides anywhere outside of the municipality during that active duty military service, and (iii) immediately upon completion of that active duty military service is again a resident of the municipality, then the time during which the person resides outside the municipality during the active duty military service is deemed to be time during which the person is a resident of the municipality for purposes of determining the residency requirement under subsection (A).

**(65 ILCS 5/3.1-10-5)**

**1-2-25      BONDS OF CITY OFFICERS.**

(A) **Amount.** Bonds of City officers required under **Illinois Compiled Statutes, Chapter 65, Section 5/3.1-10-30** shall be executed in the following penal sums:

(1)	Mayor	\$50,000.00
(2)	City Treasurer	\$50,000.00
(3)	City Clerk	\$50,000.00
(4)	Police Chief	\$50,000.00

(B) **Premium Payment by City.** The surety bonds required by law shall be paid by the City. **(5 ILCS 270/1)**

(C) **Surety.** The City Council shall not receive or approve any bond or security whereon the name of the City Council, any one of the Aldermen or any elected or appointed officer of the City appear as bondsman or security. If, by mistake, a bond containing the name of any such officer is approved by the City Council or if any bondsman, after becoming such is elected or appointed to any City office, this section shall not act as a release of any such obligation incurred.

**1-2-26**

**LIABILITY INSURANCE.**

(A) **Purchase Of.** The City Council shall have the power to purchase liability insurance covering and insuring all municipal officers, employees and elected officials; said insurance to cover incidents occurring while in the performance of their duties, which insurance may insure, cover and protect any liability which the municipal corporation, officer, employee or elected official may incur. When the insurance has been purchased, the City shall be responsible for all premiums and deductible charges called for by any valid liability insurance policy covering the municipal corporation, officer, employee or elected official.

(B) **Indemnification.** If the City Council elects not to purchase liability insurance covering and insuring municipal officers, elected officials and employees as provided in this Section, then the City shall indemnify and cause to defend municipal officers, elected officials and employees from any claim filed by an individual, partnership or corporation when the claim is founded on any act or omission of the municipal officers, elected officials or employees while in the performance of their official duties, except the City shall not indemnify, but shall defend any municipal officer, elected official or employee from any claim made by an individual, partnership or corporation wherein the claim alleges that the municipal officer, elected official or employee acted intentionally, maliciously or wantonly and further, shall not indemnify or cause to defend the officials or employees where the claim is directly or indirectly related to the negligent care or use of a vehicle as defined by the **Illinois Compiled Statutes**, and the City shall not indemnify any municipal officer, elected official or employee from any claim made by a municipal officer, elected official or employee.

Notwithstanding any other provisions of this Code, the City shall not indemnify or cause to defend any municipal officers, elected officials or employees if the municipal officers, elected officials or employees have liability insurance insuring the municipal officers, elected officials or employees from the alleged claim; however, the City shall indemnify the municipal officer, elected official or employee the personal deductible limits of his personal policy. **(745 ILCS 10/2-201 et seq.)**

**1-2-27**

**BIDDING AND CONTRACT PROCEDURES.**

(A) **Competitive Bidding Required.** Any work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, and all purchases of and contracts for supplies, materials, and services shall, except as specifically provided herein, be based whenever possible on competitive bids.

(B) **Formal Contract Procedure.** All work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, and all purchases, orders or contracts for supplies, materials, equipment or contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed **Twenty-Five Thousand Dollars (\$25,000.00)**, shall be purchased from the lowest responsible bidder, after due notice inviting bids, unless competitive bidding is waived by a vote of two-thirds (2/3) of the Aldermen then holding office.

(C) **Notice Inviting Bids.** Notice inviting bids shall be published at least once in a newspaper with general circulation within the City. The City shall also advertise all pending work or purchases by posting a notice on the public bulletin board in the City Hall.

(D) **Scope of Notice.** The newspaper notice required herein shall include a general description of the work to be performed or the articles to be purchased, shall state where specifications may be secured, and the time and place for opening bids.

(E) **Bid Deposits.** When deemed necessary by the City Council, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of their bid deposits upon the award of the contract by the City Council. A successful bidder shall forfeit any bid deposit required by the City Council upon failure on his part to enter into a contract within **ten (10) days** after the award.

(F)

**Bid Opening Procedure.**

(1) **Sealed.** Bids shall be submitted sealed to the City and shall be identified as bids on the envelope.

(2) **Opening.** Bids shall be opened in public at the time and place stated in the public notice.

- (3) **Tabulation.** A tabulation of all bids received shall be made by the City Council, the City employee, the City Engineer or the City Attorney in which event, a tabulation of the bids shall be furnished to the City Council at its next regular meeting.

(G) **Rejection of Bids.** The City shall have the authority to reject all bids or parts of all bids when the public interest will be served thereby.

(H) **Bidders in Default to City.** The City shall not accept the bid of a contractor who is in default on the payment of taxes, licenses or other monies due the City.

(I) **Award of Contract.**

- (1) **Authority in City.** The City Council shall have the authority to award contracts within the purview of this section.

- (2) **Lowest Responsible Bidder.** Contracts shall be awarded to the lowest responsible bidder on the basis of the bid that is in the best interest of the City to accept. In awarding the contract, in addition to price, the City Council shall consider:

- (a) The ability, capacity and skill of the bidder to perform the contract to provide the service required;
- (b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- (c) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (d) The quality of the performance of previous contracts or services;
- (e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- (f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- (g) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
- (h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- (i) The number and scope of conditions attached to the bid.
- (j) Whether the bidder has furnished a Certificate of Insurance indicating Worker's Compensation and Employers' Liability coverage and the policy limits for such coverage.

- (3) **Performance Bonds.** The City Council shall have the authority to require a performance bond, before entering into a contract, in such amounts as it shall find reasonably necessary to protect the best interests of the City.

(J) **Open Market Procedure.** All work and purchases of supplies, materials and services of less than the estimated value of **Twenty-Five Thousand Dollars (\$25,000.00)** shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed by this section for the award of formal contracts.

(K) **Professional Services Exempt From Bidding Requirements.** All contracts for professional services, including, but not limited to, attorneys, engineers, real estate appraisers and architects and any other profession whose ethical code involved prohibits or discourages involvement in normal bidding procedures, may be entered into by the City without observing the bidding procedures prescribed by this section for the award of formal contracts.

(L) **Emergency Purchases.** In case of an apparent emergency which requires immediate work or purchase of supplies materials or services, the City Council shall be empowered to secure by open market procedure as herein set forth, at the lowest obtainable price, any work, supplies, materials or services regardless of the amount of the expenditure.

(M) **Cooperative Purchasing.** The City shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the City would be served thereby. **(65 ILCS 5/2-2-12, 8-9-1 and 8-9-2)**

**1-2-28**

**INTERESTS IN CONTRACTS PROHIBITED.**

(A) A municipal officer shall not be financially interested directly in the officer's own name or indirectly in the name of any other person, association, trust, or corporation, in any contract, work, or business of the municipality or in the sale of any article whenever the expense, price, or consideration of the contract, work, business, or sale is paid either from the treasury or by an assessment levied by statute or ordinance. A municipal officer shall not be interested, directly or indirectly, in the purchase of any property that (1) belongs to the municipality, (2) is sold for taxes or assessments, or (3) is sold by virtue of legal process at the suit of the municipality. For the purposes of this Section only, however, a municipal officer shall not be deemed interested if the officer is an employee of a company or owns or holds an interest of **one percent (1%)** or less in the municipal officer's individual name in a company, or both, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market, provided the interested member (i) publicly discloses the fact that he or she is an employee or holds an interest of **one percent (1%)** or less in a company before deliberation of the proposed award of the contract; (ii) refrains from evaluating, recommending, approving, deliberating, or otherwise participating in the negotiation, approval, or both, of the contract, work, or business; (iii) abstains from voting on the award of the contract though he or she shall be considered present for purposes of establishing a quorum; and (iv) the contract is approved by a majority vote of those members currently holding office.

A municipal officer shall not be deemed interested if the officer owns or holds an interest of **one percent (1%)** or less, not in the officer's individual name but through a mutual fund or exchange-traded fund, in a company, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market.

This Section does not prohibit any person serving on a municipal advisory panel or commission or nongoverning board or commission from having an interest in a contract, work, or business of the municipality unless the municipal officer's duties include evaluating, recommending, approving, or voting to recommend or approve the contract, work, or business.

(B) **Exceptions.** Any elected or appointed member of the governing body may, however, provide materials, merchandise, property, services, or labor, subject to the following provisions under either (1) or (2):

- (1) If:
  - (a) the contract is with a person, firm, partnership, association in which the interested member of the governing body of the municipality member has less than a **seven and one-half percent (7 ½%)** share in the ownership;
  - (b) the interested member publicly discloses the nature and extent of the interest before or during deliberations concerning the proposed award of the contract;
  - (c) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum);
  - (d) the contract is approved by a majority vote of those members presently holding office;
  - (e) the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds **One Thousand Five Hundred Dollars (\$1,500.00)** (but the contract may be awarded without bidding if the amount is less than **One Thousand Five Hundred Dollars (\$1,500.00)**; and
  - (f) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Twenty-Five Thousand**

- (2) If:
  - (a) the award of the contract is approved by a majority vote of the governing body of the municipality (provided that the interested member shall abstain from voting);
  - (b) the amount of the contract does not exceed **Two Thousand Dollars (\$2,000.00)**;
  - (c) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Four Thousand Dollars (\$4,000.00)**;
  - (d) the interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and
  - (e) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum).
- (3) In addition to the above exemptions, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:
  - (a) the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a **one percent (1%)** share in the ownership; and
  - (b) the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and
  - (c) such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and
  - (d) such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(C) A contract for the procurement of public utility services by a municipality with a public utility company is not barred by this Section by one or more members of the governing body being an officer or employee of the public utility company, or holding an ownership interest in no more than **seven and one-half percent (7 ½%)** in the public utility company, or holding an ownership interest of any size if the municipality has a population of less than **seven thousand five hundred (7,500)** and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body or a nongovernmenting board or commission having an interest described in this subsection (D) does not have a prohibited interest under this Section.

(D) An officer who violates this Section is guilty of a Class 4 felony. In addition, any officer held by an officer so convicted shall become vacant and shall be so declared as part of the judgment of the court.

(E) Nothing contained in this Section, including the restrictions set forth in subsections (B) and (C), shall preclude a contract of deposit of moneys, loans, or other financial services by a municipality with a local bank or local savings and loan association, regardless of whether a member of the governing body of the municipality is interested in the bank or savings and loan association as an officer or employee or as a holder of less than **seven and one-half percent (7 ½%)** of the total ownership interest. A member holding an interest described in this subsection (E) in a contract does not hold a prohibited interest for purposes of this Act. The interested member of the governing body must publicly state the nature and extent of the interest during deliberations concerning the proposed award of the contract but shall not participate in any further deliberations concerning the proposed award. The interested member shall not vote on the proposed award. A member abstaining from participation in

deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of the contract shall require approval by a majority vote of those members presently holding office. Consideration and award of a contract in which a member is interested may only be made at a regularly scheduled public meeting of the governing body of the municipality.

(F) Notwithstanding any other provision of this Section or any other law to the contrary, until January 1, 1994, a member of the city council of a municipality with a population under **twenty thousand (20,000)** may purchase real estate from the municipality, at a price of not less than **one hundred percent (100%)** of the value of the real estate as determined by a written MAI certified appraisal or by a written certified appraisal of a State certified or licensed real estate appraiser, if the purchase is approved by a unanimous vote of the city council members then holding office (except for the member desiring to purchase the real estate, who shall not vote on the question).

(G) Under either of the following circumstances, a municipal officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the municipality:

- (1) If the municipal officer is appointed by the governing body of the municipality to represent the interests of the municipality on a not-for-profit corporation's board, then the municipal officer may actively vote on matters involving either that board or the municipality, at any time, so long as the membership on the not-for-profit board is not a paid position, except that the municipal officer may be reimbursed by the not-for-profit board for expenses incurred as the result of membership on the not-for-profit board.
- (2) If the municipal officer is not appointed to the governing body of a not-for-profit corporation by the governing body of the municipality, then the municipal officer may continue to serve; however, the municipal officer shall abstain from voting on any proposition before the municipal governing body directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of a quorum of the municipal governing body.

**(65 ILCS 5/3.1-55-10)**

**1-2-29                    SALARIES REGULATION.**

(A) **Elected.** No salary or compensation of any elected municipal officer who is elected for a definite term of office shall be increased or diminished during such term.

(B) **Appointed.** No salary or compensation of any appointed official who is appointed for a definite term of office shall be decreased during such term, but may be increased.

**(65 ILCS 5/3.1-50-5 and 5/3.1-50-10)**

**EDITOR'S NOTE:** The salary of appointed officials and employees may be established in the appropriation ordinance or annual budget. The salary of elected officials must be established in an ordinance other than the appropriation ordinance at least **one hundred eighty (180) days** before the beginning of the terms of the officers whose compensation is to be filed.

**1-2-30                    CLAIMS PRESENTATION.**

(A) All claims against the City for goods purchased, damaged, or originating in any other way, except for claims for salaries and other allowances that are fixed by ordinance, **must be presented on or before the second Monday of each month** to the City Clerk. All such claims must be in writing and items shall be specified.

(B) **Exception.** This does not prohibit the City Council from passing on any claims not previously presented to the City Clerk if, in the opinion of the Council, justice to the claimant requires it.



**1-2-31            MUNICIPAL YEAR.** The municipal year of the City shall begin on **May 1<sup>st</sup>** of each year and shall end on **April 30<sup>th</sup>** of the following year. **(65 ILCS 5/1-1-2)**

**1-2-32            EXPENSE REIMBURSEMENT POLICY.**

**(A)                Definitions.**

- (1) "Entertainment" includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless ancillary to the purpose of the program or event.
- (2) "Public Business" means the expenses incurred in the performance of a public purpose which is required or useful for the benefit of the City to carry out the responsibilities of City business.
- (3) "Travel" means any expenditure directly incident to official travel by employees and officers of the City or by wards or charges of the City involving reimbursement to travelers or direct payment to private agencies providing transportation or related services.

(B) The City shall only reimburse travel, meal, and lodging expenses incurred by its Aldermen and Mayor for public business by roll call vote at an open meeting of the City Council of the City.

(C) The City shall only reimburse travel, meal, and lodging expenses incurred by its employees and officers (other than Aldermen and Mayor) for public business up to a maximum of **Two Hundred Fifty Dollars (\$250.00)** per individual per year. Expenses for travel, meals, and lodging of exceeding **Two Hundred Fifty Dollars (\$250.00)** per individual per year may only be approved by roll call vote at an open meeting of the City Council of the City.

(D) No reimbursement of travel, meal or lodging expenses incurred shall be authorized unless the "Travel, Meal, and Lodging Expense Reimbursement Request Form" in Addendum "C", attached hereto and made a part hereof, has been submitted. Travel, meal and lodging expenses for employees and officials other than Aldermen or the Mayor shall be pre-approved by the Mayor before the expense is incurred. All documents and information submitted with the form shall be subject to disclosure under the Freedom of Information Act **(5 ILCS 140/1 et seq.)**

**(E)                Non-reimbursable Expenses.**

- (1) The City shall not reimburse any elected official, employee, or officer for any activities which would be considered entertainment. Activities which would otherwise be considered entertainment, but which are excluded from the prohibition on reimbursement due to being ancillary to the purpose of the program or event, may be reimbursed in accordance with the provisions of this Section.
- (2) Alcohol shall be excluded from reimbursement.

(F) Meal expense reimbursement shall be calculated using the per diem rates on [www.gsa.gov](http://www.gsa.gov).

(G) The Mayor shall have authority and discretion to approve or deny requests for travel, meal and lodging expense reimbursement for employees and officers other than Aldermen or the Mayor up to the amount allowed in paragraph (B) of this Section.

**1-2-33            OFFICIAL RECORDS.** All official records, including the Corporate Seal, shall be kept in the City Hall.

**1-2-34            FEDERAL OLD AGE AND SURVIVOR'S INSURANCE SYSTEM.**

**(A)                Eligible employees** shall mean all employees of the City, eligible under the Federal Act, except persons elected to office by popular election and also the City Treasurer and City Attorney.

(B) **Withholdings** from salaries or wages of employees for the purpose provided in sections hereof are hereby authorized to be made in the amounts and at such times as may be required by applicable State or Federal laws or regulations, and shall be paid quarterly.

**1-2-35** **ILLINOIS MUNICIPAL RETIREMENT FUND.**  
(A) The City does hereby elect to participate in the **Illinois Municipal Retirement Fund.**  
(B) **Special Tax.** The City includes in its levy and appropriation ordinance provisions for the levying of a special tax to pay the City's cost of participating in the Retirement Fund and appropriate therefrom funds to pay the cost of participation.  
**(Ord. No. 1974-4; 09-10-74)**

**1-2-36** **CONTROL OF PROPERTY OWNED BY CITY OUTSIDE OF CITY LIMITS.** All property which (1) is owned by the City, and (2) lies outside the corporate limits of the City, and (3) does not lie within the corporate limits of any other municipality, shall be subject to the ordinances, control, and jurisdiction of the City in all respects the same as the property owned by the City which lies within the corporate limits thereof. **(65 ILCS 5/7-4-2)**

**1-2-37** **CERTIFICATES OF INSURANCE.** All contractors and sub-contractors doing work for the City shall first provide a Certificate of Insurance indicating Worker's Compensation and Employers' Liability coverage and the policy limits for such coverage.

**1-2-38** **TERRITORIAL JURISDICTION ESTABLISHED.** The City Council shall have jurisdiction in and over all places within **one-half (1/2) mile** of the corporate limits for the purpose of enforcing health and quarantine ordinances and regulations. **(65 ILCS 5/7-4-1)**

## **DIVISION V - VACANCIES**

**1-2-39** **VACANCY BY RESIGNATION.** A resignation is not effective unless it is in writing, signed by the person holding the elective office, and notarized.

(A) **Unconditional Resignation.** An unconditional resignation by a person holding the elective office may specify a future date, not later than **sixty (60) days** after the date the resignation is received by the officer authorized to fill the vacancy, at which time it becomes operative, but the resignation may not be withdrawn after it is received by the officer authorized to fill the vacancy. The effective date of a resignation that does not specify a future date at which it becomes operative is the date the resignation is received by the officer authorized to fill the vacancy. The effective date of a resignation that has a specified future effective date is that specified future date or the date the resignation is received by the officer authorized to fill the vacancy, whichever date occurs later.

(B) **Conditional Resignation.** A resignation that does not become effective unless a specified event occurs can be withdrawn at any time prior to the occurrence of the specified event, but if not withdrawn, the effective date of the resignation is the date of the occurrence of the specified event or the date the resignation is received by the officer authorized to fill the vacancy, whichever date occurs later.

(C) **Vacancy Upon the Effective Date.** For the purpose of determining the time period that would require an election to fill the vacancy by resignation or the commencement of the **sixty (60) day** time period referred to in **Section 1-2-43**, the resignation of an elected officer is deemed to have created a vacancy as of the effective date of the resignation.

(D) **Duty of the Clerk.** If a resignation is delivered to the Clerk of the Municipality, the Clerk shall forward a certified copy of the written resignation to the official who is authorized to fill the vacancy within **seven (7) business days** after receipt of the resignation.

**1-2-40** **VACANCY BY DEATH OR DISABILITY.** A vacancy occurs in an office by reason of the death of the incumbent. The date of the death may be established by the date shown on the death certificate. A vacancy occurs in an office by permanent physical or mental disability rendering the person incapable of performing the duties of the office. The corporate authorities have the authority to make the determination whether an officer is incapable of performing the duties of the office because of a permanent physical or mental disability. A finding of mental disability shall not be made prior to the appointment by a court of a guardian ad litem for the officer or until a duly licensed doctor certifies, in writing, that the officer is mentally impaired to the extent that the officer is unable to effectively perform the duties of the office. If the corporate authorities find that an officer is incapable of performing the duties of the office due to permanent physical or mental disability, that person is removed from the office and the vacancy of the office occurs on the date of the determination.

**1-2-41** **VACANCY BY OTHER CAUSES.**  
(A) **Abandonment and Other Causes.** A vacancy occurs in an office by reason of abandonment of office; removal from office; or failure to qualify; or more than temporary removal of residence from the Municipality, as the case may be. The corporate authorities have the authority to determine whether a vacancy under this Section has occurred. If the corporate authorities determine that a vacancy exists, the office is deemed vacant as of the date of that determination for all purposes including the calculation under **Sections 1-2-43 or 1-2-44.**

(B) **Guilty of a Criminal Offense.** An admission of guilt of a criminal offense that upon conviction would disqualify the municipal officer from holding the office, in the form of a written agreement with State or federal prosecutors to plead guilty to a felony, bribery, perjury, or other infamous crime under State or federal law, constitutes a resignation from that office, effective on the date the plea agreement is made. For purposes of this Section, a conviction for an offense that disqualifies a municipal officer from holding that office occurs on the date of the return of a guilty verdict or, in the case of a trial by the court, on the entry of a finding of guilt.

(C) **Election Declared Void.** A vacancy occurs on the date of the decision of a competent tribunal declaring the election of the officer void.

**1-2-42** **ELECTION OF AN ACTING MAYOR.** The election of an acting Mayor pursuant to **Section 1-2-44 or 1-2-45** does not create a vacancy in the original office of the person on the City Council, unless the person resigns from the original office following election as acting Mayor. If the person resigns from the original office following election as acting Mayor, then the original office must be filled pursuant to the terms of this Section and the acting Mayor shall exercise the powers of the Mayor and shall vote and have veto power in the manner provided by law for a Mayor. If the person does not resign from the original office following election as acting Mayor, then the acting Mayor shall exercise the powers of the Mayor but shall be entitled to vote only in the manner provided for as the holder of the original office and shall not have the power to veto. If the person does not resign from the original office following election as acting Mayor, and if that person's original term of office has not expired when a Mayor is elected and has qualified for office, the acting Mayor shall return to the original office for the remainder of the term thereof.

**1-2-43** **APPOINTMENT TO FILL ALDERMAN VACANCY.** An appointment by the Mayor or acting Mayor, as the case may be, of a qualified person as described in **Section 1-2-23** of this Code to fill a vacancy in the office of Alderman must be made within **sixty (60) days** after the vacancy occurs. Once the appointment of the qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment

fails to receive the advice and consent of the corporate authorities within **thirty (30) days**, the Mayor or acting Mayor shall appoint and forward to the corporate authorities a second qualified person as described in **Section 1-2-23**. Once the appointment of the second qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment of the second qualified person also fails to receive the advice and consent of the corporate authorities, then the Mayor or acting Mayor, without the advice and consent of the corporate authorities, may make a temporary appointment from those persons who were appointed but whose appointments failed to receive the advice and consent of the corporate authorities. The person receiving the temporary appointment shall serve until an appointment has received the advice and consent and the appointee has qualified or until a person has been elected and has qualified, whichever first occurs.

**1-2-44                    ELECTION TO FILL VACANCIES IN MUNICIPAL OFFICES WITH FOUR (4) YEAR TERMS.** If a vacancy occurs in an elective municipal office with a **four (4) year term** and there remains an unexpired portion of the term of at least **twenty-eight (28) months**, and the vacancy occurs at least **one hundred thirty (130) days** before the general municipal election next scheduled under the general election law, then the vacancy shall be filled for the remainder of the term at that general municipal election. Whenever an election is held for this purpose, the City Clerk shall certify the office to be filled and the candidates for the office to the proper election authorities as provided in the general election law. If a vacancy occurs with less than **twenty-eight (28) months** remaining in the unexpired portion of the term or less than **one hundred thirty (130) days** before the general municipal election, then:

(A)                    **Mayor.** If the vacancy is in the office of Mayor, the vacancy must be filled by the corporate authorities electing one of their members as acting Mayor. Except as set forth in **Section 1-2-42**, the acting Mayor shall perform the duties and possess all the rights and powers of the Mayor until a Mayor is elected at the next general municipal election and has qualified.

(B)                    **Alderman.** If the vacancy is in the office of Alderman, the vacancy must be filled by the Mayor or acting Mayor, as the case may be, in accordance with **Section 1-2-43**.

(C)                    **Other Elective Office.** If the vacancy is in any elective municipal office other than Mayor or Alderman, the Mayor or acting Mayor, as the case may be, must appoint a qualified person to hold the office until the office is filled by election, subject to the advice and consent of the City Council, as the case may be.

**1-2-45                    VACANCIES DUE TO ELECTION BEING DECLARED VOID.** In cases of vacancies arising by reason of an election being declared void pursuant to **Section 1-2-41(C)**, persons holding elective office prior thereto shall hold office until their successors are elected and qualified or appointed and confirmed by advice and consent, as the case may be.

**1-2-46                    OWING A DEBT TO THE MUNICIPALITY.** A vacancy occurs if a municipal official fails to pay a debt to a municipality in which the official has been elected or appointed to an elected position subject to the provisions of **65 ILCS 5/3.1-10-50(C)(4)**.

**1-2-47                    REGULATIONS FOR PUBLIC BUILDINGS AND FACILITIES.** Smoking shall be prohibited in all public buildings and facilities. (**Ord. No. 19-09-2002-2**)

**(65 ILCS 5/3.1-10-50)**

**1-2-48 - 1-2-49                    RESERVED.**

## **ARTICLE III - OFFICIALS**

### **DIVISION I - MAYOR**

**1-3-1            ELECTION.** The Mayor shall be elected for a **four (4) year** term and shall serve until a successor is elected and has qualified. **(65 ILCS 5/3.1-15-5 and 5/3.1-15-10)**

**1-3-2            MAYOR PRO-TEM; TEMPORARY CHAIRMAN.**  
(A) If the Mayor is temporarily absent because of an incapacity to perform official duties, but the incapacity does not create a vacancy in the office, the corporate authorities shall elect one of their members to act as Mayor pro tem. The Mayor pro tem, during this absence or disability, shall perform the duties and possess all the rights and powers of the Mayor but shall not be entitled to vote both as Mayor pro tem and as an alderman.

(B) In the absence of the Mayor, or Mayor pro tem, the corporate authorities may elect one of their members to act as a temporary chairman. The temporary chairman shall have only the powers of a presiding officer and a right to vote only in the capacity as alderman on any ordinance, resolution, or motion. **(65 ILCS 5/3.1-35-35)**

**1-3-3            CHIEF EXECUTIVE OFFICER.** The Mayor shall be the chief executive officer of the City and shall see to the enforcement of all laws and ordinances. The Mayor shall preside over the meetings of the City Council and perform such duties as may be required of him by statute or law. The Mayor shall have supervision over all of the executive officers and City employees; provided, however, his or her control is subject to the power of the City Council to prescribe the duties of various officers and employees. The Mayor shall have the power and authority at any reasonable time to inspect all books, papers and records pertaining to City affairs and kept by any officer of the City. **(65 ILCS 5/3.1-15-10 and 3.1-35-20)**

**1-3-4            MAYOR'S SIGNATURE.** The Mayor shall sign all City warrants, commissions, permits and licenses granted by authority of the City Council, except as otherwise provided, and such other acts and deeds as law or ordinance may require his or her official signature.

The Mayor may designate another to affix his or her signature to any written instrument that requires the Mayor's signature. The Mayor must send written notice of this designation to the City Council stating: (1) the name of the person whom he or she has selected, and (2) what instrument the person will have authority to sign.

A written signature of the Mayor executed by the person so designated with the signature underneath the signature of the person so designated shall be attached to the notice. The notice with the signature attached shall be recorded in the journal of the City Council and then filed with the City Clerk. When the signature of the Mayor is placed on a written instrument at the direction of the Mayor in the specified manner, the instrument, in all respects, shall be as binding on the City as if signed by the Mayor in person. **(65 ILCS 5/3.1-35-30)**

**1-3-5            APPOINTMENT OF OFFICERS.**  
(A) **Appointed.** At the first annual meeting in May, the Mayor shall appoint, by and with the advice and consent of the City Council, all officers of the City whose election or appointment is not otherwise provided for, and said officers shall hold their offices for the ensuing month or year, and until their respective successors are appointed and qualified. Any vacancy occurring in an appointive office shall be filled in the same manner. The Mayor shall issue a commission or certificate of appointment to all persons appointed to office in the municipality. **(65 ILCS 5/3.1-55-5)**

(B) **Filling Vacancies.** The Mayor shall appoint, by and with the advice and consent of the City Council, all officers of the City whose appointment will not otherwise be provided for by law;

and whenever a vacancy shall occur in any office, which by law or ordinance the Mayor is empowered and required to fill, the Mayor shall, at the next regular meeting of the City Council, communicate to it the name of the appointee to such office and pending the concurrence of the City Council in such appointment, the Mayor may designate some suitable person to discharge the functions of such office. **(50 ILCS 105/2)**

**1-3-6      SUPERVISE CONDUCT OF OFFICERS; REMOVAL OF OFFICERS.** The Mayor shall supervise the conduct of all officers of the City and see that they faithfully and efficiently discharge the duties of their respective offices. Except where otherwise provided by statute, the Mayor may remove any officer appointed by the Mayor under this Code, on any written charge, whenever the Mayor is of the opinion that the interests of the municipality demand removal. The Mayor shall report the reasons for the removal to the corporate authorities at a meeting to be held not less than **five (5) days** nor more than **ten (10) days** after the removal. If the Mayor fails or refuses to report to the corporate authorities the reasons for the removal, or if the corporate authorities by a **two-thirds (2/3) vote** of all members authorized by law to be elected disapprove of the removal, the officer thereupon shall be restored to the office from which the officer was removed. The vote shall be by yeas and nays, which shall be entered upon the journal of the corporate authorities. Upon restoration, the officer shall give a new bond and take a new oath of office. No officer shall be removed a second time for the same offense. **(65 ILCS 5/3.1-35-10)**

**1-3-7      DESIGNATION OF OFFICERS' DUTIES.** Whenever there is a dispute as to the respective duties or powers of any appointed officer of the City, this dispute shall be settled by the Mayor, after consultation with the City Attorney; and the Mayor shall have the power to delegate to any appointive officer, any duty which is to be performed when no specific officer has been directed to perform that duty.

**1-3-8      FORMAL OCCASIONS.** The Mayor shall act for and on behalf of the City on formal occasions and receptions, but in the absence or inability to attend any such function, the Mayor may select any other City officer to so act.

**1-3-9      GENERAL DUTIES.** The Mayor shall perform all the duties which are prescribed by law and shall take care that the laws and ordinances are faithfully executed.

The Mayor from time to time, may and annually shall give the City Council information relative to the affairs of the City, and may recommend for their consideration such measures as he or she believes expedient. **(65 ILCS 5/3.1-35-5)**

**1-3-10      BUSINESS LICENSE COMMISSIONER.** The Mayor is hereby designated as License Commissioner to issue and revoke any and all business licenses as prescribed by law, with the advice and consent of the City Council.

**1-3-11      LOCAL LIQUOR COMMISSIONER.** The Mayor is hereby designated as Local Liquor Commissioner with all the powers to license and/or revoke any City liquor license according to State and City laws. **(235 ILCS 5/4-2)**

**1-3-12      HEALTH COMMISSIONER.** The Mayor is hereby declared to be Health Commissioner with all powers to abate and remove all nuisances or health hazards within the jurisdictional boundaries of the City authority as prescribed by law.

**1-3-13      DECIDING VOTE - MAYOR.** The Mayor shall preside at all meetings of the City Council. The Mayor shall not vote on any ordinance, resolution or motion, except:

- (A)            Where the vote of the Aldermen has resulted in a tie; or
- (B)            Where one-half of the Aldermen elected have voted in favor of an ordinance, resolution or motion, even though there is no tie; or
- (C)            Where a vote greater than a majority of the corporate authorities is required by the Illinois Compiled Statutes to adopt an ordinance, resolution or motion.

In each instance specified, the Mayor shall vote. Nothing in this section shall deprive an Acting Mayor or Mayor Pro-tem from voting in his or her capacity as Alderman, but he or she shall not be entitled to another vote in his or her capacity as Acting Mayor or Mayor Pro-tem. (65 ILCS 5/3.1-40-30)

**1-3-14 - 1-3-15      RESERVED.**

## **DIVISION II - CITY CLERK**

**1-3-16      ELECTED.** The Clerk shall be elected at the same election as the Mayor for a **four (4) year term** and shall serve until a successor is elected and has qualified. (65 ILCS 5/3.1-15-5 and 5/3.1-30-5)

**1-3-17      VACANCY.** Whenever there is a vacancy in the office of City Clerk, the office shall be filled by the Mayor with the advice and consent of the City Council for the remainder of the term. (See **Division V of this Chapter**)

**1-3-18      PUBLICATION OF ORDINANCES; COUNCIL MINUTES; RECORDS.**  
(A)            **Ordinances.** The City Clerk shall cause all ordinances passed by the City Council and approved by the Mayor, imposing any fine, penalty, imprisonment or forfeiture, or making any appropriation to be published or printed in book or pamphlet form, published by authority of the corporate authorities, or be published at least once **within thirty (30) days after passage**, in one (1) or more newspapers published in the City. (65 ILCS 5/1-2-5)

(B)            **Minutes; Records.**

- (1)            **Open Meetings.** The City Clerk shall attend all meetings of the City Council and shall keep in a suitable book to be styled "**The Journal of the City Council,**" a full and faithful record of its proceedings. The City Clerk shall record and properly index in a book kept for that purpose, all ordinances passed by the City Council, and at the foot of the record of each ordinance so recorded, the Clerk shall make a memorandum of the date of the passage, when published, and a memorandum of the publication of such ordinance. (65 ILCS 5/3.1-35-90)

- (2)            **Closed Meetings.** The Clerk shall prepare and preserve the minutes of closed meetings according to the provisions of the Closed Meetings Act. At least twice a year, corporate authorities shall meet to review minutes of all closed sessions and make a public statement as to whether there is still a need to maintain such matters in confidence or whether minutes or portions of minutes from closed meetings no longer require confidential treatment and are available for public inspection. (5 ILCS 120/2.06(c))

(C)            **Bonds.** The Clerk shall also record in proper books for the purpose, all official bonds and note upon each bond so recorded when the same was entered of record and the book and pages where recorded. (65 ILCS 5/3.1-35-110)

(D) **Issue Notices.** The Clerk shall issue and cause to be served upon all Aldermen, notices of all special meetings of the City Council; also notices to the members of the different committees of that body and all persons whose attendance may be required before any such committee, when so directed by the chairman thereof. **(65 ILCS 5/1-2-4, 5/1-2-5 and 5/3.1-35-90)**

**1-3-19** **DELIVERY OF PAPERS TO OFFICERS.** The Clerk shall deliver to the several committees of the City Council and to the officers of this City, all petitions, communications, reports and resolutions, orders, claims and other papers referred to those committees or officers by the Council on demand therefor. The Clerk shall also, without delay, deliver to the Mayor, all ordinances or resolutions, orders and claims in his or her charge which may require to be approved or otherwise acted upon by the Mayor. **(65 ILCS 5/3.1-35-90)**

**1-3-20** **PREPARATION OF DOCUMENTS, COMMISSIONS AND LICENSES.** The Clerk shall prepare all commissions, licenses, permits and other official documents required to be issued by him or her under this Code and shall attest the same with the corporate seal, and the Clerk shall, in like manner, attest all deeds for the sale of real estate owned and conveyed by this City.

**1-3-21** **CITY LICENSES.** In all cases where the City requires a license to be obtained for the purpose of engaging in or carrying on any business or occupation, and the licensee is required to obtain plates, tags or stickers from the Clerk, it shall be the duty of the Clerk to provide such plates, tags, or stickers to the person paying the license fee.

**1-3-22** **REPORT OF LICENSES.** The Clerk shall report to the City Council at its regular meeting each month and more often if the Council so requires the data contained in the license register with respect to licenses issued during the previous month.

**1-3-23** **ADMINISTRATION OF OATHS.** The Clerk shall have the power to administer oaths or affirmations for all lawful purposes. **(65 ILCS 5/3.1-15-20)**

**1-3-24** **OUTSTANDING BONDS.** The Clerk shall keep in his office in a book or books kept expressly for that purpose a correct list of all the outstanding bonds of the City, showing the number and amount of each, for and to whom the bonds are issued; and when the City bonds are issued, or purchased, or paid, or cancelled, the book or books shall show that fact; and in the annual report, the Clerk shall describe particularly the bonds sold during the year and the terms of sale with each and every item of expense thereof. **(65 ILCS 5/3.1-35-110)**

**1-3-25** **REPORTS.** The Clerk shall, on or before the regular meeting in each month, make out and submit to the City Council a statement or report in writing of all the monies received and warrants drawn during the preceding month, showing therein from or what sources and on what account monies were received, and for what purposes and on what account the warrants were drawn or paid.

**1-3-26** **SUCCESSOR.** The City Clerk shall carefully preserve all books, records, papers, maps and effects of every detail and description belonging to the City or pertaining to the office, and not in actual use and possession of other City officers; and upon the expiration of his or her official term, the Clerk shall deliver all such books, records, papers and effects to the successor in office. **(65 ILCS 3.1-10-35)**



**1-3-27      PAYMENTS.** The Clerk shall prepare monthly an itemized list of all monies received and shall deliver a copy of the same to the City Treasurer and shall also pay over to the Treasurer all monies received in the office and take a receipt therefor.

**1-3-28      NOTIFICATION TO PERSONS APPOINTED TO OFFICE.** Within **five (5) days** after an appointment is made, the Clerk shall notify all persons appointed to office of their appointment. The office becomes vacant unless the person appointed qualifies within **ten (10) days** after such notice.

**1-3-29      OTHER DUTIES.** In addition to the foregoing duties, the Clerk shall perform all such other duties pertaining to the office as are or may be imposed upon the office by law or resolution or ordinance of the City Council. **(65 ILCS 5/3.1-10-40)**

**1-3-30      DEPUTY CLERK.** The City Clerk, when authorized by the City Council, may appoint the Deputy Clerk who shall have the power and duty to execute all documents required by any law to be executed by the Clerk and affix the seal of the City thereto whenever required. In signing any documents, the Deputy Clerk shall sign the name of the City Clerk followed with the word, **"By"** and the Deputy Clerk's name and the words, **"Deputy Clerk"**.

The powers and duties herein described shall be executed by such Deputy Clerk only in the absence of the City Clerk from the City Clerk's office in the City Hall, and only when either written direction has been given by the City Clerk to such Deputy Clerk to exercise such power or the City Council has determined by resolution that the City Clerk is temporarily or permanently incapacitated to perform such functions.  
**(65 ILCS 5/3.1-30-10 and 5/3.1-10-45 and 5/3.1-35-95)**

**1-3-31      RESERVED.**

### **DIVISION III - CITY TREASURER**

**1-3-32      DEPARTMENT ESTABLISHED.** There is hereby established a department of the municipal government of the City which shall be known as the **"Finance Department"**. It shall embrace the Finance Committee and the Treasurer.

**1-3-33      FINANCE COMMITTEE.** The standing committee on Finance shall exercise a general supervision over the affairs of the Finance Department. It shall ascertain the condition and needs thereof; shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had and generally, shall do all the acts necessary to promote the efficiency of the Department.

**1-3-34      TREASURER ELECTED; VACANCY.** The Treasurer shall be elected at the same election as the Mayor for a **four (4) year term** and shall serve until a successor is elected and has qualified. If a vacancy occurs in the office, it shall be filled by the Mayor, with the advice and consent of the City Council. The person so appointed shall hold office for the unexpired term of the officer elected.  
**(65 ILCS 5/3.1-30-5)**

**1-3-35      MONEY; WARRANTS; ACCOUNTS; PAYMENTS.** The City Treasurer shall receive all monies belonging to this City and shall pay all warrants signed by the Mayor and countersigned by the City Clerk and not otherwise; and shall keep a separate account of each fund or appropriation and the debits and credits belonging thereto. The Treasurer shall give to every person paying money into the City Treasury a receipt therefor, specifying the date of payment, and upon what account paid, and shall file copies of such receipts with the Clerk with the monthly reports. **(65 ILCS 5/3.1-35-40)**

**1-3-36      WARRANT REGISTER.** The Treasurer shall keep a register of all warrants redeemed and paid, showing the number, date, and amount of each, the fund from which paid, and the name of the person to whom and when paid; and the Treasurer shall cancel all warrants as soon as they are redeemed. **(65 ILCS 5/3.1-35-40 and 5/3.1-35-45)**

**1-3-37      PERSONAL USE OF FUNDS.** The City Treasurer shall keep all money belonging to the Municipality and in the Treasurer's custody separate and distinct from the Treasurer's own money and shall not use, either directly or indirectly, the Municipality's monies or warrants for the personal use and benefit of the Treasurer or of any other person. Any violation of this provision shall subject the Treasurer to immediate removal from office by the corporate authorities, who may declare the Treasurer's office vacant. **(65 ILCS 5/3.1-35-55)**

**1-3-38      BOND.** The Treasurer shall give bond conditioned upon the faithful performance of his duties and to indemnify the City for any loss due to neglect of duty or wrongful act on his part; and the amount of such bond shall not be less than **ten percent (10%)** of the highest amount of taxes and special assessments received by the Treasurer during any fiscal year in the preceding **five (5) fiscal years**, nor less than one and one-half times the largest amount which the Council estimates will be in his custody at any one time, nor less than **three (3) times** the number of residents of the City, as determined by the last Federal Census. Such bond shall be filed with the Clerk as required by statute. **(65 ILCS 5/3.1-10-45)**

**1-3-39      SPECIAL ASSESSMENTS.** The Treasurer shall collect all payments on special assessments and shall see to it that the same are properly recorded and credited to the particular account entitled thereto. **(65 ILCS 5/3.1-35-85)**

**1-3-40      BOOKKEEPING.** The Treasurer shall keep the books and accounts in such a manner as to show with accuracy, all monies received and disbursed for the City, stating from whom and on what account received, and to whom and on what account paid out, and in such a way that the books and accounts may be readily investigated and understood, and the books and accounts and all files and papers of the office shall be, at all times, open to examination by the Mayor or the Finance Committee of the Council. **(65 ILCS 5/3.1-35-40)**

**1-3-41      STATEMENTS.** The Treasurer shall report to the corporate authorities at the regular monthly meeting, a full and detailed account of all receipts and expenditures of the municipality as shown by his books up to the time of the report. **(65 ILCS 5/3.1-35-45)**

**1-3-42      REPORT DELINQUENT OFFICERS.** It shall be the duty of the Treasurer to report to the City Clerk any officer of the City authorized to receive money for the use of the City who may fail to make a return of the monies received by the Treasurer at the time required by law or by ordinances of the City.

**1-3-43      YEAR-END REPORT.** Within **six (6) months** after the end of each fiscal year, the Treasurer shall prepare and file annually with the City Clerk an account of monies received and expenditures incurred during the preceding fiscal year as specified in this section. The Treasurer shall show the following in such account:

(A) All monies received by the City, indicating the total amounts in the aggregate received in each account of the City, with a general statement concerning the source of such receipts; provided, however, for the purposes of this paragraph, the term "**account**" shall not be construed to mean each individual taxpayer, householder, licensee, utility user, or such other persons whose payments to the City are credited to the general account; and

(B) Except as provided in paragraph (C) of this section all monies paid out by the City where the total amount paid during the fiscal year exceeds **Two Thousand Five Hundred Dollars (\$2,500.00)**, giving the name of each person to whom paid, on what account paid, and the total amount in the aggregate paid to each person from each account; and

(C) All monies paid out by the City as compensation for personal services, giving the name of each person to whom paid, on what account paid, and the total amount in the aggregate paid to each person from each account; and

(D) A summary statement of operations for all funds and account groups of the City as excerpted from the annual financial report, as filed with the appropriate state agency of the State of Illinois.

**Upon receipt of such account from the City Treasurer, the City Clerk shall publish the account at least once in one or more newspapers published in the City. (65 ILCS 5/3.1-35-65)**

**[NOTE: The Treasurer shall file a copy of the report with the County Treasurer as provided in Sec. 5/3.1-35-70 of Chapter 65 of the Illinois Compiled Statutes.]**

**1-3-44      OTHER DUTIES.** In addition to the foregoing duties, the City Treasurer shall perform all other duties pertaining to that office as are, or may be, imposed upon him or her by law or by resolution or ordinance of the City Council. **(Ord. No. 2013-07; 11-04-13)**

**1-3-45      DEPOSIT OF FUNDS.**

(A) **Designation by Council.** The Treasurer is hereby required to keep all funds and monies in his or her custody belonging to the City in such places of deposit as have been designated by **Section 1-3-45(F)**. When requested by the Treasurer, the corporate authorities shall designate a bank or banks in which may be kept the funds and monies of the City in the custody of the Treasurer. When a bank or savings and loan association has been designated as a depository, it shall continue as such depository until **ten (10) days** have elapsed after a new depository is designated and has qualified by furnishing the statements of resources and liabilities as required by this Section. When a new depository is designated, the corporate authorities shall notify the sureties of the City Treasurer of that fact in writing at least **five (5) days** before the transfer of funds. The Treasurer shall be discharged from responsibility for all funds or money that the Treasurer deposits in a designated bank or savings and loan association while the funds and money are so deposited.

(B) The City Treasurer may require any bank or savings and loan association to deposit with the Treasurer securities or mortgages that have a market value at least equal to the amount of the funds or monies of the municipality deposited with the bank or savings and loan association that exceeds the insurance limitation provided by the Federal Deposit Insurance Corporation.

(C) The City Treasurer may enter into agreements of any definite or indefinite term regarding the deposit, redeposit, investment, reinvestment, or withdrawal of municipal funds.

(D) Each City Treasurer may:

- (1) combine monies from more than one fund of a single municipality for the purpose of investing those funds and;
- (2) join with other municipal treasurers or municipalities for the purpose of investing the municipal funds of which the Treasurer has custody.

Joint investments shall be made only in investments authorized by law for the investment of municipal funds. When monies of more than one fund of a single municipality or monies of more than one municipality are combined for investment purposes, the monies combined for that purpose shall be accounted for separately in all respects and the earnings from investments shall be separately and individually computed, recorded, and credited to the fund or municipality, as the case may be, for which the investment was acquired.

(E) No bank or savings and loan association shall receive public funds as permitted by this Section unless it has complied with the requirements established by Section 6 of the Public Funds Investment Act. **(65 ILCS 5/3.1-35-50 and 30 ILCS 235/6)**

(F) The following bank(s) are herewith designated as places of deposit where the Treasurer of the City is required to keep all funds and monies in his custody belonging to this municipality:

- (1) People's Bank of Macon, Macon, IL
- (2) First Bank, Decatur, IL
- (3) First Mutual Bank, Decatur, IL
- (4) Hickory Point Bank, Decatur, IL

**1-3-46 - 1-3-47      RESERVED.**

#### **DIVISION IV - JUDICIARY**

**1-3-48      APPOINTMENT OF ATTORNEY.** The Attorney shall be hired by the Mayor, by and with the advise and consent of the City Council. The Attorney shall have full charge of the law affairs of the City and shall be known as the City Attorney, and shall receive reasonable fees for services rendered when, in his or her judgment, or in the judgment of the Mayor or City Council, the same are necessary or are for the best interests of the City. **(65 ILCS 5/3.1-30-5)**

**1-3-49      DUTIES.**

(A) **Prosecute for City.** The City Attorney shall prosecute or defend on behalf of the City in all cases in which the interests of the corporation or any officer thereof are involved; and the City Clerk shall furnish him or her with certified copies of any ordinance, bond or paper in keeping necessary to be filed or used in any suit or proceedings.

(B) **Preparation of Ordinances.** The Attorney shall, when required, advise the City Council or any officer in all matters of law in which the interests of the corporation are involved, and shall draw such ordinances, bonds, forms and contracts, or examine and pass upon the same, as may be required by the Mayor, the City Council, or any committee thereof.

(C) **Judgments.** The Attorney shall direct executions to be issued upon all judgments recovered in favor of the City, and shall direct their prompt service. The Attorney shall examine all the bills of the officers of courts, and of other officers of the law, and shall certify to their correctness and the liability of the City therefore.

(D) **Violations of Ordinances.** The Attorney shall institute and prosecute an action in every case of violation of a City ordinance when instructed to do so by the Mayor or the City Council.

(E) **Prosecution of Suits.** The Attorney shall not be required to prosecute any suit or action arising under the ordinances of the City when, upon investigation of the same, the Attorney shall become satisfied that the complaint was instituted maliciously, vexatiously, or without just cause; and shall dismiss or discontinue any such suit or proceeding upon such terms as he or she may deem just or equitable.

(F) **Collection of Taxes.** The Attorney is hereby authorized and instructed to enforce the collection of any and all taxes and special assessments in the collection of which the City is interested and to attend all sales of real or personal property made to enforce the collection of such taxes or special assessments and to bid thereat on behalf of the City.

(G) **Commissions.** The City Attorney shall act as the legal advisory for the Utilities Systems, for the Plan Commission, for the Zoning Board of Appeals and for all other boards and commissions hereafter established by the City Council. The Attorney shall perform all legal services as may be required for those boards and commissions.

**1-3-50 - 1-3-53      RESERVED.**

#### **DIVISION V - CITY COLLECTOR**

**1-3-54      POSITION ESTABLISHED.** The City hereby establishes the position of City Collector under the conditions hereinafter set forth.

**1-3-55      APPOINTMENT.** The position of Municipal Collector shall be appointed by the Mayor with the advice and consent of the City Council. The City Clerk or other person may be appointed.

**1-3-56      DUTIES.** The City Collector shall be responsible for the collection and tabulation of the City's water and sewer receipts. The City Collector shall also tabulate arrearages and take all steps necessary to bring arrearages current. The City Collector shall also undertake any further duties as established by the Mayor and the City Council.

**1-3-57      SALARY ESTABLISHED.** The City Collector shall receive an annual salary as determined by the next Appropriation Ordinance.

**(Ord. No. 1999-24; 11-08-99)**

#### **DIVISION VI - CITY ENGINEER**

**1-3-58      APPOINTMENT.** With the advice and consent of the City Council, the Mayor may appoint an engineer for the City, who shall serve for the term of the Mayor or for such period not exceeding the term of the Mayor, as may be designated by the Mayor and City Council.

**1-3-59      DUTIES - SALARY.** The City Engineer shall make and submit plans, estimates and specifications for any public work which may be proposed or ordered by the City Council. The Engineer shall also examine all public works under his or her charge and see that the plans, estimates and specifications for the same are properly executed. The Engineer shall receive reasonable compensation for his services and the same will be provided for in the annual appropriation ordinance on an estimated basis.  
**(65 ILCS 5/3.1-30-5)**

**1-3-60      RESERVED.**

## **DIVISION VII – SUPERINTENDENT OF PUBLIC WORKS**

**1-3-61**      **OFFICE CREATED.** There is hereby created the office of Superintendent of Public Works, an executive office of the City. The Superintendent of Public Works shall be appointed by the Mayor and City Council. **(65 ILCS 5/3.1-30-5) (See Chapter 38)**

**1-3-62**      **DEPARTMENT EMPLOYEES.** All officers or employees assigned to the Department of Public Works shall perform their duties subject to the orders and under the supervision of the Superintendent of Public Works.

**1-3-63**      **PROPERTY CUSTODIAN.** The Superintendent of Public Works shall be the custodian of all property of the City which is not assigned to the care or custody of any other officer.

**1-3-64**      **RESERVED.**

## **DIVISION VIII - SUPERINTENDENT OF STREETS**

**1-3-65**      **CREATION OF POSITION.** There is hereby created the office of the Superintendent of Streets, an executive office of the City, who shall be appointed by the Mayor with the advice and consent of the City Council. **(See Chapter 33)**

**1-3-66**      **STREETS.** The Superintendent of Streets shall have charge of the construction and care of all public streets, alleys and driveways in the City, and with keeping the same clean. The Superintendent shall see to it that all gutters and drains therein function properly and that the same are kept free from defects.

**1-3-67**      **ANIMAL CONTROL.** The Superintendent shall be responsible for the enforcement of the Animal Control Regulations in this Code.

**1-3-68 - 1-3-69**      **RESERVED.**

## **DIVISION IX – CITY ADMINISTRATOR**

**1-3-70**      **CREATION OF POSITION.** There is hereby created the position of the City Administrator, who shall be an employee of the City.

**1-3-71**      **MANAGEMENT OF THE CITY.** The City Administrator shall have charge of the management of the City at the direction of the Mayor and City Council and in accordance with a description of duties known as "Job Description – City Administrator" which may from time to time be modified by the Mayor and City Council.

**(Ord. No. 08-10-2009-2)**

## ARTICLE IV - SALARIES

**1-4-1**            **SALARIES OF CITY OFFICIALS.**    The compensation of various corporate officials is as follows:

(A)            **Mayor.**    The Mayor shall receive a monthly salary of **Four Hundred Dollars (\$400.00).**

(B)            **Aldermen.**    The Aldermen shall receive a monthly salary of **One Hundred Dollars (\$100.00).** (Ord. No. 10-09-06-4)

(C)            **City Clerk.**    The Clerk shall receive an annual salary as determined by the next Appropriation Ordinance or Supplemental Appropriation Ordinance, and until the passage of said Appropriation Ordinance or Supplemental Appropriation Ordinance, the annual salary shall be **One Hundred Dollars (\$100.00)** per month, plus applicable benefits, if any. (Ord. No. 10-01-2008-1)

(D)            **City Treasurer.**    The City Treasurer shall receive a monthly salary of **Five Hundred Dollars (\$500.00).**

(65 ILCS 5/3.1-50-5; 5/3.1-50-10; 5/3.1-50-15)

[ED. NOTE: The salaries of elected officials who hold elective office for a definite term shall neither be increased nor diminished during that term and shall be fixed at least one hundred eighty (180) days before the beginning of the terms of the officers whose compensation is to be filed.

The ordinance fixing compensation for members of the corporate authorities shall specify whether those members are to be compensated (i) at an annual rate or, (ii) for each meeting of the corporate authorities actually attended if public notice of the meeting was given.]

## ARTICLE V - MANAGEMENT ASSOCIATION

**1-5-1**            **PARTICIPATION.**    The City Council does hereby authorize and approve membership in the Illinois Municipal League Risk Management Association and directs the Mayor and Clerk to execute an Intergovernmental Cooperation Contract with the Illinois Municipal League Risk Management Association for membership for a period of **one (1) year** beginning the date the Association commences providing risk coverage to its members and each year thereafter unless this ordinance is repealed.

**1-5-2**            **CONTRIBUTION.**    Each member hereby agrees to contribute to the Association a sum of money to be determined by the Association    at the time of application based on the needs of the Association and the loss experience of the Member, which sum shall constitute the cost of the Member's first year contribution for membership in the Association. Membership contributions for second and subsequent years shall be calculated in accordance with the loss experience of the City, and the needs of the Association including total losses and expenditures of the Self-Insured Retention Fund of the Association.

(Ord. No. 2019-03; 12-09-19)

## **ARTICLE VI – MEETING PROCEDURES**

### **DIVISION I – RECORDING CLOSED MEETINGS**

**1-6-1      RECORDING CLOSED SESSIONS.** The City shall keep a verbatim record of all closed or executive session meetings of the corporate authorities of the City or any subsidiary “public body” as defined by the Illinois Open Meetings Act, **5 ILCS 120/1**. The verbatim record shall be in the form of an audio or video recording as determined by the corporate authorities. **(5 ILCS 120/2)**

**1-6-2      RESPONSIBILITY FOR RECORDING CLOSED SESSIONS AND MAINTAINING RECORDINGS.** The City Clerk or his or her designee shall be responsible for arranging for the recording of such closed or executive sessions. In the absence of the City Clerk or his or her designee, the meeting Chair will arrange for the audio or video recording of the closed or executive session of the City Council. Each subsidiary public body of the City shall designate an individual who will be responsible for the recording of any and all closed or executive sessions of the subsidiary body and for providing the City Clerk with a copy of such recording. The City Clerk, or his or her designee, shall securely maintain the verbatim recordings of all closed sessions of the corporate authorities of the City and all subsidiary public bodies of the City.

**1-6-3      CLOSED SESSION MINUTES.** In addition to the recordings of the closed and executive session as addressed in this Division, the City will keep minutes of all closed meetings in accordance with the requirements of the Open Meetings Act, **5 ILCS 120/2.06**.

**1-6-4      PROCEDURE FOR RECORDING.** At the beginning of each closed session, those present shall identify themselves by voice for the audio recording. If the meeting is videotaped, those present shall individually appear on camera and identify themselves by voice at the beginning of the closed session. The meeting Chair shall also announce the times the closed session commences and ends at the appropriate points on the recording.

**1-6-5      BACK-UP EQUIPMENT/PROCEDURE FOR EQUIPMENT MALFUNCTION.** The City shall maintain sufficient tapes, batteries and equipment for the City to comply with this Division. The City Clerk or his/her designee shall periodically check the equipment to confirm that it is functioning. In the event that anyone present at a closed session determines that the equipment is not functioning properly, the closed session will be temporarily suspended to attempt to correct any malfunction. In the event that an equipment malfunction cannot be corrected immediately, the closed session will terminate until such time as the closed session may proceed with a functioning recording device.

**1-6-6      PROCEDURE FOR REVIEW OF CLOSED SESSION MINUTES AND RECORDINGS.** At one meeting at least every **six (6) months**, the agenda shall include the item: “Review of the minutes and recordings of all closed sessions that have not yet been released for public review, and determination of which minutes, if any, may be released.” Minutes shall be reviewed in closed session and shall not be released unless the corporate authorities of the City find that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential. As to any minutes not released, the corporate authorities shall find that the “need for confidentiality still exists” as to those minutes. Minutes of closed sessions shall be kept indefinitely.



**1-6-7                    MAINTENANCE AND PUBLIC RELEASE OF RECORDINGS AND ACCESS TO TAPES.** The audio or video tape recordings of closed sessions shall be maintained for **eighteen (18) months** after the closed session and shall not be released to the public unless such release is required by a court order or specifically authorized for release by a vote of the City Council. Members of the corporate authorities may listen to the closed session recordings in the presence of the City Clerk or his or her designee. Copies of such tapes will not be made or provided to anyone unless specifically authorized by vote of the City Council.

**1-6-8                    PROCEDURE FOR DESTRUCTION OF RECORDINGS.** The City Clerk or his or her designee is hereby authorized to destroy the audio and video recordings of those closed sessions for which:

- (A)                    The corporate authorities of the City have approved the minutes of the closed sessions as to accurate content, regardless of whether the minutes have been released for public review;
- (B)                    More than **eighteen (18) months** have elapsed since the date of the closed session;
- (C)                    There is no court order requiring the preservation of such recording; and
- (D)                    The corporate authorities of the City have not passed a motion requiring the preservation of the verbatim recording of that meeting.

**1-6-9 - 1-6-10                    RESERVED.**

## **DIVISION II – REMOTE MEETING PARTICIPATION**

**1-6-11                    STATUTORY AUTHORITY FOR PARTICIPATION.** Pursuant to Public Act 94-1058 which amends the Open Meetings Act in **5 ILCS 120/7**, this municipality does hereby establish a policy that permits members of the corporate body to attend meetings by means other than physical presence.

**1-6-12                    DEFINITION OF MEETING.** The term “meeting” shall mean “any gathering, whether in person or by video or audio conference, telephone calls, electronic means (such as, without limitation, electronic mail, electronic chat and instant messaging), or other means of contemporary interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business” or such other definition as shall be contained within the state statutes.

**1-6-13                    AMENDMENT OF PREVIOUS TERMS.** The definition of “meeting” set forth in **Section 1-6-12** shall supersede and replace any other definition used in any previous or existing ordinance.

**1-6-14                    REMOTE PARTICIPATION POLICY.** The City hereby adopts the Remote Participation Policy, as outlined in Addendum “A”, that permits a member of the public body to attend and participate in any meeting of a public body as defined in the Open Meetings Act from a remote location via telephone, video, or internet connection provided that such attendance and participation is in compliance with the policy and any applicable laws.

## **ADDENDUM "A"**

### **GOVERNMENTAL UNIT REMOTE ATTENDANCE POLICY**

(A) **Policy Statement.** It is the policy of the City that a member of any group associated with this unit of government which is subject to the provisions of the Open Meetings Act may attend and participate in any open or closed meeting of that Covered Group from a remote location via telephone, video or internet connection, provided that such attendance and participation is in compliance with this policy and any other applicable laws.

(B) **Prerequisites.** A member of the Covered Group of the City shall be provided the opportunity to attend an open and closed meeting or only one of such meetings from a remote location if the member meets that following conditions and a majority of a quorum of the Covered Body votes to approve the remote attendance;

- (1) the member must notify the recording secretary or clerk of the Covered Body at least **twenty-four (24) hours** before the meeting unless advance notice is impractical;
- (2) the member must meet one of three reasons described herein why he or she is unable to physically attend the meeting, including either: (a) that the member cannot attend because of personal illness or disability; (2) the member cannot attend because of employment purposes or the business of the City; or (3) the member cannot attend because of a family or other emergency; and
- (3) a quorum of the Covered Body must be physically present.

(C) **Voting Procedure.** After roll call, a vote of the Covered Body shall be taken, considering the prerequisites set forth in paragraph (B), on whether to allow an off-site board member to participate remotely. All of the members physically present are permitted to vote on whether remote participation will be allowed. A vote may be taken to permit remote participation for a stated series of meetings if the same reason applies in each case. Otherwise, a vote must be taken to allow each remote participation.

(D) **Quorum and Vote Required.** A quorum must be established by members physically present at any meeting before it can be considered whether to allow a member to participate in the meeting remotely. A vote of a majority of a quorum shall be necessary to decide the issue. For the meeting to continue there shall always need to be a quorum physically present.

(E) **Minutes.** The member participating remotely shall be considered an off-site participant and counted as present by means of video or audio conference, for that meeting of the members and is allowed to participate. The meeting minutes of the City shall also reflect and state specifically whether each member is physically present, present by video, or present by audio means.

**ADDENDUM "B"**

**REQUEST FOR AUXILIARY AID(S) AND/OR SERVICE(S)**

NAME OF APPLICANT: \_\_\_\_\_

NAME OF COMPANION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ CELL NO.: \_\_\_\_\_

DATE OF NEEDED AUXILIARY AID OR SERVICE: \_\_\_\_\_

SPECIFY AUXILIARY AID(S) AND/OR SERVICES REQUIRED: \_\_\_\_\_

\_\_\_\_\_

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_

Please keep in mind that pursuant to Section 1-2-13 that establishes rules governing the address of the City Council, all remarks must be kept to a maximum of five minutes, shall be addressed to the City Council, and shall not be disruptive to the business of the Council. The Mayor is empowered to remove individuals from any meeting should they fail to adhere to the rules regarding address of the Council.

## TRAVEL, MEAL, AND LODGING EXPENSE REIMBURSEMENT REQUEST FORM

Before an expense for travel, meals, or lodging may be approved under City Ordinance No. \_\_\_\_\_, the following minimum documentation must first be submitted, in writing, to the corporate authorities of the City:

1. The name of the individual who received or is requesting the travel, meal, or lodging expense and the individual's job title or office.

\_\_\_\_\_  
Name of the Employee or Officer

\_\_\_\_\_  
Job Title/Office

2. The date or dates and nature of the official business in which the travel, meal, or lodging expense was or will be expended. Please attach supporting documentation describing the nature of the official business event or program.

\_\_\_\_\_  
Name of Event or Program

\_\_\_\_\_  
Date(s) of Event or Program

\_\_\_\_\_  
Location of Event or Program

\_\_\_\_\_  
Purpose of Event or Program

3. An estimate of the cost of travel, meals, or lodging if expenses have not been incurred or a receipt of the cost of the travel, meals, or lodging if the expenses have already been incurred. Please attach either (a) a document explaining the basis for your estimate if expenses have not yet been incurred or (b) receipts if the expenses have already been incurred.

You may also provide such other documentation as would assist the corporate authorities in considering your request for reimbursement. In the discretion of the corporate authorities, additional documentation relevant to the request for reimbursement may be required prior to action by the corporate authorities with respect to the reimbursement request.

\_\_\_\_\_  
Employee/Officer Signature

\_\_\_\_\_  
Date



## **CHAPTER 3 - ANIMALS**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERAL REGULATIONS</i></b>	
	<i>Section 3-1-1 - Short Title</i>	<i>3-1</i>
	<i>Section 3-1-2 - Definitions</i>	<i>3-1</i>
	<i>Section 3-1-3 - Injury to Property</i>	<i>3-3</i>
	<i>Section 3-1-4 - Manner of Keeping</i>	<i>3-3</i>
	<i>Section 3-1-5 - Keeping Barking Dogs and Crying Cats</i>	<i>3-3</i>
	<i>Section 3-1-6 - Cruelty to Animals Prohibited</i>	<i>3-3</i>
	<i>Section 3-1-7 - Exhibiting Wild or Vicious Animals</i>	<i>3-4</i>
	<i>Section 3-1-8 - Health Hazard</i>	<i>3-4</i>
	<i>Section 3-1-9 - Premises Constituting Nuisances</i>	<i>3-4</i>
	<i>Section 3-1-10 - Limitation on Number of Dogs and Cats Kept</i>	<i>3-4</i>
	<i>Section 3-1-11 - Animal Feed Prohibited</i>	<i>3-5</i>
	<i>Section 3-1-12 - Dogs and Cats in Public Places</i>	<i>3-5</i>
<b><i>II</i></b>	<b><i>DOGS</i></b>	
	<i>Section 3-2-1 - Definitions</i>	<i>3-6</i>
	<i>Section 3-2-2 - Dogs to be Inoculated and to Have Name Tags Affixed to Collars</i>	<i>3-6</i>
	<i>Section 3-2-3 - Inoculation to be Performed by Licensed Veterinarian; Issuance of Certificate</i>	<i>3-6</i>
	<i>Section 3-2-4 - Duration of Inoculation</i>	<i>3-6</i>
	<i>Section 3-2-5 - Specifications for Tag</i>	<i>3-6</i>
	<i>Section 3-2-6 - Exhibition of Certificate Upon Request</i>	<i>3-6</i>
	<i>Section 3-2-7 - Restraint of Dogs</i>	<i>3-6</i>
	<i>Section 3-2-8 - Impoundment of Dogs Running at Large or Unlicensed Dogs; Citation of Owner or Keeper</i>	<i>3-6</i>
	<i>Section 3-2-9 - Notice and Citation to Owner or Keeper of Impoundment</i>	<i>3-7</i>
	<i>Section 3-2-10 - Obstructing Poundmaster</i>	<i>3-7</i>
	<i>Section 3-2-11 - Impoundment of Dogs Which Have Bitten Persons</i>	<i>3-7</i>
	<i>Section 3-2-12 - Impoundment</i>	<i>3-7</i>
	<i>Section 3-2-13 - Redemption of Impounded Dogs</i>	<i>3-7</i>
	<i>Section 3-2-14 - City Pound Designated</i>	<i>3-8</i>
	<i>Section 3-2-15 - Disposition of Dogs Deemed Nuisances</i>	<i>3-8</i>
	<i>Section 3-2-16 - Dangerous Dog – Female Dog at Large</i>	<i>3-8</i>
	<i>Section 3-2-17 - Female Dog with Other Dogs</i>	<i>3-8</i>
	<i>Section 3-2-18 - Confinement in Motor Vehicle</i>	<i>3-8</i>
	<i>Section 3-2-19 - Vicious Animals Prohibited</i>	<i>3-8</i>
	<i>Section 3-2-20 - Possession of Certain Dogs by Felons Prohibited</i>	<i>3-8</i>
<b><i>III</i></b>	<b><i>VICIOUS AND DANGEROUS DOGS</i></b>	
	<i>Section 3-3-1 - Definitions</i>	<i>3-10</i>
	<i>Section 3-3-2 - Unlawful to Maintain</i>	<i>3-10</i>
	<i>Section 3-3-3 - Owner's Responsibility</i>	<i>3-11</i>
	<i>Section 3-3-4 - Dog Permitted to Leave Premises</i>	<i>3-11</i>
	<i>Section 3-3-5 - Injunction</i>	<i>3-11</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b><i>VICIOUS AND DANGEROUS DOGS (CONTINUED)</i></b>	
	<i>Section 3-3-6 - Liability of Owner of Dog Attacking or Injuring Person</i>	<i>3-11</i>
	<i>Section 3-3-7 - Right of Entry – Inspections</i>	<i>3-11</i>
<b>IV</b>	<b><i>TETHERING</i></b>	
	<i>Section 3-4-1 - Tethering Dog Regulations</i>	<i>3-12</i>
	<i>Section 3-4-2 - Variances</i>	<i>3-12</i>
<b>V</b>	<b><i>MACON COUNTY ANIMAL CONTROL CODE</i></b>	
	<i>Division I – Generally</i>	
	<i>Section 3-5-1 - Short Title</i>	<i>3-13</i>
	<i>Section 3-5-2 - Definitions</i>	<i>3-13</i>
	<i>Section 3-5-3 - Reserved</i>	
	<i>Division II – Regulations</i>	
	<i>Section 3-5-4 - Sanitation</i>	<i>3-14</i>
	<i>Section 3-5-5 - Animals Running at Large</i>	<i>3-14</i>
	<i>Section 3-5-6 - Rabies Inoculation – Dogs and Cats</i>	<i>3-14</i>
	<i>Section 3-5-7 - Biting Animals</i>	<i>3-14</i>
	<i>Section 3-5-8 - Registration</i>	<i>3-14</i>
	<i>Section 3-5-9 - Tag Worn</i>	<i>3-14</i>
	<i>Section 3-5-10 - Harboring Stray Animal(s) Restricted</i>	<i>3-15</i>
	<i>Section 3-5-11 - Nuisance Animal</i>	<i>3-15</i>
	<i>Section 3-5-12 - Adequate Space – Tethering of Animals</i>	<i>3-15</i>
	<i>Section 3-5-13 - Humane Care of Animals</i>	<i>3-15</i>
	<i>Section 3-5-14 - Abandonment of Animal</i>	<i>3-15</i>
	<i>Section 3-5-15 - Multiple Pet License</i>	<i>3-15</i>
	<i>Section 3-5-16 - Breeder Permit</i>	<i>3-15</i>
	<i>Section 3-5-17 - Female Dogs and Cats in Heat</i>	<i>3-16</i>
	<i>Section 3-5-18 - Registration Procedures</i>	<i>3-16</i>
	<i>Section 3-5-19 - Registration Tag</i>	<i>3-16</i>
	<i>Section 3-5-20 - Non-Transferable</i>	<i>3-16</i>
	<i>Section 3-5-21 - Impounding</i>	<i>3-16</i>
	<i>Section 3-5-22 - Redemption by Person Other Than Owner</i>	<i>3-17</i>
	<i>Section 3-5-23 - Diseased or Injured Animals</i>	<i>3-17</i>
	<i>Section 3-5-24 - Enforcement Officers Not Responsible for Accident Or Disease to Any Dog or Cat</i>	<i>3-17</i>
	<i>Section 3-5-25 - Multiple Pet License</i>	<i>3-17</i>
	<i>Section 3-5-26 - Multiple Pet Owner Licensee Requirements</i>	<i>3-17</i>
	<i>Section 3-5-27 - Revocation of Multiple-Pet License</i>	<i>3-18</i>
	<i>Section 3-5-28 - Impoundment of Multiple Pets</i>	<i>3-18</i>
	<i>Section 3-5-29 - Breeder’s Permit</i>	<i>3-18</i>
	<i>Section 3-5-30 - Enforcement</i>	<i>3-18</i>
	<i>Section 3-5-31 - Citations</i>	<i>3-19</i>
	<i>Section 3-5-32 - Payment of Citations</i>	<i>3-19</i>
	<i>Section 3-5-33 - Penalty</i>	<i>3-19</i>
<b>VI</b>	<b><i>PENALTY</i></b>	
	<i>Section 3-6-1 - Payment of Citations</i>	<i>3-20</i>
	<i>Section 3-6-2 - Penalty</i>	<i>3-20</i>

## CHAPTER 3

### ANIMALS

#### ARTICLE I - GENERAL REGULATIONS

**3-1-1**        **SHORT TITLE.** This Chapter shall be known and may be cited as the Animal Control Code. **(510 ILCS 5/1)**

**3-1-2**        **DEFINITIONS.** For the purposes of this Chapter, the following definitions are adopted and shall be used:

**"ANIMAL"** shall mean any animal, other than man, which may be affected by rabies. **(510 ILCS 5/2.02)**

**"ANIMAL CONTROL WARDEN"** means any person appointed by the Mayor and approved by the City Council to perform duties enforcing this Code or any animal control official appointed and acting under authority of the City Council. **(510 ILCS 5/2.03)**

**"AT LARGE"**. Any dog shall be deemed to be at large when it is off the property of its owner and not under the control of a responsible person.

**"CAT"** shall mean any feline, regardless of age or sex.

**"CONFINED"** means restriction of an animal at all times by the owner, or his agent, to an escape-proof building or other enclosure away from other animals and the public. **(510 ILCS 5/2.05)**

**"DANGEROUS DOG"** means:

(A) any individual dog anywhere other than upon the property of the owner or custodian of the dog and unmuzzled, unleashed, or unattended by its owner or custodian that behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or companion animal, or

(B) a dog that, without justification bites a person and does not cause serious injury.  
**(510 ILCS 5/2.052A)**

**"DEPARTMENT OF AGRICULTURE"** means the Department of Agriculture of the State of Illinois. **(510 ILCS 5/2.06)**

**"DOG"**. "Dog" means all members of the family Canidae. **(510 ILCS 5.211)**

**"ENCLOSURE"** means a fence or structure of at least **six (6) feet** in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious dog within the enclosure. The enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, it cannot have direct ingress from or egress to the outdoors unless it leads directly to an enclosed pen and the door must be locked. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times. **(510 ILCS 5/2.11a)**

**"FERAL CAT"** means a cat that:

(A) is born in the wild or is the offspring of an owned or feral cat and is not socialized,



(B) is a formerly owned cat that has been abandoned and is no longer socialized, or  
(C) lives on a farm.  
**(510 ILCS 5/2.11b)**

**"HAS BEEN BITTEN"** means has been seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded, or pierced, and further includes contact of saliva with any break or abrasion of the skin. **(510 ILCS 5/2.12)**

**"INOCULATION AGAINST RABIES"** means the injection of an anti-rabies vaccine approved by the Department. **(510 ILCS 5/2.13)**

**"KENNEL"** means any structure or premises or portion thereof on which more than **three (3) dogs**, cats, or other household domestic animals, over **four (4) months** of age, are kept or on which more than **two (2)** such animals are maintained, boarded, bred, or cared for in return for remuneration or are kept for the purpose of sale.

**"LEASH"** means a cord, rope, strap, or chain which shall be securely fastened to the collar or harness of a dog or other animal and shall be of sufficient strength to keep such dog or other animal under control. **(510 ILCS 5/2.14)**

**"LICENSED VETERINARIAN"**. "Licensed veterinarian" means a veterinarian licensed by the State in which he engages in the practice of veterinary medicine. **(510 ILCS 5/2.15)**

**"OWNER"**. For the purpose of this Code, the word "owner" means a person having a right of property in a dog or other animals or who keeps or harbors a dog, or who has a dog in his care, or who acts as its custodian, or who knowingly permits a dog or other domestic animal to remain on or about any premises occupied by him. **(510 ILCS 5/2.16)**

**"POTENTIALLY DANGEROUS DOG"** means a dog that is unsupervised and found running at large with **three (3)** or more other dogs. **(510 ILCS 5.17c)**

**"POUND"**. "Pound" means any facility approved by the Administrator and licensed as such by the Department of Agriculture for the purpose of enforcing this Code and used as a shelter for seized, stray, homeless, abandoned, or unwanted dogs or other animals. **(510 ILCS 5/2.18)**

**"REGISTRATION CERTIFICATE"**. "Registration Certificate" means a printed form prescribed by the Department of Agriculture for the purpose of recording pertinent information as required by the Department under the Animal Control Act. **(510 ILCS 5/2.19)**

**"RESTRAINT"**. A dog is under "restraint" within the meaning of this Code if it is controlled by a leash; within an enclosed vehicle being driven or parked on the streets; or within the property limits of his owner or keeper.

**"SHADE"** shall mean protection from the direct rays of the sun during the months of June through September.

**"SHELTER"**, as it applies to dogs, shall mean a moisture-proof structure of suitable size to accommodate the dog and allow retention of body heat, made of durable material with a solid floor raised at least **two inches (2")** from the ground and with the entrance covered by a flexible, windproof material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.

**"UNOWNED STRAY DOG"**. "Unowned stray dog" means any dog not on the premises of the owner or keeper or under control by leash or other recognized control methods, and which does not, at that time and place, bear a current rabies inoculation tag issued pursuant to the provisions of this Code, by means

of which, by reference to records of current registration certificates, the Administrator or his deputies or assistants may determine the name and address of the owner or keeper thereof, or some other means of identification from which the Administrator or his deputies or assistants may directly determine the name and address of the owner or keeper thereof. **(See 510 ILCS 5/2)**

**"VICIOUS ANIMAL"** shall mean any animal which has previously attacked or bitten any person or which has behaved in such a manner that the person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.

**"WILD ANIMAL"** shall mean any live monkey or ape, raccoon, skunk, fox, snake, or other reptile, leopard, panther, tiger, lion, lynx or any other animal or any bird of prey which can normally be found in the wild state. **(510 ILCS Sec. 5/24)**

### **3-1-3                    INJURY TO PROPERTY.**

(A) **Unlawful.** It shall be unlawful for any person owning or possessing any domestic animal, including, but not limited to a dog, cat or horse to permit said animal to go upon any sidewalk, parkway, or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon.

(B) **Waste Products Accumulations.** It shall be unlawful for any person to cause or permit their domestic animal, including but not limited to a dog, cat or horse, to be on property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person. This Section shall not apply to a person who is visually or physically handicapped.

### **3-1-4                    MANNER OF KEEPING.**

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

(B) **Fences.** Fences which are intended as enclosures for any animal shall be securely constructed, shall be adequate for the purpose, kept in good repair and shall not be allowed to become unsightly.

### **3-1-5                    KEEPING BARKING DOGS AND CRYING CATS.**

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

(B) **Petitions of Complaint.** Whenever any person shall complain to the Police Department that a dog which habitually barks, howls or yelps or a cat which habitually cries or howls is being kept by any person in the City, the Police Department shall notify the owner of said dog or cat that a complaint has been received and that the person should take whatever steps are necessary to alleviate the howling, yelping or crying.

### **3-1-6                    CRUELTY TO ANIMALS PROHIBITED.**

(A) **Cruelty to Animals Prohibited.** It shall be unlawful for any person to willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat, strike or abuse any animal, or by an act, omission or neglect, cause or inflict any unnecessary or unjustifiable pain, suffering, injury or death to any animal, whether such animal belongs to such person or to another, except that

reasonable force may be employed to drive away vicious or trespassing animals. Any unwanted animals should be delivered to the County Animal Control Facility for proper disposal.

(B) **Food and Shelter.** It shall be unlawful for any person in charge of any animal to fail, refuse, or neglect to provide such animal with food, potable water, shade or shelter, or to cruelly or unnecessarily expose any such animal in hot, stormy, cold or inclement weather, or to carry any such animal in or upon any vehicle in a cruel or inhumane manner. The terms used in this section shall comply with **Section 3-1-2. (65 ILCS 5/11-5-6)**

**3-1-7                    EXHIBITING WILD OR VICIOUS ANIMALS.**

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

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

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

(D) The Department of Agriculture shall issue a temporary permit for the keeping, care, and protection of any infant animal native to this area which has been deemed to be homeless, then said animal may be kept on a temporary basis.

**3-1-8                    HEALTH HAZARD.** The Mayor shall have the power to issue an order prohibiting the keeping of any animal, fowl or bird which is deemed to be a nuisance or pose a health hazard to the general public.

**3-1-9                    PREMISES CONSTITUTING NUISANCES.** Any stable or other places in which animals are kept, or any building or premises within the City which may be offensive or nauseous to any person residing in the vicinity of the same, or to persons passing along any street or alley near the same, is hereby declared to be a nuisance; and the owner or keeper of such a pen or place, or the owner or occupant of such building or premises, shall, abate such nuisance, after notice to do so by the health officer of the City or any policeman or person aggrieved thereby. **(See Section 25-1-1 also)**

**3-1-10                   LIMITATION ON NUMBER OF DOGS AND CATS KEPT.**

(A) **Nuisance.** The keeping of an unlimited number of dogs and cats in the City for a considerable period of time detracts from and, in many instances, is detrimental to the healthful and comfortable life for which such areas were created.

The keeping of an unlimited number of dogs and cats is, therefore, declared to be a public nuisance. The terms "dog" and "cat" shall be construed as provided in **Section 3-1-2.**

(B) **Limitation; Exception.**

(1) It shall be unlawful for any person or persons to keep more than **three (3) dogs or cats** within the City, with the exception that a litter of pups, a litter of kittens or a portion of a litter may be kept for a period of time not exceeding **five (5) months** from birth.

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

(C) **Kennels.** In the areas where kennels are permitted, no kennel shall be located closer than **two hundred (200) feet** to the boundary of the nearest adjacent residential lot. **(See Zoning Code, if any.)**

**3-1-11 ANIMAL FEED PROHIBITED.** It shall be unlawful for anyone to place or distribute any animal feed on public property, public easements and accesses to public property. It shall be unlawful for anyone to place or distribute animal feed on vacant lots or in unoccupied structures in the City.

**3-1-12 DOGS AND CATS IN PUBLIC PLACES.** No dog or cat shall be permitted in any cemetery or shall be allowed in any parks, swimming areas or beaches open to the public in the City.

**(65 ILCS 5/11-1-1; 5/11-5-6 and 5/11-20-9)**

## **ARTICLE II - DOGS**

**3-2-1            DEFINITIONS.** The terms used in this Article shall comply with **Section 3-1-2** of this Chapter unless otherwise provided in this Article.

**3-2-2            DOGS TO BE INOCULATED AND TO HAVE NAME TAGS AFFIXED TO COLLARS.**

(A)            Each calendar year or at such intervals as may hereafter be promulgated by the Department of Agriculture, every owner or keeper of a dog **four (4) months** or more of age shall cause such dog to be inoculated against rabies. Such owner or keeper of such dog shall cause a serially numbered tag evidencing such inoculation to be attached to a collar or harness worn by the dog.

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

**3-2-3            INOCULATION TO BE PERFORMED BY LICENSED VETERINARIAN; ISSUANCE OF CERTIFICATE.** The inoculation of dogs required by **Section 3-2-2(A)** shall be performed by a veterinarian duly licensed to practice his profession in this State. Upon performing such inoculation, such veterinarian shall issue to the owner or keeper a certificate showing such fact and shall also deliver to the owner or keeper a metallic or other suitable tag to be attached to the collar or harness of the dog, which tag shall also certify to the fact of the inoculation against rabies.

**3-2-4            DURATION OF INOCULATION.** The inoculation performed under the provisions of **Section 3-2-3** shall be effective until the expiration of the calendar year in which the vaccination was performed or the expiration of such period of time as may be promulgated by the Department of Agriculture.

**3-2-5            SPECIFICATIONS FOR TAG.** The tag issued under the provisions of **Section 3-2-3** shall be in such form as shall be determined by the Department of Agriculture.

**3-2-6            EXHIBITION OF CERTIFICATE UPON REQUEST.** At any reasonable time upon request of any member of the Police Department or City employee, the owner or keeper of any unmuzzled dog shall exhibit his certificate issued under the provisions of **Section 3-2-3**, showing the inoculation against rabies of any dog owned or controlled by him.

**3-2-7            RESTRAINT OF DOGS.** The owner or keeper of a dog shall keep the dog under restraint at all times and shall not permit such dog to be at large, off the premises of the property of the owner or keeper, unless the dog is under complete control as defined in **Section 3-1-2. (65 ILCS 5/11-20-9)**

**3-2-8            IMPOUNDMENT OF DOGS RUNNING AT LARGE OR UNLICENSED DOGS; CITATION OF OWNER OR KEEPER.**

(A)            It shall be the duty of such employees and officers of the Police Department as shall be designated for that purpose by the Mayor to take up and impound in such place as may be designated and set apart for that purpose, any dog found running at large or unlicensed in the City, contrary to any of the provisions of this Chapter or other regulations of the City or State.

(B) When dogs are found running at large or unlicensed and their ownership is known to the designated employee(s), such dogs may be impounded at the discretion of such employee(s), but the employee(s) may cite the owner of such dog to answer charges of violation of this Chapter.

(C) Any dog permitted to run at large within the City is hereby declared to be a nuisance.

(D) Any impounded dog which shall not be redeemed within **seven (7) days** shall be humanely destroyed or otherwise disposed of by the poundkeeper.

(E) The City Council may establish a reasonable fee by motion for each day that a dog is housed in the pound. **(510 ILCS 5/10)**

**3-2-9 NOTICE AND CITATION TO OWNER OR KEEPER OF IMPOUNDMENT.** In case of impounding and where the owner or keeper of such dog is disclosed by any tax or license tag worn by it or is otherwise known to the officers impounding the same, the designated official shall make reasonable attempts to contact the owner, informing him of the impounding of his dog and shall cite the owner or keeper of such dog to answer charges of violation of this Chapter.

**3-2-10 OBSTRUCTING POUNDMASTER.** Any person(s) who shall bring any dog into the City for the purpose of causing the same to be impounded or any person who shall resist, hinder or molest the poundmaster or dogcatcher or police officer while engaged upon the duties imposed upon them by this Chapter or any person who shall break into the dog pound and release or deliver any dog therefrom without having first paid the fees herein specified, or any owner or keeper of any dog who shall permit any dog to run at large within the corporate limits of the City, upon conviction of any part of this Chapter shall be fined according to Chapter 1-Administration of this Code.

**3-2-11 IMPOUNDMENT OF DOGS WHICH HAVE BITTEN PERSONS.** Any dog which shall have bitten or otherwise injured any person so as to cause an abrasion of the skin shall be immediately taken, impounded and kept separated from other dogs for **ten (10) days**. If, during that period, such dog develops symptoms of illness, a veterinarian shall be called to diagnose its condition. If the symptoms disclosed are such as to indicate the presence of rabies, such dog shall be destroyed in such a manner, however, as to preserve intact the head, which shall thereupon be detached and immediately sent to the diagnostic laboratory of the Department of Agriculture. In case such dog cannot be safely taken up and impounded, it may be shot, care being taken to preserve the head intact which shall thereupon be immediately detached and be delivered to the diagnostic laboratory of the Department of Agriculture.

If, at the expiration of the **ten (10) days** no symptoms of rabies have developed in such dog so impounded, the same may be redeemed by the owner upon payment of the redemption fees and charges specified by this Chapter; provided, however, that in case any dog so impounded for biting a person shall have previously bitten any person, such dog shall be humanely destroyed by the poundkeeper. After having been notified that his dog has bitten or otherwise injured any person, the owner or keeper thereof shall not, under any circumstances, permit such animal to be at large unless securely muzzled. **(510 ILCS 5/13)**

**3-2-12 IMPOUNDMENT.** Those persons charged with the duty of enforcing this Chapter may employ any method found practical and humane in capturing and impounding any dog found running at large.

**3-2-13 REDEMPTION OF IMPOUNDED DOGS.** Any dog impounded under the provisions of this Chapter, except such as may have bitten any person as specified in **Section 3-2-11** of this Chapter shall, unless sooner redeemed, be held for the period of **five (5) days** in order to afford

opportunity to the owner or keeper thereof to redeem the same. Any such owner or keeper thereof desiring to redeem his impounded dog shall pay an impounding fee of **Twenty-Five Dollars (\$25.00)** and also shall pay the cost of keeping such dog while impounded at the rate of **Five Dollars (\$5.00)** per day.

**3-2-14            CITY POUND DESIGNATED.** The City Council shall designate a City Pound.

**3-2-15            DISPOSITION OF DOGS DEEMED NUISANCES.** Any dog which may, in any manner, continually disturb the quiet of any person or neighborhood or shall destroy or in any manner injure any animal, plant, shrub or other property not on the premises of its owner or keeper is hereby declared to be a nuisance, and such dog shall be taken up and impounded and may be redeemed or disposed of in the manner provided for under this Code.

**3-2-16            DANGEROUS DOG - FEMALE DOG AT LARGE.** It shall be unlawful for the owner or keeper of any vicious or dangerous dog as defined in **Section 3-1-2** or of any female dog, while in heat, to run at large within the limits of this City.

**3-2-17            FEMALE DOG WITH OTHER DOGS.**  
(A) No person in control or possession of a female dog or permitting the same to remain upon his or her premises, shall permit any such female dog, while in heat, to consort with any other dog or dogs in an indecent manner in any place of public view, whether upon his own or any other premises.  
(B) **Dog in Estrus.** The owner of any dog shall during the period the female is in estrus or heat confine the animal in a building or secure enclosure in such a manner so that the female cannot come in contact with male dogs, except for the purpose of a planned breeding.

**3-2-18            CONFINEMENT IN MOTOR VEHICLE.** No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible. **(510 ILCS 70/7.1)**

**3-2-19            VICIOUS ANIMALS PROHIBITED.** It shall be unlawful for any person to bring or transfer into the unincorporated area of the Village any dog or animal that has been declared "vicious" by any unit of local government.

**3-2-20            POSSESSION OF CERTAIN DOGS BY FELONS PROHIBITED.**  
(A) For a period of **ten (10) years** commencing upon the release of a person from incarceration, it is unlawful for a person convicted of a forcible felony, a felony violation of the Humane Care for Animals Act, a felony violation of Article 24 of the Criminal Code of 1961, a felony violation of Class 3 or higher of the Illinois Controlled Substances Act, a felony violation of Class 3 or higher of the Cannabis Control Act, or a felony violation of Class 2 or higher of the Methamphetamine Control and Community Protection Act, to knowingly own, possess, have custody of, or reside in a residence with, either:

- (1) an unspayed or unneutered dog or puppy older than **twelve (12) weeks** of age; or
- (2) irrespective of whether the dog has been spayed or neutered, any dog that has been determined to be a vicious dog under Section 15 of the Animal Control Act.

(B) Any dog owned, possessed by, or in the custody of a person convicted of a felony, as described in subsection (A), must be microchipped for permanent identification.

(C) It is an affirmative defense to prosecution under this Section that the dog in question is neutered or spayed, or that the dog in question was neutered or spayed within **seven (7) days** of the defendant being charged with a violation of this Section. Medical records from, or the certificate of, a doctor of veterinary medicine licensed to practice in the State of Illinois who has personally examined or operated upon the dog unambiguously indicated whether the dog in question has been spayed or neutered. This subsection is not applicable to any dog that has been determined to be a vicious dog under Section 15 of the Animal Control Act.

**(Ord. No. 08-11-2008-2)**

**(65 ILCS 5/11-1-1 and 5/11-20-9)**



## ARTICLE III - VICIOUS AND DANGEROUS DOGS

**3-3-1**      **DEFINITIONS.** As used in this Article, the following words shall have the following meanings and definitions:

(A)      **"Vicious dog"** means:

- (1) Any individual dog that when unprovoked inflicts bites or attacks a human being or other animal either on public or private property.
- (2) Any individual dog with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals.
- (3) Any individual dog that has a trait or characteristic and a generally known reputation for viciousness, dangerousness or unprovoked attacks upon human beings or other animals, unless handled in a particular manner or with special equipment.
- (4) Any individual dog which attacks a human being or domestic animal without provocation.
- (5) Any individual dog which has been found to be a "dangerous dog" upon **three (3)** separate occasions.

No dog shall be deemed "vicious" if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it or is a professionally trained dog for law enforcement or guard duties. Vicious dogs shall not be classified in a manner that is specific as to breed.

If a dog is found to be a vicious dog, the dog shall be subject to enclosure.

(B)      **"Dangerous dog"**. See **Section 3-1-2**.

(C)      **"Enclosure"** means a fence or structure of at least **six (6) feet** in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious dog within the enclosure. The enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, it cannot have direct ingress from or egress to the outdoors unless it leads directly to an enclosed pen and the door must be locked. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times. **(510 ILCS 5/2.11a)**

(D)      **"Impounded"** means taken into the custody of the public pound in the City or town where the vicious dog is found.

(E)      **"Found to Be Vicious Dog"** means:

- (1) that the County Veterinarian, Animal Control Warden, or a law enforcement officer has conducted an investigation and made a finding in writing that the dog is a vicious dog as defined in **Section 3-1-2** and, based on that finding, the County Veterinarian, or the Animal Control Warden has declared in writing that the dog is a vicious dog or
- (2) that the circuit court has found the dog to be a vicious dog as defined in **Section 3-1-2** and has entered an order based on that finding.

**3-3-2**      **UNLAWFUL TO MAINTAIN.** It shall be unlawful for any person to keep or maintain any dog which has been found to be a vicious dog unless such dog is at all times kept in an enclosure. The only times that a vicious dog may be allowed out of the enclosure are:

(A)      If it is necessary for the owner or keeper to obtain veterinary care for the dog or

(B)      To comply with the order of a court of competent jurisdiction, provided that the dog is securely muzzled and restrained with a chain having a tensile strength of **three hundred (300) pounds** and not exceeding **three (3) feet** in length, and shall be under the direct control and supervision of the owner or keeper of the dog.

Any dog which has been found to be a vicious dog and which is not confined to an enclosure shall be impounded by the Animal Control Warden, or the police and shall be turned over to a licensed veterinarian for destruction by lethal injection.

(C) The owner charged with maintaining a vicious or dangerous dog may request a hearing before the City Council within **five (5) days** of being charged.

**3-3-3 OWNER'S RESPONSIBILITY.** If the owner of the dog has not appealed the impoundment order to the circuit court in the County in which the animal was impounded within **fifteen (15) working days**, the dog may be humanely dispatched. A dog found to be a vicious dog shall not be released to the owner until the Animal Control Warden approves the enclosure as defined in this Article.

No owner or keeper of a vicious dog shall sell or give away the dog. **(510 ILCS 5/15)**

**3-3-4 DOG PERMITTED TO LEAVE PREMISES.** It is unlawful for any person to maintain a public nuisance by permitting any dangerous dog or other animal to leave the premises of its owner when not under control by leash or other recognized control methods.

Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempt from this Section; provided, no attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies in accordance with this Code. It shall be the duty of the owner of such exempted dog to notify the Warden of changes of address. In the case of a sentry or guard dog, the owner shall keep the Warden advised of the location where such dog will be stationed. The Warden shall provide police and fire departments with a categorized list of such exempted dogs, and shall promptly notify such departments of any address changes reported to him. **(510 ILCS 5/15)**

**3-3-5 INJUNCTION.** The Animal Control Warden, the City Attorney, or any citizen of the City in which a dangerous or vicious dog or other animal exists may file a complaint to enjoin all persons from maintaining or permitting such, to abate the same, and to enjoin the owner of such dog or other animal from permitting same to leave his premises when not under control by leash or other recognized control methods. Upon the filing of a complaint in the circuit court, the court, if satisfied that this nuisance may exist, shall grant a preliminary injunction with bond in such amount as the court may determine enjoining the defendant from maintaining such nuisance. If the existence of the nuisance is established, the owner of such dog or other animal shall be in violation of this Act, and in addition the court shall enter an order restraining the owner from maintaining such nuisance and may order that such dog or other animal be humanely dispatched. **(510 ILCS 5/17)**

**3-3-6 LIABILITY OF OWNER OR DOG ATTACKING OR INJURING PERSON.** If a dog, or other animal, without provocation, attacks or injures any person who is peaceably conducting himself in any place where he may lawfully be, the owner of such dog or other animal is liable in damages to such person for the full amount of the injury sustained. **(510 ILCS 5/16)**

**3-3-7 RIGHT OF ENTRY - INSPECTIONS.** For the purpose of carrying out the provisions of this Code and making inspections hereunder, the Animal Control Warden, or his authorized representative, or any officer of the law may enter upon private premises to apprehend a straying dog or other animal, a dangerous dog or other animal, or a dog or other animal thought to be infected with rabies. If, after request therefor, the owner of such dog or other animal shall refuse to deliver the dog or other animal to the officer, the owner shall be in violation of this Code. **(510 ILCS 5/17)**

**(65 ILCS 5/11-1-1 and 5/11-20-9)**  
**(See also 510 ILCS 5/24)**

## ARTICLE IV – TETHERING

**3-4-1      TETHERING DOG REGULATIONS.** The following regulations shall be applicable to owners and guardians of dogs in their care to-wit:

(A)      **Animal Welfare.** A dog that is outside for **one (1) hour** or more, whether fenced, kenneled, or tethered shall have proper food, water, and shelter. Owners and guardians shall be responsible for the welfare of their pets in severe heat, cold, rain, snow, ice, and wind.

(B)      No dog shall be tethered within **fifty (50) feet** of a school, daycare, or school bus stop.

(C)      No dog shall be tethered on any public easement, or public access to private property.

(D)      No dog shall be tethered on private property within **ten (10) feet** of public or neighboring property.

(E)      No dog shall be tethered on land without a dwelling or a vacant dwelling.

(F)      No dog shall be left inside a vacant dwelling.

(G)      No more than **one (1) dog** shall be attached to a tether.

(H)      A properly constructed fence, of a height and strength, that prevents the dog from jumping, climbing, or digging out, and running at large, is acceptable containment.

(I)      A properly constructed kennel, of a height and strength, that prevents the dog from jumping, climbing, or digging out, and running at large, is acceptable containment if the following conditions are met. The dimensions of the kennel shall be dictated by the size of the dog. The kennel shall have a doghouse large enough for the dog to stand and turn around, with roof and **four (4) sides**. The acceptable kennel size is **one hundred twenty-five (125) square feet** per dog of under **fifty (50) pounds**.

(J)      Tethering shall not be used as permanent means of containment for any companion pet.

(K)      Tethering shall be acceptable under the following conditions:

(1)      Trolley or pulley types of tethering systems are recommended.

(2)      Fixed point tethers shall be acceptable upon inspection and approval by Animal Control.

(3)      All tethers will be a minimum of **fifteen (15) feet** in length and no more than **one-eighth (1/8)** the dog's weight.

(4)      The tether shall have a swivel mechanism on both ends and attached to a properly fitting, non-metal, buckle type collar or a harness.

(5)      No pinch or choke collars shall be allowed.

(6)      No tether shall be directly attached to the dog.

(L)      Owners shall be responsible to maintain a clean and healthy environment on their property and provide medical treatment when needed.

**(Ord. No. 2014-07; 11-03-14 in part)**

**3-4-2      VARIANCES.** Any person seeking a variance from the regulations in this Article shall complete an application at the Animal Control Agency of the City. The variance shall be reviewed by the Animal Control Committee for approval or disapproval.

**(510 ILCS 70/3)**

## ARTICLE V – MACON COUNTY ANIMAL CONTROL CODE

### DIVISION I – GENERALLY

**3-5-1**            **SHORT TITLE.** This Article shall be known as the Macon County Animal Control Code.

**3-5-2**            **DEFINITIONS.** Whenever used herein, the following words shall have the meaning set after them as follows:

(A)                **Administrator.** A veterinarian licensed by the State of Illinois and appointed by the Macon County Board pursuant to the State of Illinois "Animal Control Act" as amended.

(B)                **Breedable Females.** Any dog or cat that is **six (6) months** or older and is not spayed.

(C)                **Breeder Permit.** A permit obtained from Macon County Animal Control.

(D)                **Cat.** All members of the family feline.

(E)                **County.** County of Macon.

(F)                **Direct, Effective, Physical Control.** Mechanical exercise or authority over a dog or other animal by the person in control of the animal, by means of a leash, cord, rope, strap or chain which shall be fastened to the collar or harness of the animal and of sufficient strength to control the dog or animal.

(G)                **Dog.** All members of the family canidae.

(H)                **Competent Person.** A human being over the age of **fifteen (15) years** that is capable of controlling and governing the dog or cat in question.

(I)                **Impoundment.** Animals taken up under the foregoing provisions hereof shall be impounded in some suitable place provided by the County by contract or otherwise.

(J)                **Inoculated Against Rabies.** The injection of an antirabies vaccine given by a licensed veterinarian.

(K)                **Multiple Pet License.** A license obtained from Macon County Animal Control.

(L)                **Multiple Pet Owner** means any person who harbors or allows more than **seven (7) dogs** or cats, or any combination thereof, over **four (4) months** of age on their property or in their dwelling unit.

(M)                **Owner.** Any person having a right of property in a dog or other animal or who keeps or harbors a dog or other animal or who has it in his care, or acts as its custodian, or who knowingly permits a dog or other domestic animal to remain on or about any premise occupied by him.

(N)                **Own.** Have a right of property in, or keep, or harbor, or act as custodian of, or have the care of, or knowingly permit, or encourage, to remain on or about premises occupied by the owning person.

(O)                **Public Safety Agency.** A functional division of a public agency which provides fire fighting, police, medical, or other emergency services.

(P)                **Registration Certificate.** A document or writing furnished by the Macon County Animal Control upon proper registration and upon payment of the registration fee herein imposed, unless exempt from payment of the registration fee.

(Q)                **Registration Tag.** A tag, disk, plate of suitable or durable material furnished by the Macon County Animal Control.

(R)                **Run at Large.** Suffering or permitting, or causing an animal to be at any place within the County, at any time, outside an escape-proof building or other enclosure without such animal being under direct, effective physical control of the owner thereof, or his agent, or a member of the immediate family of said owner.

(S)                **Shelter.** A building which has **four (4) sides**, a roof, floor, and bedding. The shelter shall be of sufficient size to permit such animal to stand up and turn around inside when fully grown and allow retention of body heat. The shelter shall be placed to provide shade from the sun and protection from the weather.

- (T) **Straying.** A dog or other animal not on the premises of the owner or not confined or under control by leash or other recognized control methods.
- (U) **Tether.** A method of securing an animal to a stationary object.

**3-5-3            RESERVED.**

**DIVISION II – REGULATIONS**

**3-5-4            SANITATION.** All companion animal kennels, pens, enclosures or areas in which any such animal is kept must be maintained in a sanitary manner without the accumulation of dirt, offal, or urine and in such a manner as to prevent any disagreeable odor. **(510 ILCS 5/2)**

**3-5-5            ANIMALS RUNNING AT LARGE.** Every owner of an animal shall contain such animal to the confines of the owner's real property unless the animal is under restraint and shall not permit such animal to be at large. Any animal found running at large in unincorporated areas of the County in violation of this Section may be apprehended and impounded. **(510 ILCS 5/9 – 5/24)**

The provisions shall not apply to:

- (A) Dogs being used in hunting, field trials; and
- (B) Dog shows while on public lands set aside for those purposes.
- (C) Blood hounds or other dogs used for tracking in conjunction with police activities.
- (D) Dogs of the Canine Corps of any police force, the state police, any federal law enforcement agency, or the Armed Forces while being used to conduct official business or being used for official purposes.
- (E) Dogs confined upon the property of another with the permission of the property owner or resident of such property.
- (F) Dogs and cats which are not located within the unincorporated areas of the County which have been subdivided for residential purposes.

**3-5-6            RABIES INOCULATION – DOGS AND CATS.** No person shall own within the County a dog or cat **four (4) months** or more of age which has not been inoculated against rabies. No person shall fail to vaccinate a dog or cat within **thirty (30) days** following the vaccination due date. **(510 ILCS 5/8)**

**3-5-7            BITING ANIMALS.** Any animal which shall bite a person so as to cause an abrasion or laceration or puncture of the skin of such person, is hereby declared to be a nuisance and such animal shall be taken up and impounded as hereafter provided. **(510 ILCS 5/13)**

**3-5-8            REGISTRATION.** No person shall own a dog or cat **four (4) months** or more of age within the County and unless said dog or cat has been registered in accordance with State Law and the provisions of this Article. **(510 ILCS 5/24)**

**3-5-9            TAG WORN.** Each registered animal shall be provided by the owner with a suitable collar or harness to which the registration tag for that animal shall be securely attached. Both collar or harness and registration tag shall be worn by such animal at all times. Any dog or cat found within the County, whether running at large or otherwise, without a registration tag thereon may be impounded as herein provided. **(510 ILCS 5/24)**

**3-5-10      HARBORING STRAY ANIMAL(S) RESTRICTED.** No person shall harbor, keep, care for, feed or allow to remain on their property any stray domestic animal without notifying Macon County Animal Control within **forty-eight (48) hours. (510 ILCS 5/24)**

**3-5-11      NUISANCE ANIMAL.** No person owning, possessing or harboring any animal within the unincorporated area of the County shall permit said animal to become a nuisance. An animal, other than a dog trained for law enforcement in the performance of its duty, shall be considered a nuisance if said animal:

- (A)                      Substantially damages property other than the owner's.
- (B)                      Causes a disturbance by excessive barking, caterwauling or noisemaking.
- (C)                      Chases, attacks, bites, or interferes with or physically intimidates any person while on the premises of the owner in unincorporated areas of the County which have been subdivided for residential purposes.
- (D)                      Chases, molests, attacks, bites, or interferes with other domestic animals while off of the premises of the owner.

The Administrator or animal shelter manager or delegate, upon reasonable grounds, shall impound any animal creating a nuisance by being in violation of subsections above and not restrained by a competent person. **(510 ILCS 5/24)**

**3-5-12      ADEQUATE SPACE – TETHERING OF ANIMALS.**

(A)                      No person shall fail to provide any animal with adequate space. "Adequate space" means sufficient space to allow each animal to easily stand, sit, lie, turnabout and make all other normal body movements in a comfortable, normal position for the animal and to interact safely with other animals in the enclosure.

(B)                      When a dog is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal (no more than 1/10 of the animal's body weight). A tether must be attached to the animal by a properly applied collar, halter or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal. **(510 ILCS 5/24)**

**3-5-13      HUMANE CARE OF ANIMALS.** No person shall fail to provide any animal in his/her charge or custody, as owner or otherwise, with proper and necessary food, drink, shelter, heat, air, sanitation or veterinary care. **(510 ILCS 70/3)**

**3-5-14      ABANDONMENT OF ANIMAL.** No person shall abandon an animal within the County where it may become a public charge or may suffer injury, hunger or exposure. **(510 ILCS 70/3.01)**

**3-5-15      MUTIPLE PET LICENSE.** No person shall own or allow more than **seven (7) dogs**, cats or a combination thereof on any one property or dwelling unit without obtaining a Multiple Pet license from Macon County Animal Control. **(510 ILCS 5/24)**

**3-5-16      BREEDER PERMIT.** No person shall breed any dog or cat without obtaining a permit from Macon County Animal Control. No puppies or kittens shall be advertised, sold or given away without supplying a permit number. **(510 ILCS 5/24)**

**3-5-17            FEMALE DOGS AND CATS IN HEAT.** Every owner of a female dog or cat shall maintain such dog or cat in a manner that prevents unplanned breeding. **(510 ILCS 5/24)**

**3-5-18            REGISTRATION PROCEDURES.**  
(A) All dogs and cats kept and maintained within the County shall be registered by the owner or owners thereof with Macon County Animal Control through its authorized agents. Such registration shall be valid for **one (1) year** from the date of a one-year vaccination, and **three (3) years** from the date of a three-year vaccination. The annual registration fee for dogs and cats registered within **thirty (30) days** of inoculation against rabies shall be **Ten Dollars (\$10.00)** if the dog or cat is spayed or neutered and **Thirty-Five Dollars (\$35.00)** if the dog or cat is not so altered. The owner or owners thereof shall remit the required registration fee for each dog or cat at the time of inoculation. The veterinarian who inoculated the dog or cat shall collect the registration fees. The veterinarian shall remit the registration fees collected to the Macon County Animal Control through its authorized agent. If the vaccination is obtained out of county, the registration fee must be paid to the authorized agent for collection for Macon County Animal Control. The registration fee for any dog or cat registered more than **thirty (30) days** after the date of inoculation against rabies shall be double the original fee. Exempt from the registration fee are trained public safety agency owned dogs maintained by public safety officers for use in public safety duties full time, with proof of such certified by the public safety agency's Chief or other agency head.

(B) Upon payment of the annual registration fee, unless exempt for such payment, a registration certificate will be issued by the veterinarian who shall remit the original to the Macon County Animal Control through its authorized agent. A copy of said certificate shall be kept by the owner and the veterinarian inoculating the dog or cat. The Registration Certificate shall be appropriately numbered and serially filed by the authorized agent of Macon County Animal Control.

(C) The provisions of this Section shall not apply to dogs or cats the owners of which are not residents within the County and are temporarily within the County for a period of less than **thirty (30) days**, nor shall they apply to feral cats.

**3-5-19            REGISTRATION TAG.**  
(A) At the time an animal is registered as herein provided, the veterinarian who inoculated the dog or cat shall issue a registration tag furnished by the Macon County Animal Control through its authorized agent bearing a number corresponding with the number on said registration certificate. The registration tag must be obtained from the authorized agent of Macon County Animal Control when a vaccination is obtained out of county after presenting proof of rabies vaccination. Registration tags must be of suitable, durable material and of a size suitable to be affixed to a collar worn by the registered animal. Registration tags shall be varied either in color or in shape from registration period to registration period so that tags issued for a registration period may be readily distinguished from tags issued for prior periods in near proximity of time.

(B) Duplicate registration tags shall be issued by the authorized agent of Macon County Animal Control in the event the original tag is lost or destroyed, upon presentation of evidence or the prior payment of registration fee, unless exempt, for the animal for the current registration period along with an application for such duplicate registration tag and the payment of a fee equivalent to the cost for the duplicate tag.

**3-5-20            NON-TRANSFERABLE.** Neither registration certificates nor registration tags shall be transferable. There shall be no refund for any reason of registration fee.

**3-5-21            IMPOUNDING.** Any animal running at large at any time contrary to the provisions of this Article may be taken up and impounded as hereinafter provided. **(510 ILCS 5/9)**

**3-5-22      REDEMPTION BY PERSON OTHER THAN OWNER.** Upon expiration of **seven (7) days** from the date of impoundment, an unclaimed dog or cat, which has been deemed suitable for adoption by the animal control officer or Administrator, may be adopted by any person other than the owner upon payment of the adoption fee and approved application. If no placement is available or the animal is deemed unadoptable, it shall be humanely dispatched pursuant to the Humane Euthanasia in Animal Shelters Act. **(510 ILCS 5/11)**

**3-5-23      DISEASED OR INJURED ANIMALS.** Any animal which does not exhibit a valid vaccination, registration tag or current microchip and which reveals the symptoms of an injury or disease, clearly not those of rabies, as determined by the administrator or his/her designated agent, may be subjected to disposal at the earliest possible time by Macon County Animal Control personnel. Animals with a known or incapacitated owner will be transported to a Veterinarian of Animal Control's choice for recommendation of treatment. Any expense incurred during the period of impoundment, including veterinary bills, shall be paid by the owner prior to release of the impounded animal.

**3-5-24      ENFORCEMENT OFFICERS NOT RESPONSIBLE FOR ACCIDENT OR DISEASE TO ANY DOG OR CAT.** The administrator, manager, animal control wardens or anyone enforcing the provisions of this Article shall not be held responsible for any accident or disease that may happen to any dog or cat.

**3-5-25      MULTIPLE PET LICENSE.**  
(A) Multiple-pet owners shall obtain an annual license from the County. Such license shall be obtained no later than **thirty (30) days** after assuming ownership of an eighth animal and shall be renewed annually by **January 1<sup>st</sup>**. The multiple-pet license shall not exempt such licensee from payment of county registration fees for each dog or cat owned by him/her.  
(B) This Section shall not apply to persons licensed with the Illinois Department of Agriculture pursuant to **225 ILCS 605/3** and **225 ILCS 605/3.2**. These persons will still be required to comply with all other County ordinances.

**3-5-26      MULTIPLE PET OWNER LICENSEE REQUIREMENTS.** An applicant for a multiple-pet license shall consent to the inspection of the premises where his animals are kept or maintained. Such inspection shall be performed upon receipt of a citizen's complaint that is not anonymous. Annual inspections may be required for multiple-pet owners where an inspection has shown marginally acceptable standards. Such inspection may be performed by Macon County Animal Control. Failure to comply with a request for inspection is a violation of this Article. Holders of multiple-pet licenses shall conform to the following requirements:  
(A) All dogs and/or cats over **four (4) months** of age must be inoculated against rabies and registered pursuant to this Article.  
(B) All dogs and/or cats must be provided with a fresh water daily, sufficient food to maintain acceptable body weight, proper shelter, protection from the weather and sufficient veterinary care to prevent suffering.  
(C) If the dogs and/or cats are kept or maintained within a structure or building, such building shall:  
    (1) be cleaned of feces and urine on a daily basis.  
    (2) not constitute a nuisance or danger to the health or welfare of its inhabitants nor surrounding residents.  
    (3) be well ventilated and maintain appropriate temperature (follow USDA guidelines) to prevent suffering.  
(D) The dogs and/or cats shall be prevented from running at large.  
(E) The dogs and/or cats shall be prevented from causing a nuisance pursuant to County Code.



(F) The owner's property shall be kept free of all feces and urine to prevent its accumulation from constituting a health hazard or an odorous nuisance.

(G) The applicant shall not have been convicted of or received Supervision or Conditional Discharge through an agreement with the State's Attorney's Office of any violation of the Animal Control or Humane Care for Animals Act within the previous **two (2) years** from the date of application.

(H) The owner shall immediately notify the Animal Control Administrator of any change in the animals governed by the multiple pet license including the rabies vaccination and registration required pursuant to this Article.

**3-5-27                    REVOCATION OF MULTIPLE-PET LICENSE.**

(A) Upon conviction of a violation of the Animal Control or Humane Care for Animals Act, the Administrator shall revoke the multiple pet license for a period of not more than **five (5) years**, the length of the revocation period to be determined by the number and severity of the violations. After expiration of the revocation period, the license shall not be automatically reinstated. The former licensee must reapply for the license and show an ability to conform to the existing ordinances before he may be issued a multiple pet license and must submit to yearly inspections.

(B) Upon revocation of the license, the owner shall relinquish ownership of his/her animals to the Administrator.

**3-5-28                    IMPOUNDMENT OF MULTIPLE PETS.**

(A) The Administrator may impound the dogs and/or cats of any multiple-pet owner if such owner does not hold a multiple-pet license.

(B) Such animals shall be redeemed by the owner upon payment to the Administrator the lawful fees accrued pursuant to this Chapter and after application and approval for a multiple-pet owner license.

**3-5-29                    BREEDER'S PERMIT.** Any person breeding dogs or cats must obtain a Breeder's Permit. With this permit an owner will be allowed to breed the female animal once a year. The female animal will be required to have current vaccinations and be proven to be in good health prior to the breeding. All puppies or kittens will be required to be at least **eight (8) weeks** of age and must have had their first set of vaccinations before being transferred to their new owner. A copy of the animal's vaccination record and Breeder's Permit number shall be given to the new owner of the animal. The Breeder's Permit number must be included in any and all advertising for the puppies or kittens.

(A) This Section shall not apply to persons licensed with the Illinois Department of Agriculture pursuant to **225 ILCS 605/3** and **510 ILCS 5/2.18**. These persons will still be required to comply with all other County ordinances.

**3-5-30                    ENFORCEMENT.**

(A) It shall be the duty of Macon County Animal Control, and other persons so authorized by the County, by contract or otherwise, to investigate violations of this Code and to enforce the provisions of this Code. Such enforcement shall include the issuance of warnings, the issuance of citations, taking and impounding of animals in violation hereof, and any other means necessary to enforce and effectuate the purposes of this Code.

(B) No person shall in any way interfere, attempt to interfere, or cause another person or animal to interfere or attempt to interfere with any authorized person engaged in the performance of his or her duties under this Code.

**3-5-31**

**CITATIONS.**

(A) Whenever a police officer or other person duly authorized by the County to enforce this Code witnesses or has knowledge, based on reasonable grounds, of a violation by any person of any section of this Code, such person may be issued a citation for said violation by the Animal Control Warden or other person duly authorized by the County to enforce this Code.

(B) A citation issued hereunder shall be in writing and shall:

- (1) state the name of the person being cited, and said person's address, if known;
- (2) set forth the specific section of this Code that was violated, the date of the violation, and a brief description of the violation;
- (3) state the amount to be paid to the County due to such violation, and where and when such payment may be made;
- (4) state that upon failure to pay the amount of the citations in the time allowed as herein provided, said person will be subject to prosecution by the County for such violation; and,
- (5) be signed by the issuing Animal Control Warden or other person duly authorized by the County to enforce this Code.

(C) Citations shall be in the following amounts:

- (1) **Seventy-Five Dollars (\$75.00)** for the first violation.
- (2) **One Hundred Fifty Dollars (\$150.00)** for the second violation.
- (3) **Two Hundred Dollars (\$200.00)** for third and subsequent violations.

Macon County Animal Control reserves the right to issue Warnings, Citations, Education and/or to impound animals.

**3-5-32**

**PAYMENT OF CITATIONS.**

(A) A person cited for a violation of any section of this Code as herein provided may terminate any further proceedings by the County due to said violations by making payment to the County at the office of the Macon County Animal Control or its authorized agent in the amount of the citation. Payment will be considered as being made only when the Macon County Animal Control or its authorized agent is in receipt of the full amount. If a person is cited for more than one violation of this Code on a single citation, the amount must be paid for each violation listed in order to terminate any further proceedings.

(B) If a person is given a citation for a violation as herein provided, no complaint may be filed by any attorney on behalf of the County in any court having jurisdiction thereof seeking to prosecute and fine such person for said violation sooner than **thirty (30) days** after such citation is issued, and no such complaint may be filed if the citation is timely paid.

(C) The Macon County Animal Control may accept payment of a citation issued hereunder tendered after the **thirty (30) day** period provided for herein, and upon such acceptance no prosecution for the violation may be filed or pursued by the County.

**3-5-33**

**PENALTY.** Any person, firm or corporation who shall violate any of the provisions hereof, shall, upon conviction be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Five Hundred Dollars (\$500.00)** for each offense, and every day on which a violation occurs or continues shall be considered a separate offense. (Previously \$25.00 and \$500.00)

**(Ord. No. 03-08-2010-2)**

## **ARTICLE VI – PENALTY**

### **3-6-1            PAYMENT OF CITATIONS.**

(A)            A person cited for a violation of any section of this Chapter as herein provided may terminate any further proceedings by the City due to said violation by making payment to the City at the City Hall or People's Bank of Macon in the amount of **Thirty Dollars (\$30.00)**. Payment will be considered as being made only when the City Treasurer is in receipt of the full amount. If a person is cited for more than **one (1) violation** of this Chapter on a single citation, **Thirty Dollars (\$30.00)** must be paid for each violation listed in order to terminate any further proceedings.

(B)            If a person is given a citation for a violation as herein provided, no complaint may be filed by any attorney on behalf of the City in any court having jurisdiction thereof seeking to prosecute and fine such person for said violation sooner than ten (10) days after such citation is issued and no such complaint may be filed if the citation is timely paid.

(C)            The City Treasurer may accept payment of a citation issued hereunder tendered after the **ten (10) day** period provided for herein, and upon such acceptance, no prosecution for the cited violation may be filed or pursued by the City. **(Ord. No. 1997-D-4; 08-11-97)**

### **3-6-2            PENALTY.**

(A)            Any person, firm or corporation who shall violate any of the provisions hereof shall, upon conviction, be fined as provided in **Section 1-1-20**.

(B)            The Circuit Court of Macon County may enter an Order that any vicious, dangerous, fierce, or biting dog as defined in this Chapter be humanely dispatched.

## HOBBY ANIMAL APPLICATION

**NAME** \_\_\_\_\_ **CELL NO.** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_ **CITY** \_\_\_\_\_

**PARCEL NUMBER** \_\_\_\_\_

**ADDRESS OF ANIMALS (IF DIFFERENT)** \_\_\_\_\_

1. Nature of Request
  - A. Chickens # \_\_\_\_\_ 2-6 hens allowed  
(No roosters or crowing hens)
  - B. Ducks # \_\_\_\_\_ 2 allowed
  - C. Quail # \_\_\_\_\_ 5 allowed
  - D. Rabbits # \_\_\_\_\_ 10 allowed
  - E. Pigeons # \_\_\_\_\_ 5 allowed
  - F. Pheasants # \_\_\_\_\_ 2-6 hens permitted
2. The applicant agrees to locate these animals only in SR-1 or A-1 zone districts in single-family residences.
3. The applicant agrees to comply with the regulations specified in Chapter 3 – Animal Control Code.
4. Applicant shall pay the applicable fee specified in Chapter 3 – Animal Control Code.
5. Applicant shall submit a lot diagram indicating the location of the animal enclosure or pen in relationship to all lot lines and structures.

**CHAPTER 6**  
**BUILDING REGULATIONS**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>BUILDING CODES</i></b>	
	<i>Section 6-1-1 - Purpose</i>	<i>6-1</i>
	<i>Section 6-1-2 - Scope</i>	<i>6-1</i>
	<i>Section 6-1-3 - Codes Adopted</i>	<i>6-1</i>
	<i>Section 6-1-4 - Building Code; Amendments</i>	<i>6-1</i>
	<i>Section 6-1-5 - Mechanical Code; Amendments</i>	<i>6-3</i>
	<i>Section 6-1-6 - Fire Code; Amendments</i>	<i>6-3</i>
	<i>Section 6-1-7 - Electrical Code; Amendments</i>	<i>6-4</i>
	<i>Section 6-1-8 - Energy Conservation Code; Amendments</i>	<i>6-4</i>
	<i>Section 6-1-9 - International Existing Building Code; Amendments</i>	<i>6-4</i>
	<i>Section 6-1-10 - Residential Code; Amendments</i>	<i>6-5</i>
	<i>Section 6-1-11 - Illinois Plumbing Code; Amendments</i>	<i>6-5</i>
	<i>Section 6-1-12 - Illinois Accessibility Code; Amendments</i>	<i>6-6</i>
	<i>Section 6-1-13 - Limitations on Construction Hours</i>	<i>6-6</i>
<b><i>II</i></b>	<b><i>MONOXIDE ALARM DETECTOR</i></b>	
	<i>Section 6-2-1 - Definitions</i>	<i>6-7</i>
	<i>Section 6-2-2 - Carbon Monoxide Detector</i>	<i>6-7</i>
	<i>Section 6-2-3 - Violation</i>	<i>6-7</i>
	<i>Section 6-2-4 - Exemptions</i>	<i>6-7</i>

## CHAPTER 6

### BUILDING REGULATIONS

#### ARTICLE I – BUILDING CODES

**6-1-1 PURPOSE.** The purpose of this Article is to provide for safety, health public welfare through structural strength and stability, means of egress, adequate light and ventilation and protection to life and property from fire and hazards incident to the design, construction, repair, alteration, maintenance, removal or demolition of buildings and structures, and to control the architectural design of buildings or structures erected or to be erected within the corporate limits of the City.

**6-1-2 SCOPE.** The provisions of this Article apply to the construction, site work alteration, equipment, addition, repair, replacement, removal, demolition, location, use, occupancy and maintenance of all buildings and structures, and shall apply to existing or proposed buildings and structures; except as otherwise provided for in the City Zoning Code, or other ordinances or statutes. **(Chapter 40)**

**6-1-3 CODES ADOPTED.** The codes hereinafter set forth are hereby adopted by reference and made a part of this City Code, as amended. **One (1) copy** of each shall be on file with the City Clerk.

- (A) The International Building Code/2012
- (B) The International Mechanical Code/2012
- (C) The International Fuel Gas Code/2012
- (D) The International Fire Code/2012
- (E) National Electrical Code NFPA 70/2014
- (F) The International Energy Conservation Code/2012
- (G) The International Existing Building Code/2012
- (H) The International Residential Code/2012
- (I) The Illinois State Plumbing Code/latest update
- (J) The Illinois Accessibility Code/latest update
- (K) National Fire Protection Association, Life Safety 101/2009

**6-1-4 BUILDING CODE; AMENDMENTS.** The following provisions shall further apply and shall supersede any and all references listed within the adopted edition of the International Building Code.

(A) **Additions, Insertions and Changes.**

- (1) Section 101.1 – Insert “City of Macon”.
- (2) Section 106.1.4 – Insert the following: Plans on Job Required: A set of the approved plans is required to be on the job site at the time of inspection.
- (3) Insert Subsection 106.2.1:  
Section 106.2.1 – Compliance with Plot Plan. It shall be the responsibility of the builder/developer to submit to the Building Department a spot survey prepared by a Registered Land Surveyor after the foundation is installed. This survey must be at a scale of not less than one inch equal to thirty feet (1" = 30'). The survey must also indicate the elevation above sea level of the top of the foundation wall and the top of the curb and sidewalk at lot lines extended relative to a United States Geological Survey benchmark. No construction will be allowed to proceed except for decking, underground water and sewer, and related items until the spot survey is approved by the Building and Zoning Department. This Section

applies to principal structures only and not to additions or accessory structures.

- (4) Section 108.2 – Schedule of permit fees: Add the following: Building Permit fee schedule is found in **Addendum "A"** to this Chapter.
- (5) Section 112 – Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (6) Section 113.4 – Violation Penalties: Insert the following: are hereby found in **Section 1-1-20** of the City Code.
- (7) Section 501.2 – Premises identification add the following: The use of script address is not allowed.
- (8) Section 501.2.1 – Add the following Tenant Identification: All buildings with multiple tenants or units shall have signs in the corridor across from the elevator door. This direction signage shall indicate the direction to each number tenant space. All tenant spaces shall have a sign, which indicates the tenant space number. The signs shall be constructed of durable materials, be permanently installed and be readily visible. Letters and numbers shall contrast with the background and shall be a minimum of 2 inches in height.
- (9) Section 706.10: Add the following new section tenant separation: Each tenant shall be separated from other tenant spaces by fire barriers (walls and floor ceiling assemblies) having at least a one (1) hour fire rating.
- (10) Section 901.6 – Change to read as follows: All water flow switches, valve supervision, trouble signals, fire alarm systems shall transmit and alarm to a location approved by the fire official.
- (11) Add section 903.7 Sprinkler system design criteria. Sprinkler hydraulic designs for NFPA 13 and NFPA 13R systems shall be designed with a minimum of a five (5) pound difference between the sprinkler system design including hose requirements and the available water supply. The five (5) pound safety factor shall be applied to the water flow test after any adjustments for a seasonal low.
- (12) Chapter 11 Insert the following text. When there is a conflict between this Chapter and the Illinois Accessibility Code the stricter of the two codes shall apply.
- (13) Section 1612.3 Insert the City of Macon.
- (14) Section 1612.3 Insert May 15, 2006.
- (15) Sections 1805.0 Footings and Foundations all references to wood footings and foundations are deleted. The use of wood footings and foundations is prohibited.
- (17) Section 2901.1 Delete references to the International Plumbing Code and add the following: The City Official shall require that the provisions of the current "Illinois Plumbing Code Law", 225 Illinois Compiled Statutes 320/1 et seq., as presently in force or as the same may be hereafter amended or modified and the same is hereby incorporated herein by reference and adopted as the standard for the purposes of this Code. Any conflicts concerning the provisions of these codes shall be determined by the strictest standard contained in the code provisions.
- (18) Section 2902 Delete the section in its entirety.
- (19) Sections 3410.2 Insert May 15, 2006.
- (20) Reference Standards  
Delete the references to the International Plumbing Code in sections 101.4.4, 415.7.4, 717.5, 903.3.5, 1206.3.3, 2901.1, 2902.1, 3401.3 and insert the Illinois Plumbing Code.  
Adopt the following appendix.

- (a) Appendix A – Employee qualifications
- (b) Appendix C – Group U Agricultural Buildings
- (c) Appendix D – Fire Districts
- (d) Appendix F – Rodent proofing
- (e) Appendix G – Flood Resistant Construction
- (f) Appendix H - Signs
- (g) Appendix I – Patio Covers
- (h) Appendix J – Grading

**6-1-5 MECHANICAL CODE; AMENDMENTS.** The following provisions shall further apply and shall supersede any and all references listed within the adopted edition of the International Mechanical Code – 2003 Edition.

(A)

**Additions, Insertions and Changes.**

- (1) Section 101.1 – Insert “City of Macon”.
- (2) Section 106.5.2 Fee schedule: Add the following: Building Permit fee schedule is found in **Addendum “A”** to this Chapter.
- (3) Sections 106.5.3 Delete in its entirety.
- (4) Section 108.4 Delete the section and add the following: are hereby found in **Section 1-1-20** of the City Code.
- (5) Section 108.5 Stop Work Orders – Delete the last line and insert the following:....for a fine as established by **Section 1-1-20** of the City Code.
- (6) Section 109 Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (7) Reference Standards  
Delete the reference to the ICC Electric Code  
Delete the references to the International Plumbing Code in sections 301.8, 908.5, 1002.1, 1002.2, 1002.3, 1005.2, 1006.6, 1008.2, 2009.3, 1101.4, 1201.1, 1206.2, 1206.3, 1401.2 and insert the Illinois Plumbing Code.  
Adopt the Appendix A
  - (a) Appendix A – Combustion Air Openings and Chimney Connector Pass-throughs

**6-1-6 FIRE CODE; AMENDMENTS.** The following provisions shall further apply and shall supersede any and all references listed within the adopted edition of the International Fire Code – 2003 Edition.

(A)

**Additions, Insertions and Changes.**

- (1) Section 101.1 Insert “City of Macon”.
- (2) Section 105 Permits Delete the section in its entirety.
- (3) Section 108 Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (4) Section 109.3 Delete the section and add the following: The penalties shall be found in **Section 1-1-20** of the City Code.
- (5) Section 111.3 Failure to Comply – Delete the last two lines and insert the following:....or unsafe condition, shall be liable for a fine as established by the **Section 1-1-20** of the City Code.
- (6) Section 505.1 Address numbers delete in the sixth line: or alphabet letters.
- (7) Add section 903.7 Sprinkler system design criteria. Sprinkler hydraulic designs for NFPA 13 and NFPA 13R systems shall be designed with a minimum of a five (5) pound difference between the sprinkler system design including hose requirements and the available water supply. The five (5) pound safety factor shall be applied to the water flow test after any adjustments for a seasonal low.



- (8) Section 3204.3.1.1 Fire Department should determine the requirement.
- (9) Section 3404.2.9.5.1 Fire Department should determine the requirements.
- (10) Section 3406.2.4.4 Fire Department should determine the requirement.
- (11) Section 3804.2 Fire Department should determine the requirement.
- (12) Reference Standards
  - Delete the reference to the ICC Electric Code
  - Delete the references to the International Plumbing Code in sections 903.3.5, 912.5, 221.2.32704.2.2.6 and insert the Illinois Plumbing Code.
  - Adopt the Appendix D Fire Apparatus Access Roads.

**6-1-7 ELECTRICAL CODE; AMENDMENTS.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the National Electrical Code – 2005 Edition – NFPA No. 70.

(A) **Additions, Insertions and Changes.**

- (1) Article 310.2(B) – Delete “aluminum, copper-clad aluminum, or”.
- (2) Article 314-3 shall be deleted and prohibited.
- (3) Article 394 – “concealed knob-and-tube wiring” shall be deleted and prohibited.

**6-1-8 ENERGY CONSERVATION CODE; AMENDMENTS.** The following provisions shall further apply and shall supersede any and all references listed within the adopted edition of the International Energy Conservation Code – 2003 Edition.

(A) **Additions, Insertions and Changes.**

- (1) Section 101.1 Insert “City of Macon”.
- (2) Referenced Standards
  - Delete the reference to the ICC Electric Code.

**6-1-9 INTERNATIONAL EXISTING BUILDING CODE; AMENDMENTS.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the International Existing Building Code – 2003 Edition.

(A) **Additions, Insertions and Changes.**

- (1) Section 101.1 Insert “City of Macon”.
- (2) Section 112 Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (3) Section 1201.2 Insert 1980.
- (4) Referenced Standards
  - Delete the reference to the ICC Electric Code.
  - Delete the references to the International Plumbing Code in sections 101.2, 410.2, 503.2, 610.1, 810.1, 810.2, 810.3, 810.5.
- (5) Add the following appendix.
  - Appendix A – Guidelines for Seismic Retrofit of Existing Buildings.
  - Appendix A-1 Seismic Strengthening Provisions for unreinforced masonry bearing wall construction.
  - Chapter A-2 Earthquake hazard reduction in existing reinforced concrete and reinforced masonry wall buildings with flexible diaphragms.
  - Chapter A-2 Exit Terminals of Mechanical Draft and Direct-Vent Systems.
  - Chapter A-3 Prescriptive provisions for seismic strengthening of cripple walls and sill plate anchorage of light, wood-frame residential buildings.

Chapter A-4 Earthquake hazard reduction in existing wood frame residential buildings with soft, weak or open front walls.

Chapter A-5 Earthquake hazard reduction in existing concrete buildings and concrete with masonry infill buildings Procedures for Safety Inspections of an Existing Appliance Installation.

Appendix B Supplementary accessibility requirements for existing buildings and facilities.

Resource A Guidelines on fire ratings of archaic materials and assemblies.

**6-1-10      RESIDENTIAL CODE; AMENDMENTS.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the International Residential Code – 2003 Edition.

(A)      **Additions, Insertions and Changes.**

- (1) Section R101.1 Insert "City of Macon".
- (2) Section 108 Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (3) Table: 301.2(1) the following information shall be inserted in the Table

Ground Snow Load	20
Wind Speed	3 second 90 normal 75
Seismic Condition	D-1
Subject to Damage from	
Weathering	SEVERE
Frost Line Depth	30 inches
Termite	MODERATE to HEAVY
Decay	SLIGHT to MODERATE
Winter Design Temperature	6 degrees
Ice Shield Underlayment	Yes
Flood Hazard	See local flood ordinance
Air Freezing Index	1000
Mean Annual Temp	55 degrees
- (4) Section R309.2 Separation Required: Delete words "one-half (1/2) inch gypsum board" and add "five-eighths (5/8) inch gypsum board".
- (5) Sections R403 and R404.3.3 all references to wood footings and foundations are deleted. The use of wood footings and foundations is prohibited.
- (6) Delete Chapters 25, 26, 27, 28, 29, 30, 31, and 32. Refer to State of Illinois Department of Public Health Plumbing Code of 1998.
- (7) Reference Standards  
Delete the reference to the ICC Electric Code.  
Delete the references to the International Plumbing Code in sections 104.11.
- (8) Adopt the following appendices.  
Appendix A Sizing and Capacities of Gas Piping  
Appendix B Sizing of Venting Systems  
Appendix C Exit Terminals of Mechanical Draft and Direct-Vent Systems  
Appendix F Radon Control Methods  
Appendix G Swimming Pools, Spas and Hot Tubs

**6-1-11      ILLINOIS PLUMBING CODE; AMENDMENTS.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the Illinois Plumbing Code – 2004 Edition.

(A)      **Additions, Insertions and Changes.**

- (1) There are no changes to the Illinois Plumbing Code.

**6-1-12**      **ILLINOIS ACCESSIBILITY CODE; AMENDMENTS.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the Illinois Accessibility Code – 1997 Edition.

(A)      **Additions, Insertions and Changes.**

- (1)      There are no changes to the Illinois Accessibility Code.

**6-1-13**      **LIMITATIONS ON CONSTRUCTION HOURS.**

(A)      **General Construction and Carpentry.** There shall be no outdoor construction or carpentry activities generating noise at any time other than the following:

- |                              |   |                        |
|------------------------------|---|------------------------|
| Monday through Friday        | - | 6:00 A.M. to 7:00 P.M. |
| Saturday                     | - | 7:00 A.M. to 5:00 P.M. |
| Sunday and National Holidays | - | 8:00 A.M. to 4:00 P.M. |

Construction activity for emergencies may be allowed during the restricted time periods only upon issuance of a permit by the Building Inspector or his designated representative.

(B)      **Operation of Heavy Construction Equipment, Trucks of Class D and Above Registration, Excavation and Demolition.** There shall be no operation of heavy construction equipment, or excavation or demolition activities involving the use of excavating or earth-moving equipment including loaders, back-hoes, jack hammers, or similar equipment on Sunday or National holidays or at any time other than the following:

- |                       |   |                        |
|-----------------------|---|------------------------|
| Monday through Friday | - | 7:00 A.M. to 5:00 P.M. |
| Saturday              | - | 8:00 A.M. to 5:00 P.M. |

Construction activity for emergencies may be allowed during the restricted time periods only upon issuance of a permit by the Building Inspector or his designated representative.

## ARTICLE II - MONOXIDE ALARM DETECTOR

### 6-2-1 DEFINITIONS.

**"Approved carbon monoxide alarm"** or **"alarm"** means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association.

**"Dwelling unit"** means a room or suite of rooms used for human habitation, and includes a single family residence as well as each living unit of a multiple family residence and each living unit in a mixed use building.

### 6-2-2 CARBON MONOXIDE DETECTOR.

(A) Every dwelling unit shall be equipped with at least **one (1)** approved carbon monoxide alarm in an operating condition within **fifteen (15) feet** of every room used for sleeping purposes. The carbon monoxide alarm may be combined with smoke detecting devices provided that the combined unit complies with the respective provisions of the administrative code, reference standards, and departmental rules relating to both smoke detecting devices and carbon monoxide alarms and provided that the combined unit emits an alarm in a manner that clearly differentiates the hazard.

(B) Every structure that contains more than one dwelling unit shall contain at least one approved carbon monoxide alarm in operating condition within **fifteen (15) feet** of every room used for sleeping purposes.

(C) It is the responsibility of the owner of a structure to supply and install all required alarms. It is the responsibility of a tenant to test and to provide general maintenance for the alarms within the tenant's dwelling unit or rooming unit, and to notify the owner or the authorized agent of the owner in writing of any deficiencies that the tenant cannot correct. The owner is responsible for providing one tenant per dwelling unit with written information regarding alarm testing and maintenance.

The tenant is responsible for replacement of any required batteries in the carbon monoxide alarms in the tenant's dwelling unit, except that the owner shall ensure that the batteries are in operating condition at the time the tenant takes possession of the dwelling unit. The tenant shall provide the owner or the authorized agent of the owner with access to the dwelling unit to correct any deficiencies in the carbon monoxide alarm that have been reported in writing to the owner or the authorized agent of the owner.

(D) The carbon monoxide alarms required under this Act may be either battery powered, plug-in with battery back-up, or wires into the structure's AC power line with secondary battery back-up.

### 6-2-3 VIOLATION.

(A) Willful failure to install or maintain in operating condition any carbon monoxide alarm required by this Article is a violation of **Section 1-1-20**.

(B) Tampering with, removing, destroying, disconnecting, or removing the batteries from any installed carbon monoxide alarm, except in the course of inspection, maintenance, or replacement of the alarm, is a Class A misdemeanor in the case of a first conviction and a Class 4 felony in the case of a second or subsequent conviction.

**6-2-4 EXEMPTIONS.** The following residential units shall not require carbon monoxide detectors:

(A) A residential unit in a building that:

- (1) does not rely on combustion of fossil fuel for heat, ventilation, or hot water;
- (2) is not connected in any way to a garage; and

(3) is not sufficiently close to any ventilated source of carbon monoxide, as determined by the local building commissioner, to receive carbon monoxide from that source.

(B) A residential unit that is not sufficiently close to any source of carbon monoxide so as to be at risk of receiving carbon monoxide from that source, as determined by the building inspector.

## **CHAPTER 7 - BUSINESS CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>SOLICITORS</i></b>	
	<i>Section 7-1-1 - Definitions</i>	<i>7-1</i>
	<i>Section 7-1-2 - Certificate of Registration</i>	<i>7-1</i>
	<i>Section 7-1-3 - Application for Certificate of Registration</i>	<i>7-1</i>
	<i>Section 7-1-4 - Issuance and Revocation of Certificate</i>	<i>7-2</i>
	<i>Section 7-1-5 - Policy on Soliciting</i>	<i>7-2</i>
	<i>Section 7-1-6 - Notice Regulating Soliciting</i>	<i>7-2</i>
	<i>Section 7-1-7 - Compliance by Solicitors</i>	<i>7-3</i>
	<i>Section 7-1-8 - Uninvited Soliciting Prohibited</i>	<i>7-3</i>
	<i>Section 7-1-9 - Time Limit on Soliciting</i>	<i>7-3</i>
	<i>Section 7-1-10 - Solicitations on Public Highways</i>	<i>7-3</i>
	<i>Section 7-1-11 - Fees</i>	<i>7-4</i>
<b><i>II</i></b>	<b><i>PEDDLERS</i></b>	
	<i>Section 7-2-1 - License Required</i>	<i>7-5</i>
	<i>Section 7-2-2 - Definition</i>	<i>7-5</i>
	<i>Section 7-2-3 - Applications</i>	<i>7-5</i>
	<i>Section 7-2-4 - Investigation of Applicants</i>	<i>7-5</i>
	<i>Section 7-2-5 - Hours</i>	<i>7-5</i>
	<i>Section 7-2-6 - Fraud</i>	<i>7-5</i>
	<i>Section 7-2-7 - Photographs</i>	<i>7-5</i>
	<i>Section 7-2-8 - Unwanted Peddling</i>	<i>7-6</i>
	<i>Section 7-2-9 - Peddlers as Nuisance</i>	<i>7-6</i>
	<i>Section 7-2-10 - Duty of Police to Abate</i>	<i>7-6</i>
	<i>Section 7-2-11 - Local Businesses and Farmers Excluded</i>	<i>7-6</i>
	<i>Section 7-2-12 - Fees</i>	<i>7-6</i>
<b><i>III</i></b>	<b><i>PEDDLERS</i></b>	
	<i>Section 7-3-1 - License Required</i>	<i>7-7</i>
	<i>Section 7-3-2 - Application</i>	<i>7-7</i>
	<i>Section 7-3-3 - Fee</i>	<i>7-7</i>
	<i>Section 7-3-4 - Expiration</i>	<i>7-7</i>
	<i>Section 7-3-5 - Display</i>	<i>7-7</i>
	<i>Section 7-3-6 - Revocation</i>	<i>7-7</i>
<b><i>IV</i></b>	<b><i>RACE TRACKS</i></b>	
	<i>Section 7-4-1 - License Required</i>	<i>7-8</i>
	<i>Section 7-4-2 - Application</i>	<i>7-8</i>
	<i>Section 7-4-3 - Location of Business</i>	<i>7-8</i>
	<i>Section 7-4-4 - Restriction on Number</i>	<i>7-8</i>
	<i>Section 7-4-5 - Post License</i>	<i>7-8</i>
	<i>Section 7-4-6 - Revoke License</i>	<i>7-8</i>
	<i>Section 7-4-7 - Operation of Track</i>	<i>7-8</i>
	<i>Section 7-4-8 - Other Regulations</i>	<i>7-9</i>
	<i>Section 7-4-9 - Inspections</i>	<i>7-9</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>V</i></b>	<b><i>RAFFLES AND POKER RUNS</i></b>	
	<i>Section 7-5-1 - Definitions</i>	<i>7-10</i>
	<i>Section 7-5-2 - Requirement of License</i>	<i>7-11</i>
	<i>Section 7-5-3 - Application for a License for a Raffle</i>	<i>7-11</i>
	<i>Section 7-5-4 - Application for a License for a Poker Run</i>	<i>7-12</i>
	<i>Section 7-5-5 - Licensee Qualifications</i>	<i>7-12</i>
	<i>Section 7-5-6 - License Issuance</i>	<i>7-13</i>
	<i>Section 7-5-7 - Conduct of Raffles and Poker Runs</i>	<i>7-14</i>
	<i>Section 7-5-8 - Manager – Bond for Raffles</i>	<i>7-14</i>
	<i>Section 7-5-9 - Records</i>	<i>7-14</i>
	<i>Section 7-5-10 - Limited Construction</i>	<i>7-15</i>
	<i>Section 7-5-11 - Prize Limitations; Term</i>	<i>7-15</i>
<b><i>VI</i></b>	<b><i>ADULT USE LICENSING AND REGULATION</i></b>	
	<i>Section 7-6-1 - Purpose</i>	<i>7-16</i>
	<i>Section 7-6-2 - Definitions</i>	<i>7-16</i>
	<i>Section 7-6-3 - License Required</i>	<i>7-18</i>
	<i>Section 7-6-4 - Issuance of License</i>	<i>7-19</i>
	<i>Section 7-6-5 - Liquor</i>	<i>7-19</i>
	<i>Section 7-6-6 - Fees</i>	<i>7-19</i>
	<i>Section 7-6-7 - Inspection</i>	<i>7-19</i>
	<i>Section 7-6-8 - Expiration of License</i>	<i>7-20</i>
	<i>Section 7-6-9 - Suspension</i>	<i>7-20</i>
	<i>Section 7-6-10 - Revocation</i>	<i>7-20</i>
	<i>Section 7-6-11 - Transfer of License</i>	<i>7-21</i>
	<i>Section 7-6-12 - Business Records</i>	<i>7-21</i>
	<i>Section 7-6-13 - Liquor License</i>	<i>7-21</i>
	<i>Section 7-6-14 - Adult Entertainment Cabarets – Restrictions</i>	<i>7-21</i>
	<i>Section 7-6-15 - Video Viewing Booths – Restrictions</i>	<i>7-21</i>
	<i>Section 7-6-16 - Hours of Operation</i>	<i>7-21</i>
	<i>Section 7-6-17 - Investigation</i>	<i>7-21</i>

## CHAPTER 7

### BUSINESS CODE

#### ARTICLE I – SOLICITORS

**7-1-1**        **DEFINITIONS.** For the purpose of this Chapter, the following words as used herein shall be construed to have the meanings herein ascribed thereto, to-wit:

**"REGISTERED SOLICITOR"** shall mean and include any person who has obtained a valid **Certificate of Registration** as hereinafter provided, and which certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

**"RESIDENCE"** shall mean and include every separate living unit occupied for residential purposes by **one (1)** or more persons, contained within any type of building or structure.

**"SOLICITING"** shall mean and include any **one (1)** or more of the following activities:

- (A)        Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatsoever or;
- (B)        Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication or;
- (C)        Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation or project.

**7-1-2**        **CERTIFICATE OF REGISTRATION.** Every person desiring to engage in soliciting as herein defined from persons within this Municipality is hereby required to make written application for a Certificate of Registration as hereinafter provided. All resident charitable, non-profit organizations in this City which have been in existence for **six (6) months or longer** shall be exempt from the provisions of this Article.

**7-1-3**        **APPLICATION FOR CERTIFICATE OF REGISTRATION.** Applications for a Certificate of Registration shall be made upon a form provided by the Chief of Police of this Municipality and filed with such Chief. The applicant shall truthfully state in full the information requested on the application, to-wit:

- (A)        Name and address of present place of residence and length of residence at such address; also, business address if other than residence address; also, Social Security Number.
- (B)        Address of place of residence during the past **three (3) years** if other than present address.
- (C)        Age of applicant and marital status; and if married, the name of spouse.
- (D)        Physical description of the applicant.
- (E)        Name and address of the person, firm or corporation or association with whom the applicant is employed or represents; and the length of time of such employment or representation.
- (F)        Name and address of employer during the past **three (3) years** if other than the present employer.
- (G)        Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.
- (H)        Period of time for which the Certificate is applied.
- (I)        The date or approximate date of the latest previous application for a Certificate under this Chapter, if any.



(J) Has a Certificate of Registration issued to the applicant under this Chapter ever been revoked?

(K) Has the applicant ever been convicted of a violation of any of the provisions of this Code or the regulations of any other Illinois municipality regulating soliciting?

(L) Has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States?

(M) The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application in this Municipality and the address from which such business was conducted in those municipalities.

(N) Also, such additional information as the Chief of Police may deem necessary to process the application.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The Chief of Police shall cause to be kept in his office an accurate record of every application received and acted upon, together with all other information and data pertaining thereto and all Certificates of Registration issued under the provisions of this Chapter and of the denial of applications.

Applications for Certificates issued shall be numbered in consecutive order as filed, and every Certificate issued and any renewal thereof shall be identified with the duplicate number of the application upon which it was issued.

No Certificate of Registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States within **five (5) years** of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Chapter, nor to any person whose Certificate of Registration issued hereunder has previously been revoked as herein provided.

**7-1-4** **ISSUANCE AND REVOCATION OF CERTIFICATE.** The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Certificate as herein required, and that the issuance of a Certificate of Registration to the applicant would not be in accord with the intent and purpose of this Code. Endorsement shall be made by the Chief of Police upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall be issued forthwith.

Any Certificate of Registration issued hereunder shall be revoked by the Chief of Police if the holder of the Certificate is convicted of a violation of any provision of this Chapter, or has made a false material statement in the application or otherwise becomes disqualified for the issuance of a Certificate of Registration under the terms of this Chapter. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the Certificate in person or by certified [return receipt requested] U. S. Mail, addressed to his or her residence address set forth in the application. Immediately upon the giving of such notice, the Certificate of Registration shall become null and void.

The Certificate of Registration shall state the expiration date thereof.

**7-1-5** **POLICY ON SOLICITING.** It is declared to be the policy of this Municipality that the occupant or occupants of the residences in this Municipality shall make the determination of whether solicitors shall be or shall not be invited to their respective residences.

**7-1-6** **NOTICE REGULATING SOLICITING.** Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Article shall comply with the following directions:

(A) Notice of the determination by the occupant of giving invitation to solicitors or the refusal of invitation to solicitors to any residence shall be given in the manner provided in paragraph (B) of this Section.

(B) A weatherproof card, approximately **three inches by five inches (3" x 5")** in size shall be exhibited upon or near the main entrance door to the residence indicating the determination by the occupant and containing the applicable words, as follows:

**"ONLY REGISTERED SOLICITORS INVITED"**

**OR**

**"NO SOLICITORS INVITED"**

(C) The letters shall be at least **one-third (1/3) inch** in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting the same, at the cost thereof.

(D) Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

**7-1-7 COMPLIANCE BY SOLICITORS.** It is the duty of every solicitor upon going onto any premises in this Municipality upon which a residence as herein defined is located to first examine the notice provided for in **Section 7-2-6** if any is attached and be governed by the statement contained on the notice.

If the notice states **"ONLY REGISTERED SOLICITORS INVITED,"** then the solicitor not possessing a valid Certificate of Registration as herein provided for shall immediately and peacefully depart from the premises; and if the notice states, **"NO SOLICITORS INVITED,"** then the solicitor, whether registered or not shall immediately and peacefully depart from the premises.

Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

**7-1-8 UNINVITED SOLICITING PROHIBITED.** It is declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of **Section 7-1-6.**

**7-1-9 TIME LIMIT ON SOLICITING.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to **10:00 A.M. or after 5:00 P.M.** on any day of the week, including Saturday, or at any time on a Sunday or on a State or National holiday.

**7-1-10 SOLICITATIONS ON PUBLIC HIGHWAYS.** Charitable organizations shall be allowed to solicit upon public highways under the following terms and conditions:

(A) The charitable organization must be one that is registered with the Attorney General for the State of Illinois as a charitable organization as provided by **"An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes, Providing for Violations Thereof, and Making an Appropriation Therefor," approved July 26, 1963,** as amended.

(B) Solicit only at intersections where all traffic from all directions is required to come to a full stop.

(C) Be engaged in a state-wide fund-raising activity.

(D) Be liable for any injury to any person or property during the solicitation which is causally related to an act of ordinary negligence of the soliciting agent.

(E) Any person so engaged in such solicitation shall be at least **sixteen (16) years of age** and shall wear a high visibility vest.

(F) Solicit only during daylight hours.

(G) Any one charitable organization shall be limited to conducting no more than **two (2)** solicitations per calendar year.

**(626 ILCS 5/11-1006)**

**7-1-11 FEES.** Upon making an application for a Certificate, the applicant shall pay a license fee, which shall be as follows:

(A) **Daily License:** **\$10.00 per person per day.**

(B) **Annual License:** **\$50.00 per person per year.**

**(65 ILCS 5/11-42-5)**

## ARTICLE II - PEDDLERS

**7-2-1**        **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor. All licenses shall be applied for **forty-eight (48) hours** in advance of any hawking or peddling activity.

**7-2-2**        **DEFINITION.** "**Peddle**" shall mean the selling, bartering, or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways, or public places of this Municipality or from house-to-house, whether at one place thereon or from place-to-place, from any wagon, truck, pushcart, or other vehicle or from movable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall '**peddle**' be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

**7-2-3**        **APPLICATIONS.** A person desiring a license may obtain the same by making application with the Clerk and providing the following information:

- (A)            Name and physical description of applicant.
- (B)            Permanent home and address and local address if operating from such an address.
- (C)            A brief description of the business and of the goods to be sold.
- (D)            Name and address of the employer, if any.
- (E)            The length of time for which the right to do business is desired.
- (F)            Evidence that the agent is acting on behalf of the corporation he represents.
- (G)            Statement of the applicant's criminal record other than a traffic record.
- (H)            The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application to this Municipality and the address from which such business was conducted in those municipalities.

**7-2-4**        **INVESTIGATION OF APPLICANTS.** Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

**7-2-5**        **HOURS.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to engage in peddling as herein defined prior to **10:00 A.M.** or after **5:00 P.M.** on any day of the week, including Saturday, or at any time on a Sunday or on a State or National holiday.

**7-2-6**        **FRAUD.** No licensed peddler or hawker shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee while acting as a peddler in this Municipality, or shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license.

**7-2-7**        **PHOTOGRAPHS.** **Two (2) photographs** of the applicant and such of its employees as will be used in the peddling or merchandising, taken within **sixty (60) days** immediately

prior to the filing of the application, which pictures shall be **two inches by two inches (2" x 2")**, showing the head and shoulders of the applicant or its agent(s) and/or employee(s) in a clear and distinguishing manner.

**7-2-8            UNWANTED PEDDLING.** Nothing contained in this Chapter, nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents or employees are directed to depart from said private residence by the owner or person in charge thereof.

**7-2-9            PEDDLERS AS NUISANCE.** The practice of going in and upon private residences, business establishments or offices in the Municipality by peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

**7-2-10          DUTY OF POLICE TO ABATE.** The Police Department of this Municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in **Section 7-2-9.**

**7-2-11          LOCAL BUSINESSES AND FARMERS EXCLUDED.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the Municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the Municipality or anyone duly licensed.

**7-2-12          FEES.** The license fees per person to be charged for licenses to peddle in this Municipality, each payable in advance, are hereby fixed and established as follows:

(A)            **Daily License:                            \$10.00 per person per day**

**(65 ILCS 5/11-42-5)**

**(Ord. No. 2017-09-11-2)**

## **ARTICLE III – GAMING TERMINAL REGULATIONS**

### **7-3-1      LICENSE REQUIRED.**

(A) The owner of the video gaming terminal shall obtain a license, issued by the City, for every such device.

(B) It shall be unlawful for any person to install, keep, maintain or use or permit the installation, keeping, maintenance or use upon his premises of any video gaming terminal unless a valid license issued under this Article is in effect for the video gaming terminal.

(C) It shall be unlawful for any person to deliver video gaming terminals within the City for use by any other person for gain or profit from the operation thereof unless a license therefor has been issued by the City and the license fee has been paid for the current year.

**7-3-2      APPLICATION.** Applications for the license required by this Article shall be filed with the City Clerk and shall contain the following information:

(A) the name, address, age and date of birth of the owner of the video gaming terminal and of the owner of the establishment where the video gaming terminal shall be located.

(B) Prior criminal convictions of the owner of the video gaming terminal and the owner of the establishment, if any.

(C) The place where the video gaming terminal is to be displayed or operated and the business conducted at that place.

(D) Description of the video gaming terminal to be covered by the license.

(E) Evidence that licenses have been issued by the Illinois Gaming Board to the owner of the video gaming terminal and the owner of the establishment.

**7-3-3      FEE.** The annual fee for the license required by this Article shall be **Twenty-Five Dollars (\$25.00)** per machine. The fee shall be nonrefundable.

**7-3-4      EXPIRATION.** Licenses issued pursuant to this Article shall terminate on the **fourth (4<sup>th</sup>) Tuesday of May** the next year following issuance. The fees for license issued on a date other than the **fourth (4<sup>th</sup>) Tuesday of May** shall be *pro rata*.

**7-3-5      DISPLAY.** The license required by this Article shall be prominently displayed on the video gaming terminal.

**7-3-6      REVOCATION.** The Mayor, at any time, may notify any licensee under this Article of any charge of violation of any of the provisions of this Article in connection with the operation of any video gaming terminal. After a hearing presided over by the Mayor, the Mayor, upon finding that the violation has occurred, may order that a fine be paid or may order the revocation of the license and the license shall thereupon be terminated. The licensee may appeal the revocation in writing within **ten (10) days** of the issuance of the order. The appeal shall state the reasons the licensee feels the fine or termination order was issued in error.

**(Ord. No. 8-13-2012-1)**

## ARTICLE IV - RACE TRACKS

**7-4-1      LICENSE REQUIRED.** No person, firm or corporation shall operate a race track within the City limits without having a license for the location to be used. Licenses shall be issued for the period from **April 1** of each year through **October 15** of each year. All licenses shall expire **October 15** next after issuance.

**7-4-2      APPLICATION.** Application shall be made in writing by filing same with the City Clerk not less than **thirty (30) days** prior to **April 1** of each year, and shall be delivered by the City Clerk to the City Council for action. The application shall show the name, age and address of an individual applicant, and of the persons entitled to participate in the profits if a partnership applicant, and the objects, and the names and addresses of the officers and directors if a corporate applicant, and whether or not **one (1) person** owns a controlling interest in such corporation; the application shall also show the location and description of the premises where such race track will be operated and whether or not any previous similar license has been applied for, the place of application and the disposition of such application, and if revoked, the reason therefor.

**7-4-3      LOCATION OF BUSINESS.** The location of a licensee's place of business may be changed only upon the written permit issued by the City Council. No change shall be permitted except to a location permitted under the Zoning Code of the City, and all other ordinances of the City.

**7-4-4      RESTRICTION ON NUMBER.** The total number of race track licenses is hereby restricted to **one (1)**.

**7-4-5      POST LICENSE.** Every person licensed in accordance with the provisions of this Chapter shall immediately post and keep posted, while in force, in a conspicuous place on the premises, the license so issued. Whenever such license shall be lost or destroyed a duplicate in lieu thereof shall be issued by the City Clerk upon the direction of the City Council.

**7-4-6      REVOKE LICENSE.** The City Council may revoke or suspend any license issued under this Chapter for the violation of any provision hereof, and for the violation of any State, Federal or Municipal law pertaining to the operation of race tracks after notice and hearing as required by law. No person whose license to operate a race track in the City, has been suspended under the terms of this Chapter shall be permitted to apply for a new license to operate a race track under this Chapter, during the same calendar year in which suspension occurred.

**7-4-7      OPERATION OF TRACK.** All operations of race tracks under this Chapter shall be conducted as follows:

(A) The licensed premises shall not be operated as a race track for more than **one (1) night** per week, said night being Saturday night of the week, plus **eight (8)** extra nights per year during the effective period of the license. In addition to the races on Saturday night during each week of operation, the **eight (8)** extra nights may be used as follows: **Six (6) races** may be held and **two (2)** extra events (with prior approval of the Council); however, total operation dates of the race track shall not exceed **thirty-two (32)** during the effective period of any license. The license holder shall request and obtain permission before staging any event, other than automobile races. Permission shall be at the sole discretion of the City Council.

(B) Operation of a race track under this Chapter shall be between the hours of **six o'clock (6:00) P.M.** and **twelve o'clock (12:00) Midnight** on the authorized days and shall be concluded at **twelve o'clock (12:00) Midnight** on any day of operation on the licensed premises, and said premises shall be closed and vacated by the hour of Midnight on said day, except that officials of the licensee and interested drivers may remain for an additional period not to exceed **one (1) hour**, if necessary, to determine the outcome of a race. Lights are to be extinguished at or before **1:00 A.M.** Operation of a race may commence before **six o'clock (6:00) P.M.**, provided the holder of the license has requested and obtained permission of the City Council before such early commencement. **(Ord. No. 11-12-2001-3)**

(C) Operation of a race track under this Chapter shall not be carried on unless the licensee has present on the licensed premises at all times during such operation at least **two (2)** identified uniformed security people, whose duties are exclusively crowd control, and who are furnished at the expense of licensee. The City Council shall be furnished with the names, addressees and other pertinent information for each such security person.

**7-4-8            OTHER REGULATIONS.** Nothing in this Chapter shall excuse or relieve the owner, proprietor or person in charge of any race track from restrictions and requirements of any other applicable ordinances of the City or the Statutes of the State of Illinois.

**7-4-9            INSPECTIONS.** The holder of a race track license is hereby required to make available for inspection by police officers and by members of the City Council any part of the premises used for race track purposes.

**(Ord. No. 82-D-2; 04-12-82)**



## ARTICLE V – RAFFLES AND POKER RUNS

**7-5-1 DEFINITIONS.** The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(A) **"Business":** A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

(B) **"Charitable Organization":** An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

(C) **"Educational Organization":** An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

(D) **"Fraternal Organization":** An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

(E) **"Hardship":** A non-profit fundraising organization that has not been in existence continuously for a period of **five (5) years** immediately before making application for a license that the County determines to be organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident, or disaster.

(F) **"Key Location":** The location where the poker run concludes and the prize or prizes are awarded.

(G) **"Labor Organization":** An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

(H) **"Licensee":** An organization which has been issued a license to operate a raffle.

(I) **"Net Proceeds":** The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle or poker run.

(J) **"Non-Profit":** An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation.

(K) **"Poker Run":** A prize-awarding event organized by an organization licensed under this Article in which participants travel to multiple predetermined locations, including a key location, to play a randomized game based on an element of chance. "Poker run" includes dice runs, marble runs, or other events where the objective is to build the best hand or highest score by obtaining an item or playing a randomized game at each location.

(L) **"Raffle":** A form of lottery, as defined in Section 28-2(b) of the Criminal Code of 2012, conducted by an organization licensed under this Act, in which:

- (1) the player pays or agrees to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;
- (2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

(M) **"Religious Organization":** Any church, congregation, society, or organization founded for the purpose of religious worship.

(N) **"Veterans' Organization":** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

#### **7-5-2            REQUIREMENT OF LICENSE.**

(A) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a raffle, or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

(B) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a poker run without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

#### **7-5-3            APPLICATION FOR A LICENSE FOR A RAFFLE.**

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a raffle shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and age of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
- (5) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
- (6) The maximum retail value of each prize awarded by a licensee in a single raffle;
- (7) The maximum price which may be charged for each raffle chance issued or sold;
- (8) The maximum number of days during which chances may be issued or sold;
- (9) The area in which raffle chances will be sold or issued;
- (10) The time period during which raffle chances will be sold or issued;
- (11) The date, time, and name and address of the location or locations at which winning chances will be determined;
- (12) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (13) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a raffle shall be accompanied by a non-refundable **Twenty-Five Dollar (\$25.00)** filing fee. Such fee shall be paid by cash, credit card or cashier's check. The City Clerk shall refer the application to the Mayor.

**NOTE: The governing statute states that all licensing systems for raffles shall provide for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle, (2) the maximum retail value of each prize awarded by a licensee in a single raffle, (3) the maximum price which may be charged for each raffle chance issued or sold and (4) the maximum number of days during which chances may be issued or sold. Some counties have provided for different classes of raffle licensed based upon such factors as the value of the prizes. These licenses have certain restrictions (maximum amount charged for a raffle chance) and license fees for each class of license. Other counties have different classes of license based upon what type of raffle: general raffle license (multiple drawings on same day and at same location within confines of the same raffle event); multiple raffle license (example: multiple 50/50 drawings within 12 month period); one time emergency license; limited annual raffle license.**

#### **7-5-4**

#### **APPLICATION FOR A LICENSE FOR A POKER RUN.**

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a poker run shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B)

Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle or poker run, i.e., religious, charitable, labor, fraternal, educational, veterans or other not-for-profit organization;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, and any other members responsible for the conduct and operation of the raffle or poker run;
- (5) The name, address, and telephone number of all locations at which the poker run will be conducted;
- (6) The time period during which the poker run will be conducted;
- (7) The time of determination of winning chances and the location or locations at which the winning chances will be determined;
- (8) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (9) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.
- (10) The purpose for which the poker run is being conducted.

(C)

An application for a license to conduct or operate a poker run shall be accompanied by a non-refundable **Twenty-Five Dollar (\$25.00)** filing fee. Such fee shall be paid by cash, cashier's check, or credit card. The City Clerk shall refer the application to the Mayor.

#### **7-5-5**

#### **LICENSEE QUALIFICATIONS.**

(A) Raffle licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objects, or to a non-profit fundraising organization that the Mayor determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

(B) Poker run licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational, veterans', or other bona fide not-for-profit organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5)**

**years** immediately before making application for a poker run license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objects.

(C) The Mayor may waive the **five (5) year** requirement under this Section for a bona fide religious, charitable, labor, business, fraternal, educational, or veterans' organization that applies for a license to conduct a raffle or poker run if the organization is a local organization that is affiliated with and chartered by a national or State organization that meets the **five (5) year** requirement. The following are ineligible for any raffle or poker run license;

- (1) Any person who has been convicted of a felony;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any person who is not of good moral character;
- (4) Any organization in which a person defined in subsection (1), (2) or (3) of this Section has a proprietary, equitable, or credit interest or in which such person is active or employed;
- (5) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is an officer, director, or employee, whether compensated or not; and
- (6) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is to participate in the management or operation of a poker run as defined in this Section.

#### **7-5-6            LICENSE ISSUANCE.**

(A) The Mayor shall review all raffle license applications and all poker run license applications. The Mayor shall, within **thirty (30) days** from the date of application, accept or reject a raffle or poker run license application. If an application is accepted, the Mayor shall forthwith issue a raffle or poker run license to the applicant.

(B) A raffle license or poker run license shall specify:

- (1) The area or areas within the County in which raffle chances will be sold or issued or a poker run will be conducted;
- (2) The time period during which raffle chances will be sold or issued or a poker run will be conducted; and
- (3) The time of determination of winning chances and the location or locations at which the winning chances will be determined.

(C) A poker run license shall be issued for the following purposes:

- (1) Providing financial assistance to an identified individual or group of individuals suffering extreme hardship as the result of an illness, disability, accident, or disaster; or
- (2) To maintain the financial stability of the organization.

(D) Any license issued under this Article shall be non-transferable.

(E) A license shall be valid for one raffle event or one poker run only, unless the Mayor specifically authorized a specified number of raffles or poker runs to be conducted during a specified period not to exceed **one (1) year**.

(F) A raffle license or poker run license may be suspended or revoked for any misrepresentation on the application, any violation of this Article or State law, or when such raffle or poker run or portion thereof is conducted so as to constitute a public nuisance or to disturb the peace, health, safety or welfare.

(G) **Prominent Display of License.**

- (1) A raffle license shall be prominently displayed at the time and location of the determination of the winning chances.
- (2) A poker run license shall be prominently displayed at each location at which the poker run is conducted or operated.

(H) **Miscellaneous Provision for Poker Run License.** Any poker run license issued shall cover the entire poker run, including locations other than the key location. Each license issued shall include the name and address of each location at which the poker run will be conducted.

**7-5-7**

(A)  
restrictions:

**CONDUCT OF RAFFLES AND POKER RUNS.**

The operation and conduct of raffles and poker runs are subject to the following

- (1) The entire net proceeds of any raffle or poker run must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- (2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle or poker run.
- (3) No person may receive any remuneration or profit for participating in the management or operation of the raffle or poker run.
- (4) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Article. A premises where a poker run is held is not required to obtain a license if the name and location of the premises is listed as a predetermined location on the license issued for the poker run and the premises does not charge for use of the premises.
- (5) Raffle chances may be sold or issued only within the area specified on the raffle license and winning chances may be determined only at those locations specified on the license for a raffle. A playing card or equivalent item may be drawn only within the area specified on the poker run license and winning hands or scores may be determined only at those locations specified on said license.
- (6) A person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances or poker runs only with the permission of a parent or guardian. A person under the age of **eighteen (18) years** may be within the area where winning chances in a raffle or winning hands or scores in a poker run are being determined only when accompanied by his parent or guardian.

(B) If a lessor rents premises where a winning chance on a raffle or a winning hand or score in a poker run is determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the City.

**7-5-8**

**MANAGER – BOND FOR RAFFLES.**

(A) All operations of and conduct of raffles shall be under the supervision of a single poker run manager designated by the organization. The manager or operator of the raffle must be a bona fide member of the organization holding the license for such a raffle and may not receive any remuneration or profit for participating in the management or operation of the raffle.

(B) The manager shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** conditioned upon his/her honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the City not less than **thirty (30) days** prior to its cancellation.

(C) The Mayor is authorized to waive this bond requirement by including a waiver provision in the license issued to an organization under this Article provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

**7-5-9**

**RECORDS.**

(A) Each organization licensed to conduct raffles and chances or poker runs shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances in a raffle or winning hands or scores in a poker run are determined. All deductions from the gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other

reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffles or poker runs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles or poker runs. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles or poker runs shall not be the same person who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles or poker runs shall report promptly after conclusion of each raffle or poker run to its membership.

(D) Each organization licensed to conduct raffles shall report promptly to the City Clerk, its gross receipts, expenses and net proceeds from raffles, and the distribution of net proceeds itemized as required by this Section.

(E) Records required by this Section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of poker runs for public inspection at reasonable times and places.

(F) The City shall maintain the records required by this Section in compliance with the "Raffles and Poker Runs Act" and the Local Records Act, **50 ILCS 205/1 et seq.**

**7-5-10 LIMITED CONSTRUCTION.** Nothing in this Article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity, or device other than raffles or poker runs as provided for herein.

**7-5-11 PRIZE LIMITATIONS; TERM.**

(A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle or poker run shall not exceed **Five Hundred Thousand Dollars (\$500,000.00)**;

(B) The maximum retail value of each prize awarded by a licensee in a single raffle or single poker run shall not exceed **Five Hundred Thousand Dollars (\$500,000.00)**;

(C) The maximum price which may be charged for each raffle chance issued or sold or each poker hand shall not exceed **One Hundred Dollars (\$100.00)**;

(D) The maximum number of days during which chances may be issued or sold or poker hands issued or sold shall not exceed **one hundred twenty (120) days**;

(E) Licenses issued pursuant to this Code shall be valid for **one (1) raffle** and may be suspended or revoked for any violation of this Code;

(F) Raffle chances shall be sold only within the boundaries of the County and the boundaries of any municipality;

(G) Licenses shall be issued to bona fide religious, charitable, labor, fraternal, educational, or veterans' organizations that operate without profit to their members, and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objectives;

(H) The above-mentioned types of organizations shall be defined pursuant to **230 ILCS 15/.01 et seq.**, being the Raffles and Poker Run Act;

(I) No person, or organization shall be issued more than **one (1) license** in a period of **one (1) week**;

(J) The manager of a raffle game or poker run shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** in favor of the organization conditioned upon his honesty in the performance of his duties. The Mayor or his designated representative is authorized to waive requirement for bond by including a waiver provision in the license issued, provided that the license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization. The terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than **thirty (30) days** prior to its cancellation.

## ARTICLE VI – ADULT USE LICENSING AND REGULATION

**7-6-1**        **PURPOSE.** The purpose of this Article is to regulate adult uses to protect the community from the many types of criminal activity frequently associated with such uses. The City recognizes that such regulation cannot effectively prohibit such uses, but can balance the competing interest of the community in reducing criminal activity and protecting property values versus the protected rights of the owners, operators, employees and patrons of adult uses.

**7-6-2**        **DEFINITIONS.**  
(A)        **Adult Bookstore.** An establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such materials, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(B)        **Adult Entertainment Cabaret.** A public or private establishment which:  
(1)        features topless dancers, strippers, "go-go" dancers, male or female impersonators, lingerie or bathing suit fashion shows;  
(2)        not infrequently features entertainers who display "specified anatomical areas"; or  
(3)        features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in explicit simulation of "specified sexual activities".

(C)        **Adult Motion Picture Theater.** A building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(D)        **Adult Novelty Store.** An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing "novelties", lotions and other items distinguished or characterized by their emphasis on or use for "specialized sexual activities" or "specified anatomical areas" or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(E)        **Nudity.** Nudity means the showing of the human male or female genitals, pubic area, female breasts with less than a full opaque covering below a point immediately above the top of the areola, human male genitals in a discernibly turgid state even if completely and opaquely covered or, that portion of the buttocks which would be covered by a properly worn "thong" type bikini bottom.

(F)        **Public Place.** Public place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, nightclubs, country clubs, cabarets and meeting facilities utilized by social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. Public places shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors offices, churches, synagogues or similar places when used for circumcisions, baptisms or similar religious ceremonies, portions of hospitals and similar places in which nudity or exposure is necessarily and

customarily expected outside of the home; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the State; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or a university supported entirely or partly by taxation or an accredited private college.

(G) **Adult Use.** Adult bookstores, adult motion picture theaters, adult entertainment cabarets, adult clubs allowing nudity at regular or frequent times, adult novelty stores and other similar uses.

(H) **Employee.** Employees, independent contractors or any other person who is retained by the licensee or subject to dismissal from working at the licensed premises.

(I) **Specified Sexual Activities.** For the purpose of this Article, "specified sexual activities" means:

- (1) human genitals in the state of sexual stimulation or arousal;
- (2) acts of human masturbation, sexual intercourse or sodomy; and
- (3) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

(J) **Specified Criminal Activity.** For the purpose of this Article, "specified anatomical areas" means:

- (1) less than completely and opaquely covered:
  - (a) human genitals;
  - (b) pubic region;
  - (c) buttocks;
  - (d) female breasts below a point immediately above the top of the areola; and
- (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(K) **Specified Criminal Activity.** Specified criminal activity means any of the following offenses:

- (1) Prostitution or promotion of prostitution; dissemination of obscenity; sale distribution or display of harmful material to a minor; sexual performance by a minor; possession or distribution of child pornography; public lewdness; public indecency; indecency with a child; engaged in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
- (2) For which:
  - (a) less than **two (2) years** have elapsed since the date of conviction or the date of release from confinement imposed for the conviction which is the later date, if the conviction is of a misdemeanor offense;
  - (b) less than **five (5) years** have elapsed since the date of conviction or the date of release from confinement for conviction, whichever is the later date, if the conviction is a felony offense; or
  - (c) less than **five (5) years** have elapsed since the date of the last conviction or the date of release from confinement from the last conviction, whichever is the later date, if the convictions are of **two (2)** or more misdemeanor offenses or combination of misdemeanor offenses occurred within any **twenty-four (24) month** period; and
- (3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.



### **7-6-3**

### **LICENSE REQUIRED.**

(A) It shall be unlawful for any person to operate an adult use without a valid adult use business license issued by the City pursuant to this Article.

(B) An application for a license shall be made on a form provided by the City.

(C) All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as is needed to enable the City to determine whether the applicant meets the qualifications established in this Article.

(D) If a person who wishes to operate an adult use is an individual, the person must sign the application for a license as applicant. If the applicant is a club, consisting of private or public membership, then such entity shall also be licensed under this Article. If a person who wishes to operate an adult use is other than an individual or club, each individual who has a **twenty percent (20%)** or greater interest in the business, including corporations, must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if the license is granted.

(E) The completed application for an adult use business license shall contain the following information:

- (1) If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is **eighteen (18) years** of age;
- (2) If the applicant is a club, consisting of private or public membership, a copy of the by-laws of the club must be submitted with the application. In addition, a sworn statement as to the purposes, general activities and requirement for club membership must be submitted.
- (3) If the applicant is a partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any; and
- (4) If the applicant is a corporation, the corporation shall state its complete name, the date of incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal shareholders, (those with a **twenty percent (20%)** or more stake) and the name and address of the registered corporate agent.

(F) If the applicant intends to operate the adult use business under a name other than that of the application, he/she must state:

- (1) the business' fictitious name and
- (2) submit any required registration documents.

(G) Whether the applicant has been convicted of any specified criminal activity as defined in this Article, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(H) Whether the applicant has had a previous license under this Article or similar ordinances from another jurisdiction denied, suspended or revoked, including the name and location of the business which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation. If the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under this Article or similar ordinance in another jurisdiction and a license has previously been denied, suspended or revoked, include the name and location of the business for which the permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation.

(I) Whether the applicant holds any other licenses under this Article or other similar ordinance from another jurisdiction and if so, the names and locations of such other licensed businesses.

(J) A sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business. This sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

**7-6-4**

**ISSUANCE OF LICENSE.**

(A) Within **thirty (30) days** after receipt of a completed adult use business license application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license unless it determines, by a preponderance of the evidence, any one or more of the following:

- (1) The applicant is under **eighteen (18) years** of age;
- (2) The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business;
- (3) The applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application form;
- (4) The applicant has been denied a license by the City to operate an adult use business within the preceding **twelve (12) months** or whose license to operate an adult use business has been revoked within the preceding **twelve (12) months**;
- (5) The applicant has been convicted of a specified criminal activity defined in this Article.
- (6) The premises to be used for adult use business has not been inspected and approved by the Fire Department and the Building Department as being in compliance with applicable laws and ordinances.
- (7) The license fee required by this Article has not been paid.
- (8) The applicant of the proposed establishment is in violation or in not in compliance with all of the provisions of this Article.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult use business. All licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(C) The Fire Department and Code Enforcement Officers shall complete their inspection certification that the premises is in compliance or not in compliance with City codes within **twenty (20) days** of receipt of the application by the City.

(D) No adult use business license shall be issued unless it meets all criteria set forth in the Zoning Code. However, an adult use business license may be issued for a premises which is a legal nonconforming use which has not yet been amortized or for a premises where such amortization is being challenged by litigation.

(E) No signs, advertising or other notice to the public may be given for any premises where adult use is conducted, pursuant to this Article.

**7-6-5**

**LIQUOR.** No liquor license shall be issued to a licensee or to premises where adult use is conducted, nor shall liquor be sold, given away or allowed to be consumed on the premises where any adult use is conducted.

**7-6-6**

**FEES.** Every application for an adult use business license (whether a new license or for renewal of an existing license) shall be accompanied by a **Seven Hundred Fifty Dollar (\$750.00)** non-refundable application and investigation fee.

**7-6-7**

**INSPECTION.**

(A) An applicant or licensee shall permit representatives of the Police Department, Fire Department, Building Department or other City or City designated departments or agencies to inspect the premises of the adult use for the purpose of ensuring compliance with the provisions of this Article at any time it is occupied or open for business.

(B) A person who operates an adult use or his agent or employee violates this Article is he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

**7-6-8                    EXPIRATION OF LICENSE.**

(A) Each license shall expire on the **January 1** after it was issued and may be renewed only by making application as provided in **Section 7-6-4**. Application for renewal shall be made at least **thirty (30) days** before the expiration date and when made less than **thirty (30) days** before the expiration date, the expiration of license will not be affected.

(B) If the City denies renewal of a license, the applicant shall not be issued a license for **one (1) year** from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the license has been corrected or abated, the applicant may be granted a license.

**7-6-9                    SUSPENSION.** The City may suspend a license for a period not to exceed **thirty (30) days** if, after a hearing, it determines that a licensee or an employee of a licensee:

- (A) violated or is not in compliance with any section of this Article;
  - (B) refused to allow an inspection of the adult use business premises as authorized by this Article, or
  - (C) knowingly permitted gambling by any person on the adult use business premises.
- If the licensee or an employee of the licensee has been found guilty in a court of law of a violation of this Article, no hearing is necessary prior to suspension of the license.

**7-6-10                    REVOCATION.**

(A) The City shall revoke a license if a cause of suspension in **Section 7-6-8** above occurs and the license has been suspended within the preceding **twelve (12) months** or if the licensee is convicted of any specified criminal activity.

(B) The City may revoke a license if it determines, after a hearing, that:

- (1) A licensee gave false or misleading information in the material submitted during the application process;
- (2) A licensee or management personnel has knowingly allowed possession, use or sale of alcohol or controlled substances on the premises;
- (3) A licensee or management personnel has knowingly allowed prostitution on the premises;
- (4) A licensee or management personnel knowingly operated the adult use business during a period of time when the licensee's license was suspended;
- (5) A licensee or management personnel has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises;
- (6) A licensee is delinquent in payment to the City, County or State for any taxes or fees past due;
- (7) A licensee or management personnel has knowingly facilitated another's commission of the offense of public indecency; or
- (8) The adult use is a public nuisance as defined by statute, ordinance or case law.

(C) If the City revokes a license, the revocation shall continue for **one (1) year** and the licensee shall not be issued an adult use business license for **one (1) year** from the date the revocation became effective. If subsequent to revocation, the City finds that the factual basis for the revocation did not occur, the applicant may be granted a license.

(D) After denial of an application, or denial of a renewal of an application, or suspension or a revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

**7-6-11            TRANSFER OF LICENSE.** A licensee shall not transfer his/her license to another nor shall a license operate an adult use business under the authority of a license at any place other than the address on the license.

**7-6-12            BUSINESS RECORDS.** All adult uses shall file a verified report with the City showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult uses shall maintain and retain for a period of **two (2) years**, the names, addresses and ages of all persons employed, including independent contractors, by the licensee.

**7-6-13            LIQUOR LICENSE.** No adult use may be issued a liquor license. Nor shall any establishment with a liquor license operate as an adult use.

**7-6-14            ADULT ENTERTAINMENT CABARETS – RESTRICTIONS.** All dancing or other performances shall occur on a stage intended for that purpose which is raised at least **two (2) feet** from the level of the floor. No dancing or other performance shall occur closer than **ten (10) feet** to any patron. In addition, no dancer or performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any dancer or performer. No patron shall directly pay or give any gratuity to any dancer or performer and no dancer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to dancers or performers by placing the gratuity on the stage.

**7-6-15            VIDEO VIEWING BOOTHS – RESTRICTIONS.** No booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment shall have doors, curtains or portal partitions, but all such booths, stalls or partitioned portions or a room or individual rooms so used shall have at least **one (1) side** open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the view of the motion pictures or other offered entertainment.

**7-6-16            HOURS OF OPERATION.** No adult use shall be open prior to **10:00 A.M.** or after **2:00 A.M.**

**7-6-17            INVESTIGATION.** Any licensee hereunder shall permit law enforcement officials, free and unlimited access to the premises during hours of operation, upon reasonable request, for the purposes of investigating compliance with the provisions of this Article.

## **CHAPTER 8 – COMMUNICATIONS SERVICES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>FRANCHISE</i></b>	
	<i>Section 8-1-1 - Definition of Terms</i>	<i>8-1</i>
	<i>Section 8-1-2 - Grant of Franchise</i>	<i>8-2</i>
	<i>Section 8-1-3 - Standards of Service</i>	<i>8-2</i>
	<i>Section 8-1-4 - Regulation by Franchising Authority</i>	<i>8-4</i>
	<i>Section 8-1-5 - Compliance and Monitoring; Books and Records</i>	<i>8-5</i>
	<i>Section 8-1-6 - Insurance, Indemnification, and Bonds or Other Surety</i>	<i>8-5</i>
	<i>Section 8-1-7 - Enforcement and Termination of Franchise</i>	<i>8-6</i>
	<i>Section 8-1-8 - Unauthorized Reception</i>	<i>8-7</i>
	<i>Section 8-1-9 - Miscellaneous Provisions</i>	<i>8-7</i>
<b><i>II</i></b>	<b><i>NEW WAVE CABLE FEE</i></b>	
	<i>Section 8-2-1 - Fee Imposed</i>	<i>8-8</i>
	<i>Section 8-2-2 - Payment Due</i>	<i>8-8</i>
	<i>Section 8-2-3 - Defined</i>	<i>8-8</i>
	<i>Section 8-2-4 - Calculation of Fee</i>	<i>8-8</i>
<b><i>III</i></b>	<b><i>FIBER OPTIC INTERNET SERVICE INFRASTRUCTURE</i></b>	
	<i>Section 8-3-1 - Grant of Non-Exclusive Franchise</i>	<i>8-9</i>
	<i>Section 8-3-2 - Internet Service to the City</i>	<i>8-9</i>
	<i>Section 8-3-3 - Term</i>	<i>8-9</i>
	<i>Section 8-3-4 - Scope of Non-Exclusive Franchise</i>	<i>8-9</i>
	<i>Section 8-3-5 - Indemnification</i>	<i>8-9</i>
	<i>Section 8-3-6 - Insurance Requirements</i>	<i>8-10</i>
	<i>Section 8-3-7 - Assignment</i>	<i>8-10</i>
	<i>Section 8-3-8 - Location and Construction of Infrastructure</i>	<i>8-10</i>
	<i>Section 8-3-9 - Permits Required</i>	<i>8-10</i>
	<i>Section 8-3-10 - Restoration Upon Completion of Work</i>	<i>8-11</i>
	<i>Section 8-3-11 - Relocation of Infrastructure</i>	<i>8-11</i>
	<i>Section 8-3-12 - Removal of Infrastructure</i>	<i>8-11</i>
	<i>Section 8-3-13 - Emergencies</i>	<i>8-11</i>
	<i>Section 8-3-14 - Service to Businesses and Residences</i>	<i>8-11</i>
	<i>Section 8-3-15 - Cable Service Franchise; Reopener</i>	<i>8-11</i>
	<i>Section 8-3-16 - Termination</i>	<i>8-12</i>
	<i>Section 8-3-17 - Compliance with Law</i>	<i>8-12</i>
	<i>Section 8-3-18 - No Joint Venture</i>	<i>8-12</i>
	<i>Section 8-3-19 - Severability</i>	<i>8-12</i>
	<i>Section 8-3-20 - Entire Agreement</i>	<i>8-12</i>
	<i>Section 8-3-21 - Amendment</i>	<i>8-12</i>
	<i>Section 8-3-22 - Execution</i>	<i>8-12</i>
	<i>Section 8-3-23 - Heading</i>	<i>8-12</i>

## CHAPTER 8

### COMMUNICATIONS SERVICES

#### ARTICLE I – CABLE TELEVISION FRANCHISE

**8-1-1 DEFINITION OF TERMS.** For the purpose of this Chapter, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

**"Affiliate"** means an entity which owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.

**"Basic Cable"** means the tier of Cable Service regularly provided to all Subscribers that includes the retransmission of local broadcast television signals.

**"Cable Service"** means (i) the one-way transmission to Subscribers of Video Programming or other programming service, and (ii) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service.

**"Cable System"** means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other equipment that is designed to provide Cable Service or other service to Subscribers.

**"FCC"** means Federal Communications Commission, or successor governmental entity thereto.

**"Franchise"** means the initial authorization, or renewal thereof, issued by Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to Subscribers.

**"Franchising Authority"** means the City of Macon, IL 62544 or the lawful successor, transferee, or assignee thereof.

**"Grantee"** means Cequel III Communications, LLC d/b/a Cebridge Connections or the lawful successor, transferee, or assignee thereof.

**"Gross Revenues"** means the monthly revenues for the provision of Cable Service received by Grantee from Subscribers located within the Service Area. "Gross Revenues" does not include: (i) any revenues received from any advertising carried on the Cable System; (ii) any taxes or fees on Cable Service which are imposed directly or indirectly on any Subscriber by any governmental unit or agency, and which are collected by Grantee on behalf of such governmental unit or agency; (iii) any revenues derived from services sold on a per channel or per view basis; or (iv) any revenues derived from installation or repair charges.

**"Person"** means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.

**"Public Way"** means any easement now or hereafter held by Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle Franchising Authority and Grantee to the use thereof for the purposes of installing or transmitting Grantee's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System.

**"Service Area"** means the present municipal boundaries of Franchising Authority and shall include any additions thereto by annexation or other legal means.

**"Subscriber"** means a user of the Cable System who lawfully receives Cable Service or other service there from with Grantee's express permission.

**"Video Programming"** means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

### **8-1-2**

#### **GRANT OF FRANCHISE.**

(A) **Grant.** Franchising Authority hereby grants to Grantee a nonexclusive Franchise which authorizes Grantee to construct and operate a Cable System and offer Cable Service and other service in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System.

(B) **Term.** The Franchise granted pursuant to this Chapter shall be for a term of **fifteen (15) years** from the passed and adopted date of the Franchise unless otherwise lawfully terminated in accordance with the terms of this Chapter.

(C) **Acceptance.** Grantee shall accept the Franchise granted pursuant hereto by signing this Chapter and filing same with the Municipal Clerk or other appropriated official or agency of Franchising Authority within **sixty (60) days** after the passage and final adoption of this Chapter.

(D) **Favored Nations.** In the event Franchising Authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any Person other than Grantee to enter into Franchising Authority's streets and public ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

(E) **Renewal of Franchise.** The Grantee shall notify the Franchising Authority in writing, not less than **three (3) months** prior to expiration of this Franchise of its intent regarding renewal of the Franchise.

### **8-1-3**

#### **STANDARDS OF SERVICE.**

(A) **Conditions of Street Occupancy.** All transmission and distribution structures, poles, other lines, and equipment installed or erected by Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

(B) **Restoration of Public Ways.** If during the course of Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

(C) **Relocation at Request of Franchising Authority.** Upon its receipt of reasonable advance notice, not to be less than **thirty (30) days**, Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of Grantee when lawfully required by Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway, and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by Franchising Authority; but, Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to Grantee.

(D) **Relocation at Request of Third Party.** Grantee shall, on the request of any Person holding a building moving permit issued by Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided: (1) the expense of such temporary raising or lowering of wires is paid by such Person, including, if required by Grantee, making such payment in advance; and (2) Grantee is given not fewer than **ten (10) business days** advance written notice to arrange for such temporary wire changes.

(E) **Trimming of Trees and Shrubbery.** Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with Grantee's wires, cables, or other equipment. Grantee shall reasonably compensate Franchising Authority or property owner for any damages caused by such

trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the System undertaken by Grantee.

(F) **Safety Requirements.** Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Service Area.

(G) **Aerial and Underground Construction.** In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Nothing contained in this paragraph (G) shall require Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this paragraph (G), in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Chapter, Grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

(H) **Required Extensions of Service.** The Cable System, as constructed as of the date of the passage and final adoption of this Chapter, substantially complies with the material provisions hereof. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least **fifteen (15)** Subscribers within **one thousand three hundred twenty (1320)** cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to such Subscribers for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided for under paragraph (I) of this Section.

(I) **Subscriber Charges for Extensions of Service.** No Subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a Subscriber's request to locate his cable drop underground, existence of more than **one hundred fifty (150) feet** of distance from distribution cable to connection of service to Subscribers, or a density of fewer than **fifteen (15)** Subscribers per **one thousand three hundred twenty (1320)** cable-bearing strand feet of trunk or distribution cable, Cable Service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. Potential subscribers shall bear the costs of the construction and other costs on a *pro rata* basis. Grantee may require payment in advance of the capital contribution in aid of construction borne by such potential subscribers.

(J) **Service to Public Buildings.** Grantee shall provide without charge **five (5) outlets** of Basic Cable to Franchising Authority's office building(s) and public school building(s) that are passed by its Cable System. The outlets of Basic Cable shall not be used to distribute or sell Cable Service in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold Grantee harmless from any and all liability or claims arising out of their use of such outlets, including, but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this paragraph (J), Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to such buildings or premises exceeds **one hundred fifty (150) cable feet**, unless it is technically feasible and it will not adversely affect the operation, financial condition, or market development of the Cable System to do so,



or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of **one hundred fifty (150) cable feet**. In the event that additional outlets of Basic Cable are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials. Upon request of Grantee, the building owner may also be required to pay the service fees associated with the provision of Basic Cable and the additional outlets relating thereto.

(K) **Customer Service Standards.** Grantee shall operate its facilities and provide its services in accordance with the Federal Communications Commission Customer Service Standards which are incorporated herein by reference. Upon request by the Franchising Authority and no more than once per quarter, the Grantee shall provide data showing whether its facilities or services have met the Federal Communications Commission Customer Service Standards.

#### **8-1-4**

(A)

#### **REGULATION BY FRANCHISING AUTHORITY.**

##### **Franchise Fee.**

(1) Grantee shall pay to Franchising Authority a franchise fee equal to **three percent (3%)** of Gross Revenues from the provision of Cable Services within the Franchise Area received by Grantee on a quarterly basis; provided, however, that Grantee may credit against any such payments: (a) any tax, fee, or assessment of any kind imposed by Franchising Authority other than violations of the Municipal Code, on a cable operator, or Subscriber, or both, solely because of their status as such; for the purpose of this Section, the **three (3) month** period applicable under the Franchise for the computation of the franchise fee shall be a calendar quarter, unless otherwise agreed to in writing by Franchising Authority and Grantee. The franchise fee payment shall be due and payable **sixty (60) days** after the close of the preceding calendar quarter. Each payment shall be accompanied by a letter from a representative of Grantee showing the basis for the computation. Review of the Grantee's books and records under the provisions of **Section 8-1-5** below shall be allowed upon written request, in order to audit compliance with the Grantee's payment of the franchise fee.

(2) **Limitation on Franchise Fee Actions.** Subject to the Grantee allowing timely review of its books and records, the period of limitation for recovery of any franchise fee payable hereunder shall be **three (3) years** from the date on which payment by Grantee is due. Unless within **three (3) years** from and after such payment due date Franchising Authority initiates a lawsuit for recovery of franchise fees in a court of competent jurisdiction, recovery shall be barred and Franchising Authority shall be stopped from asserting any claims whatsoever against Grantee relating to alleged franchise fee deficiencies.

(B) **Rates and Charges.** Franchising Authority may not regulate the rates for the provision of Cable Service or other service, including, but not limited to, ancillary charges relating thereto, except as expressly provided herein and except as may be authorized pursuant to federal and state law. From time to time, and at any time, Grantee has the right to modify its rates and charges, at its discretion and without consent of Franchising Authority, unless such consent is allowed under either federal or state law, including, but not limited to, the implementation of additional charges and rates; provided, however, that Grantee shall give notice to Franchising Authority of any such modifications or additional charges **thirty (30) days** prior to the effective date thereof.

(C) **Conditions of Sale.** Except to the extent expressly required by federal or state law, if a renewal or extension of the Franchise is denied or the Franchise is lawfully terminated, and Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern.

Grantee and Franchising Authority agree that in the case of a lawful revocation of the Franchise, at Grantee's request, which shall be made in its sole discretion, Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. Franchising Authority further agrees that during such a period of time, it shall authorize Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than **six (6) months** from the effective date of such revocation. If, at the end of that time, Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to Franchising Authority, Grantee and Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that Grantee's continued operation of its Cable System during the **six (6) month** period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either Franchising Authority or Grantee. Notwithstanding anything to the contrary set forth in this Section, neither Franchising Authority nor Grantee shall be required to violate federal or state law.

(D) **Transfer of Franchise.** All of the rights and privileges and all of the obligations, duties and liabilities created by this Franchise shall pass to and be binding upon the successors of the Franchising Authority and the successors and assigns of Grantee; and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld; provided, however, that this Section shall not prevent the assignment or hypothecation of the Franchise by Grantee as security for debt without such approval; and provided further that transfers or assignments of this Franchise between any parent and subsidiary corporation or between entities of which at least **fifty percent (50%)** of the beneficial ownership is held by the same person, persons, or entities which are controlled or managed by the same person, persons, or entities, shall be permitted without the prior approval of the Franchising Authority ("intra-company transfers"). Grantee shall notify Franchising Authority in writing within **thirty (30) days** of the closing of such intra-company transfer.

**8-1-5 COMPLIANCE AND MONITORING; BOOKS AND RECORDS.** Grantee agrees that Franchising Authority may review such of Grantee's books and records, during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records include, but are not limited to, any public or financial records required to be kept by Grantee pursuant to the rules and regulations of the FCC or those necessary for an audit under the terms and provision of **Section 8-1-4(A)** above. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. Franchising Authority agrees to treat any information disclosed to it by Grantee as confidential, and to disclose it only to employees, representatives, and agents of Franchising Authority that have a need to know, or in order to enforce the provisions hereof.

**8-1-6 INSURANCE, INDEMNIFICATION, AND BONDS OR OTHER SURETY.**  
(A) **Insurance Requirements.** Grantee shall maintain in full force and effect during the term of the Franchise, at its own cost and expense, Comprehensive General Liability Insurance in the amount of **One Million Dollars (\$1,000,000.00)**. Such insurance shall designate Franchising Authority as an additional insured. A certificate of insurance showing compliance with the provisions of this Section shall be provided to the Municipality.

(B) **Indemnification.** Grantee agrees to indemnify, save and hold harmless, and defend Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death) which arise out of Grantee's construction, operation or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs.

(C) **Bonds and Other Surety.** Except as expressly provided herein, Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. Franchising Authority acknowledges that the legal, financial, and technical qualifications of Grantee are sufficient to afford compliance with the terms of the Franchise and

the enforcement thereof. Grantee and Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for Cable Service or other service. In order to minimize such costs, Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefor. Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than **Ten Thousand Dollars (\$10,000.00)**, conditioned upon the substantial performance of the material terms, covenants, and conditions of the Franchise. Initially, no bond or other surety shall be required. In the event that one is required in the future, Franchising Authority agrees to give Grantee at least **sixty (60) days** prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in Grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Franchise or afford compliance therewith.

**8-1-7                    ENFORCEMENT AND TERMINATION OF FRANCHISE.**

(A)                    **Notice of Violation.** In the event that Franchising Authority believes that Grantee has not complied with the terms of the Franchise, it shall notify Grantee in writing of the exact nature of the alleged default.

(B)                    **Grantee's Right to Cure or Respond.** Grantee shall have **sixty (60) days** from receipt of the notice described in **Section 8-1-7(A)**:

- (1) to respond to Franchising Authority contesting the assertion of default;
- (2) to cure such default; or
- (3) in the event that, by the nature of the default, such default cannot be cured within the **sixty (60) day** period, to initiate reasonable steps to remedy such default and to notify Franchising Authority of the steps being taken and the projected date that they will be completed.

(C)                    **Public Hearing.** In the event that Grantee fails to respond to the notice described in **Section 8-1-7(A)** pursuant to the procedures set forth in **Section 8-1-7(B)**, or in the event that the alleged default is not remedied within **one hundred twenty (120) days** after Grantee is notified of the alleged default pursuant to **Section 8-1-7(A)**, Franchising Authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of Franchising Authority which is scheduled at a time which is no fewer than **five (5) business days** therefrom. Franchising Authority shall notify Grantee of the time and place of such meeting and provide Grantee with an opportunity to be heard.

(D)                    **Enforcement.** Subject to applicable federal and state law, in the event Franchising Authority determines, after such meeting, that Grantee is in default of any provision of the Franchise, Franchising Authority may:

- (1) Foreclose on all or any part of any security provided under the Franchise, if any, including, without limitation, any bonds or other surety; provided, however, that the foreclosure shall only be in such a manner and in such amount as Franchising Authority reasonably determines is necessary to remedy the default;
- (2) Commence an action at law for monetary damages or seek other equitable relief;
- (3) In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or
- (4) Seek specific performance of any provision which reasonably lends itself to such remedy, as an alternative to damages.

Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of Franchising Authority to enforce prompt compliance.

(E)                    **Acts of God.** Grantee shall not be held in default of the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such alleged default is caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

**8-1-8                    UNAUTHORIZED RECEPTION.** Instances of unauthorized reception shall be referred to the Macon County Sheriff's Department for follow-up and possible prosecution.

**8-1-9                    MISCELLANEOUS PROVISIONS.**

(A)                    **Preemption.** If the FCC or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the Franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by Franchising Authority, the jurisdiction of Franchising Authority shall cease and no longer exist.

(B)                    **Employment Requirements.** Grantee shall afford equal opportunity in employment to all qualified persons. No person shall be discriminated against in employment because of race, color, religion, national origin or sex. Grantee shall maintain and carry out a continuing program of specific practices designed to assure equal opportunity in every aspect of its employment policies and practices.

(C)                    **Actions of Franchising Authority.** In any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

(D)                    **Notice.** Unless expressly otherwise agreed between the parties, every notice or response to be served upon Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party **five (5) business days** after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service.

The notices or responses to Franchising Authority shall be addressed as follows:

City of Macon  
PO Box 349  
Macon, Illinois 62544

Express Delivery or Packages Only:  
1039 Woodcock Road  
Macon, Illinois 62544

The notices or responses to Grantee shall be addressed as follows:

Cequel III Communications, LLC d/b/a Cebridge Connections  
Attention: Michael Zarrilli  
12444 Powerscourt Drive  
Suite 450  
St. Louis, MO 63131

Franchising Authority and Grantee may designate such other address or addresses from time to time by giving written notice to the other party.

(E)                    **Descriptive Headings.** The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

(F)                    **Severability.** If any section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which shall remain in full force and effect for the term of the Franchise.

**(Ord. No. 01-09-2006-2)**

## **ARTICLE II – NEW WAVE CABLE FEE**

**8-2-1        FEE IMPOSED.** Telecommunications Management LLC, dba NewWave shall pay an annual service provider fee to the City in an amount equal to **three percent (3%)** of annual gross revenues derived from the provision of cable or video service to households located within the City. The **twelve (12) month** period for the computation of the service provider fee shall be a calendar year.

**8-2-2        PAYMENT DUE.** The service provider fee payment shall be due quarterly and payable within **forty-five (45) days** after the close of the preceding calendar quarter. Each payment shall be accompanied by a brief report prepared by a representative of Telecommunications Management LLC, dba NewWave showing the basis for the computation. If mailed, the fee shall be considered paid on the date it is postmarked.

**8-2-3        DEFINED.** For purposes of the calculation of the service provider fee, “gross revenues” shall mean consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by Telecommunications Management LLC, dba NewWave for the operation of its cable system to provide cable system to provide cable or video service within the City, including the following: (i) recurring charges for cable service or video service; (ii) event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges; (iii) rental of set-top boxes and other cable service or video service equipment; (iv) service charges related to the provision of cable serviced or video service, including, but not limited to, activation, installation, and repair charges; (v) administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges; (vi) late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments; (vii) a pro rata portion of all revenue derived by the cable system from advertising or for promotion or exhibition of any products or services; and (viii) a pro rata portion of compensation derived by the cable system from the promotion or exhibition of any products or services sold by “home shopping” channels or similar services carried by the cable system.

**8-2-4        CALCULATION OF FEE.** For purposes of the calculation of the service provider fee, “gross revenues” shall not include: (i) revenues not actually received, even if billed, such as bad debt; (ii) the service provider fee or any tax, fee or assessment of general applicability; (iii) any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, voice over internet protocol (VoIP) services, information services, the provision of directory or Internet advertising, or any other revenues attributed to noncable service or non-video service in accordance with the Telecommunication Management LLC dba NewWave’s books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders; (vi) security deposits collected from subscribers, or (vii) any amounts paid by subscribers to “home shopping” or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

**(Ord. No. 20180709-1; 07-09-18)**

### **ARTICLE III – FIBER OPTIC INTERNET SERVICE INFRASTRUCTURE**

**8-3-1            GRANT OF NON-EXCLUSIVE FRANCHISE.** The City hereby grants ACTS a non-exclusive franchise to construct, maintain, and operate internet service infrastructure in, over, under, across, and through the public rights-of-way of the City. This non-exclusive franchise is granted for the sole purpose of allowing ACTS to provide internet service to its customers. The granting of this non-exclusive franchise shall not prohibit the City from granting other non-exclusive franchises or making other uses of the City's rights-of-way. The granting of this non-exclusive franchise shall in no way interfere with the City's use of the rights-of-way for any purpose.

**8-3-2            INTERNET SERVICE TO THE CITY.**

(A) In exchange for the non-exclusive franchise granted herein, ACTS shall provide internet service to all City government facilities without charge for the duration of this Agreement.

(B) ACTS shall provide internet services in a reasonable and workmanlike manner in accordance with standards established within the internet service provider community.

(C) The City acknowledges and agrees that the internet services provided under this Agreement are subject to, and may be limited by, routine maintenance, use of internet services by other subscribers, weather conditions, acts of God, and other unforeseen circumstances. Further, internet services may be limited by conditions affecting the internet at locations not owned or controlled by ACTS.

(D) ACTS will provide internet service to the City at a rate of 250 megabytes per second.

(E) EXCEPT TO THE EXTENT EXPRESSLY PROVIDED HEREIN, ACTS DOES NOT WARRANT THE QUALITY OF THE INTERNET SERVICES PROVIDED UNDER THE TERMS OF THIS AGREEMENT, OR THE ACCURACY, CORRECTNESS, OR RESULTS OF SAID SERVICES. THE INTERNET SERVICES PROVIDED UNDER THIS AGREEMENT SHALL NOT CONTAIN ANY WARRANTIES, EXPRESS OR IMPLIED. THE INTERNET SERVICES ARE PROVIDED ON AN "AS IS, AS AVAILABLE" BASIS.

(F) The City shall be solely responsible for protecting its data and network accessibility while using internet services provided by ACTS.

**8-3-3            TERM.** The initial term of this Agreement shall be for a period of **ten (10) years**, commencing on the Effective Date. This Agreement may be renewed by mutual agreement of the parties for a successive period of **ten (10) years** provide that ACTS makes a written request for renewal not more than **three hundred sixty-five (365) days** nor less than **one hundred eighty (180) days** prior to the expiration of the current term.

**8-3-4            SCOPE OF NON-EXCLUSIVE FRANCHISE.** The non-exclusive franchise granted herein shall extend to and include only those portions of streets, alleys, avenues, sidewalks, and other public ways as may be necessary to carry out the purpose of the non-exclusive franchise. ACTS shall have the privilege to construct, operate, and maintain underground conduits, subways and vaults, and place wires and cables therein, and to make all necessary excavations therefore, in, over, under, across, and through all or any of the portions of the streets, alleys, avenues, sidewalks, and other public ways. ACTS shall have the privilege to utilize existing City-owned infrastructure (if any) within the public rights-of-way as may be specifically approved by City in writing in order to construct, maintain, and operate internet service infrastructure with the least interference with the public use of said rights-of-way.

**8-3-5            INDEMNIFICATION.** ACTS hereby agrees to indemnify, defend, and hold harmless the City, its Mayor, officers, elected official, employees, and insurance carriers, individually and collectively, from all losses, claims, suits, judgments, demands, expenses, subrogation, attorney's fees,

costs or actions of any kind and nature resulting from personal injury to any person, including employees of ACTS or any contractor or subcontractor employed by ACTS, including bodily injury and death. ACTS further agrees to indemnify, defend, and hold harmless the same parties for damages to any property, arising or alleged to have arisen out of the acts or omissions of ACTS, its contractors, subcontractors, officers, agents, and employees while exercising any rights or privileges granted by this Agreement. The terms and provisions of this Section are intended to be for the sole benefit of City and ACTS and are not intended to benefit any third party.

### **8-3-6 INSURANCE REQUIREMENTS.**

(A) During all terms of this Agreement ACTS shall maintain a comprehensive general liability insurance policy at its sole expense issued by a company authorized to do business in the State of Illinois. Said policy shall name City as an additional insured and shall include underground property damage coverage. Said policy shall protect City against liability for loss occurring as a result of bodily injury and property damage occasioned by the installation, removal, maintenance, repair, or operation of the internet service infrastructure which is the subject of this Agreement. Said policy shall maintain the following minimum coverage:

- |     |  |                |
|-----|--|----------------|
| (1) | Each occurrence (bodily injury and property damage): | \$1,000,000.00 |
| (2) | General Aggregate:                                   | \$3,000,000.00 |

(B) ACTS shall maintain workers compensation insurance in the minimum amount required under Illinois law during all terms of this Agreement.

(C) On or before the Effective Date, ACTS shall provide City with a certificate of insurance evidencing insurance policies which comply with the requirements of this Agreement, and thereafter promptly upon City's reasonable request.

**8-3-7 ASSIGNMENT.** The rights granted to ACTS by this Agreement shall not be sold or transferred without the express written consent of the City.

### **8-3-8 LOCATION AND CONSTRUCTION OF INFRASTRUCTURE.**

(A) Internet service infrastructure constructed, maintained, and operated by ACTS within City rights-of-way shall be located and constructed so as not to:

- (1) Interfere with usual travel of automobiles and/or pedestrians;
- (2) Interfere with the rights or reasonable convenience of property owners who adjoin public rights-of-way;
- (3) Interfere with access or use of any water or fire hydrant;
- (4) Obscure the vision of or installation of any traffic control device;
- (5) Obscure light from any street light;
- (6) Cross any water or sewer line except at a 90-degree angle;
- (7) Damage irrigation, landscaping, or trees owned or maintained by City;
- (8) Damage any communications lines owned or maintained by City;
- (9) Place internet service infrastructure in paved sidewalk area unless specifically authorized by City.

(B) Prior to construction, ACTS will consult with City concerning the proposed routing of internet service infrastructure for City's approval in order to minimize utility conflicts.

(C) If ACTS violates the requirements of this Section, City shall notify ACTS in writing and ACTS shall remediate the violation within **seven (7) days**.

**8-3-9 PERMITS REQUIRED.**

(A) ACTS shall submit written proposals to and obtain written permits from City prior to the installation of any poles, underground conduits, or fixtures.

(B) Any excavation or other work performed by ACTS or its agents in public rights-of-way shall be done in compliance with City's permit requirements.

**8-3-10            RESTORATION UPON COMPLETION OF WORK.**

(A) Immediately upon completion of any work within public rights-of-way, ACTS shall refill and compact any trench or excavation to the satisfaction of City.

(B) Within **ten (10) days** from completion of any work within public rights-of-way, ACTS shall restore or replace at its sole expense any pavement, sidewalk, curb, gutter, grass, landscaping material, or structure damaged in the course of its work to the satisfaction of City.

(C) Within **ten (10) days** from completion of any work within public rights-of-way, ACTS shall restore or replace at its sole expense any public or private property which is disturbed or damaged to the satisfaction of the respective public entity or property owner.

(D) If ACTS fails to comply with the requirements of this Section, City may perform the restoration work and ACTS shall reimburse City for all costs incurred.

**8-3-11            RELOCATION OF INFRASTRUCTURE.** Whenever a public right-of-way or other public property is being constructed, paved, resurfaced, relocated, or otherwise altered or improved, and existing ACTS internet service infrastructure would interfere with that work, City shall provide ACTS **thirty (30) days** written notice to remove or relocate the infrastructure within the public right-of-way. ACTS shall remove or relocate such infrastructure at its sole expense.

**8-3-12            REMOVAL OF INFRASTRUCTURE.** Upon the expiration or termination of this Agreement (and if the parties have not executed a new agreement), ACTS, upon mutual agreement of the parties, shall:

(A) Remove ACTS's internet service infrastructure from the City's rights-of-way at its sole expense and restore and surrender all disturbed public rights-of-way and any other premises belonging to the City to the satisfaction of the City; or

(B) Without cost or charge to the City, abandon ACTS's internet service infrastructure in place, but only if the City first approves the proposed abandonment, in writing, including conditions applicable to the abandonment; or

(C) Sell ACTS's internet service infrastructure to a qualified third party subject to the City's prior written approval, which will not be unreasonably withheld.

**8-3-13            EMERGENCIES.** The City retains the right and responsibility to cut or remove any internet service infrastructure located within the rights-of-way or public ways of the City as the City may determine to be necessary, appropriate, and useful in response to any public safety or health emergency in those situations where ACTS is unable to relocate its facilities. In the instance of a public safety or health emergency, the city shall have no obligation to reimburse ACTS of the cost of restoration of services or equipment provided by ACTS in the rights-of-way or public ways. The City shall notify ACTS as soon as possible, but in no event more than **twenty-four (24) hours** from the time that it has cut or removed any facilities located within the rights-of-way or public ways.

**8-3-14            SERVICE TO BUSINESSES AND RESIDENCES.** ACTS will provide service to businesses and residences with the City at rates ranging from 25 megabytes per second to 1 gigabyte per second depending on the service or plan selected by each individual business or residence.

**8-3-15            CABLE SERVICE FRANCHISE; REOPENER.** ACTS represents and warrants that it does not hold any franchise issued by the City for the provision of "cable service" to persons or



areas in the City, as defined in 47 U.S.C. § 522(6), and ACTS shall not provide such service until and unless ACTS obtains a franchise issued by the City in accordance with **Section 8-3-15(A)** below. The parties may reopen, renegotiate, and amend this Agreement if any of the following occurs:

(A) If ACTS desires to provide any "cable service" to persons or areas within the City, as defined by 47 U.S.C. § 522(6), the parties may amend this Agreement to include terms of the franchise agreement, including payment by ACTS of a franchise fee to the City.

(B) If Federal, State, or local laws, regulations, or requirements regarding the provision of internet and/or interstate information services or this Agreement impose any unforeseen cost or expense on the City, the parties shall amend this Agreement to allocate the costs or expenses among the parties.

**8-3-16      TERMINATION.** In the event of a material breach of this Agreement, the non-breaching party shall provide written notice of the alleged breach. Upon receipt of said notice, the breaching party shall have **thirty (30) days** to cure or take substantial steps to cure the breach. If the breaching party fails to cure or take substantial steps to cure the breach within **thirty (30) days**, the non-breaching party may elect to terminate this Agreement immediately by providing written notice of its election to the breaching party.

**8-3-17      COMPLIANCE WITH LAW.** All work performed by ACTS or its agents pursuant to this Agreement shall be performed in compliance with all federal, state, and local laws, regulations, or ordinances.

**8-3-18      NO JOINT VENTURE.** Nothing herein shall be deemed to create a joint venture or principal-agent relationship between City and ACTS.

**8-3-19      SEVERABILITY.** If any provision or subpart of this Agreement is held to be invalid by any tribunal of competent jurisdiction, such part shall be deemed automatically adjusted, if possible. If not, the provision shall be deemed severed from the Agreement, and all other provisions and subparts shall remain in full force and effect.

**8-3-20      ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties. Any representations, promises or statements not set forth in this Agreement are of no force and effect, and have not been relied upon.

**8-3-21      AMENDMENT.** This Agreement may only be amended by a written instrument signed by each party hereto.

**8-3-22      EXECUTION.** This Agreement may be executed in any number of counterparts, and sent as "pdf" and by e-mail, each of which shall be deemed an original and which, taken together, shall constitute the full Agreement.

**8-3-23      HEADINGS.** The headings assigned to designate subparts of this Agreement are for organizational purposes only, and do not constitute any binding legal effect.

**(Ord. No. 2020-05; 02-10-20)**

## **CHAPTER 11 – EMPLOYEE POLICIES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>I</b>	<b>PURPOSE</b>	
	Section 11-1-1 - Purpose	11-1
<b>II</b>	<b>GENERALLY</b>	
	Section 11-2-1 - Definitions	11-2
<b>III</b>	<b>PRE-EMPLOYMENT VERIFICATION POLICY</b>	
	Section 11-3-1 - Pre-Employment Verification Policy	11-3
	Section 11-3-2 - General Policy	11-3
	Section 11-3-3 - Required Verifications	11-3
	Section 11-3-4 - Optional Verifications	11-3
<b>IV</b>	<b>HIRING POLICY</b>	
	Section 11-4-1 - Requirements	11-4
	Section 11-4-2 - Residency Requirements	11-4
	Section 11-4-3 - Application Forms	11-4
	Section 11-4-4 - Promotions	11-4
	Section 11-4-5 - Probationary Period	11-4
<b>V</b>	<b>WAGES AND CLASSIFICATIONS</b>	
	Section 11-5-1 - Wages	11-5
<b>VI</b>	<b>HOURS OF WORK</b>	
	Section 11-6-1 - Work Week	11-6
	Section 11-6-2 - Lunch	11-6
	Section 11-6-3 - Time and Attendance	11-6
	Section 11-6-4 - Holiday Pay	11-6
<b>VII</b>	<b>LEAVES</b>	
	Section 11-7-1 - Leave	11-7
	Section 11-7-2 - Illness or Injury at Work	11-7
	Section 11-7-3 - Maternity and Reasonable Accommodation	11-7
	Section 11-7-4 - Sick Leave	11-8
	Section 11-7-5 - Leave of Absence	11-8
<b>VIII</b>	<b>OTHER BENEFITS</b>	
	Section 11-8-1 - Illinois Municipal Retirement Fund	11-11
	Section 11-8-2 - Insurance	11-11
	Section 11-8-3 - Training	11-11
	Section 11-8-4 - Death Benefits	11-12

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IX</b>	<b>REGULATIONS AND RESTRICTIONS</b>	
	Section 11-9-1 - Accidents/Injuries	11-13
	Section 11-9-2 - Appearance	11-13
	Section 11-9-3 - Use of Department Property	11-13
	Section 11-9-4 - Telephone Usage	11-13
	Section 11-9-5 - Correspondence and Communications	11-13
	Section 11-9-6 - Smoking	11-13
	Section 11-9-7 - Photo I.D.'s	11-14
	Section 11-9-8 - Speech and Dissemination of Information	11-14
	Section 11-9-9 - Relations with Creditors	11-14
	Section 11-9-10 - Possession of Fire Arms	11-14
	Section 11-9-11 - Ethics	11-14
	Section 11-9-12 - Other Employment	11-14
	Section 11-9-13 - Physical Examinations	11-15
	Section 11-9-14 - Reimbursement of Cost of Training	11-15
	Section 11-9-15 - Prescription Drug Use	11-15
	Section 11-9-16 - Drug Free Workplace	11-15
	Section 11-9-17 - Rights of Employees	11-15
<b>X</b>	<b>RIGHTS OF EMPLOYER</b>	
	Section 11-10-1 - City's Rights	11-17
	Section 11-10-2 - Length of Service	11-17
	Section 11-10-3 - Exemptions	11-17
	Section 11-10-4 - Discipline	11-17
	Section 11-10-5 - Grievance Procedure	11-19
	Section 11-10-6 - Layoffs	11-20
	Section 11-10-7 - Resignation	11-20
<b>XI</b>	<b>DRUG FREE WORKPLACE POLICY</b>	
	Section 11-11-1 - Drug Free Workplace	11-21
	Section 11-11-2 - Purpose of Policy	11-21
	Section 11-11-3 - Drug Free Workplace Statement	11-21
	Section 11-11-4 - Violations	11-21
	Section 11-11-5 - Employee Assistance	11-21
	Section 11-11-6 - Status of Employment; Rehab Costs	11-21
<b>XII</b>	<b>COMPUTER USAGE POLICY</b>	
	Section 11-12-1 - Computer Usage Procedure	11-22
<b>XIII</b>	<b>ELECTRONIC COMMUNICATIONS</b>	
	Section 11-13-1 - Policy; Introduction/Purpose	11-23
	Section 11-13-2 - Policy Definitions	11-23
	Section 11-13-3 - Ownership	11-23
	Section 11-13-4 - Use of Electronic Communications	11-23
	Section 11-13-5 - Prohibited Communications	11-24
	Section 11-13-6 - No Presumption of Policy	11-24
	Section 11-13-7 - City's Right to Monitor Use	11-24

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>XIII</b>	<b>ELECTRONIC COMMUNICATIONS (CONTINUED)</b>	
	Section 11-13-8 - Prohibited Activities	11-25
	Section 11-13-9 - Passwords	11-25
	Section 11-13-10 - Internet Usage	11-25
	Section 11-13-11 - Records Retained	11-26
	Section 11-13-12 - Records Disposal	11-26
	Section 11-13-13 - Accessing User E-Mail During Absence	11-26
	Section 11-13-14 - Firewalls and Network Protection	11-26
	Section 11-13-15 - Password Protection	11-26
	Section 11-13-16 - Viruses and Tampering	11-27
	Section 11-13-17 - Disclaimer of Liability for Use of the Internet	11-27
	Section 11-13-18 - Duty Not to Waste Electronic Communications Resources	11-27
	Section 11-13-19 - E-Mail Addresses	11-27
	Section 11-13-20 - Freedom of Information Act Requests	11-27
	Section 11-13-21 - Use of Credit Cards on the Internet	11-27
	Section 11-13-22 - Violations	11-27
	Section 11-13-23 - Policy Changes	11-27
<b>XIV</b>	<b>RIGHTS OF EMPLOYEES</b>	
	Section 11-14-1 - Personnel File	11-28
	Section 11-14-2 - References	11-28
	Section 11-14-3 - Safety	11-28
<b>XV</b>	<b>SEXUAL MISCONDUCT POLICY</b>	
	Section 11-15-1 - Sexual Misconduct Policy Statement	11-29
	Section 11-15-2 - Reporting Procedures and Designated Sexual Abuse Coordinator	11-29
	Section 11-15-3 - Child Abuse	11-29
<b>XVI</b>	<b>SOCIAL MEDIA POLICY</b>	
	Section 11-16-1 - Mission Statement	11-30
	Section 11-16-2 - Purpose	11-30
	Section 11-16-3 - Policy	11-30
	Section 11-16-4 - Rules and Regulations	11-30
<b>XVII</b>	<b>ANTI-BULLYING POLICY</b>	
	Section 11-17-1 - Application of Policy	11-32
	Section 11-17-2 - Definition	11-32
	Section 11-17-3 - Bullying Prohibited	11-32
	Section 11-17-4 - Disciplinary Action	11-32
	Section 11-17-5 - Reporting and Complaint Procedure	11-33

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>XVIII DOMESTIC AND SEXUAL VIOLENCE POLICY</b>		
Section 11-18-1	- Purpose of Policy	11-34
Section 11-18-2	- Definition	11-34
Section 11-18-3	- Victims' Economic Security and Safety Act (VESSA)	11-34
Section 11-18-4	- Policy	11-34
Appendix "A"	- Macon Drug Free Workplace Policy	App-1
Appendix "B"	- Employee Notification of Personnel Code and Drug Free Workplace Policy and Disclaimer of Employment	App-3
Appendix "C"	- Employee Code: Discipline Form	App-4
Appendix "D"	- Americans with Disability Act Grievance Procedure	App-5
Appendix "E"	- Request for Family or Medical Leave	App-6
Appendix "A"	- Macon Drug Free Workplace Policy	11-13
Appendix "B"	- Employee Notification of Personnel Code and Drug Free Workplace Policy and Disclaimer of Employment	11-15
Appendix "C"	- Employee Code: Discipline Form	11-16
Appendix "D"	- Americans with Disability Act Grievance Procedure	11-17
Appendix "E"	- Request for Family or Medical Leave	11-18

## **CHAPTER 11**

### **EMPLOYEE POLICIES**

#### **ARTICLE I – PURPOSE**

**11-1-1 PURPOSE.** The purpose of the Employee Code is to implement and maintain a uniform system of employment within all departments of the City and shall hereinafter be referred to as the "**Code**". The Code is designed to provide employees and management with information pertaining to the employment policies and procedures applicable to all City employees.

All policies and procedures contained in this Code shall go into effect **March 1, 2019**, immediately upon passage by the City Council and approved by the Mayor.

All employees shall be required to adhere to the policies and procedures as they are outlined in this Code.

Upon adoption by the City Council, this Code shall be the nonexclusive policy of all departments of the City concerning terms and/or conditions of employment.

In order to implement and carry out the express provisions and the intent of this Code, all Superintendents may pronounce policies consistent with this Code. A copy of any such policy shall be distributed to the Mayor and the City Council.

Nothing in this Code shall in any way affect the City's and Superintendent's right to develop and disseminate information concerning the operations of any department and employee's job functions, duties and job position description.

All employees shall sign the Employee Notification Letter found in **Appendix "B"** of this Chapter.

## ARTICLE II - GENERALLY

**11-2-1**        **DEFINITIONS.** The following words shall have the following meanings when used in this Code:

- (A)        **Employer.** The term employer, as used in this Code, means the City.
- (B)        **Employee.** The term employee, as used in this Code, means a person working as a volunteer or for remuneration for services rendered to the City. For purposes of this Code, an Elected Official is not an employee whose personal rights are affected by the Code.
- (C)        **Full-Time.** Those employees scheduled to work a minimum of **forty (40) hours** per work week on a continuous basis. Full-time employees are eligible for overtime pay and compensatory time.
- (D)        **Employee - Permanent Part-Time.** The term shall mean any person working over **six hundred (600) hours** per year.
- (E)        **Part-Time.** Those employees scheduled to work less than **forty (40) hours** per work week on a continuous basis. Part-time employees are eligible for overtime pay.
- (F)        **Department.** The term department, as used in this Personnel Code, shall mean the governmental unit for whom the employee is directly working for and rendering services.
- (G)        **Superintendent.** The term Superintendent, as mentioned in this Code, means the one individual ultimately responsible for all operations of the department.
- (H)        **Immediate Supervisor.** The term immediate supervisor, as used in this Code, shall mean the individual to whom the employee shall immediately report and be responsible for his work. An immediate supervisor may be the Mayor or the Superintendent.
- (I)        **Special Assignment, Professionals.** Professionals and those employees hired for a specific project for a limited period and may include those hired to fill in summer vacations, illness and the like. Such employees are hired with the understanding that their employment is to terminate upon completion of the project or at the end of the period. Special Assignment may be either full-time or part-time as determined by the requirements of the job. Professional employees are not entitled to overtime and compensatory time, but are entitled to other benefits.
- (J)        **Special Assignment, Nonprofessional.** Nonprofessional employees are like the special assignment, professional employees except that nonprofessional are entitled to overtime and compensatory time, but not to benefits.
- (K)        **Volunteers.** Those individuals who accept on an unpaid basis various work assignments for any department. These individuals receive no wages or benefits.

## ARTICLE III – PRE-EMPLOYMENT VERIFICATION POLICY

**11-3-1      PRE-EMPLOYMENT VERIFICATION POLICY.** This policy is intended to serve as a guide relating to the hiring of permanent full and part-time employees.

**11-3-2      GENERAL POLICY.** The City has elected to institute a pre-employment verification process. Other information may also be gathered as part of the pre-employment verification process. Each employee is subject to a **six (6) month** probationary period and results of the pre-employment verification process may impact permanent employment. Results of this process will remain completely confidential.

**11-3-3      REQUIRED VERIFICATIONS.**

(A)      **Identity and Criminal Record Check.** The Mayor or a person designated by the Mayor shall verify the personal identity of each employee with the Social Security Administration to ensure valid social security numbers. Criminal record checks shall also be reviewed by the corporate authorities.

(B)      **Motor Vehicle.** A motor vehicle check is required for all employees who driving during working hours or drive municipal vehicles. This check includes the verification that the employee has a valid driver's license and other accident and conviction history. Motor vehicle information shall be reviewed annually as long as the employee's job duties include operating a motor vehicle.

**11-3-4      OPTIONAL VERIFICATIONS.**

(A)      **Employment.** The Mayor or a person designated by the Mayor shall verify past employment at the request of the City Council. All information on the application MUST be LEGIBLE. The following fields are required: Employer name, address, city, state and Start Date.

(B)      **Licenses, Certifications, Degrees.**

(1)      **Education Verification.** To verify education, the following fields shall be completed: College name, address, city and state and degree received.

(2)      **Transcript.** If needed, applicant must provide directly from the institution.

(C)      **Certification Verification/Professional License.** If needed, applicant shall provide a copy of a professional license so it may be verified.

(D)      **Credit Report.** A credit report shall be required for all employees involved in accounting or cashing functions. Other employment positions susceptible to collusion or fraudulent activities may also be considered as a basis for a credit report. These positions requiring a credit report shall be documented and shall be filed with the City Clerk. A credit report may also be requested if an employee changes their job duties to a position that requires a credit check.

A credit report request requires the approval of the employee or potential employee. *The Request, Consent and Authorization for Release of Personal Information* and the *Disclosure* document (all three) must include their signature.

If available, please submit a job description to accompany the application and verification request.



## **ARTICLE IV - HIRING POLICY**

**11-4-1      REQUIREMENTS.** Employment is based on each applicant's qualifications as compared with the requirements of the available position. Consideration is given to ability, experience, education, training and character.

No consideration shall be given to the applicant's political party affiliation or support in regard to any decisions on hiring, promotion, transfer, or recall.

**11-4-2      RESIDENCY REQUIREMENTS.** All full-time City employees shall reside within the corporate limits of the City. This residence requirement shall be applicable to all new hirings by the City and to all existing full-time employees, provided that said requirement shall not apply to any employees who reside outside the City limits at the time of the passage of this law.

**11-4-3      APPLICATION FORMS.** Applications for positions with the City shall be filed on forms furnished by the City Clerk. All successful applicants shall produce an original social security card. The Superintendent may require certificates of competency, licenses, medical examinations, post-offer medical examination, drug and alcohol tests, background investigations, references, police checks, motor vehicle reports/driving history, oral interviews, or other evidence of special qualifications. The Superintendent may reject applications of persons who are found to lack any of the requirements established for the position. The Mayor with the advice and consent of the City Council shall appoint all employees. In considering applications of various individuals, length of service shall be used as a factor in the selection of applicants, but will not be considered the sole or even the predominant factor. No employee shall be hired and placed on the payroll and receive fringe benefits until all employment related forms, including but not limited to the employment application form, are filled out and forwarded to the City Clerk.

**11-4-4      PROMOTIONS.** Employees are encouraged to apply for job openings in higher classifications and will be considered for promotion for job openings upon written application. All full-time employees may be considered for promotions. Probationary employees may apply, but do not have to be considered, depending upon the discretion of the Superintendent.

When an employee is promoted, the employee will be placed on probation. At the end of the probationary period, the employee's performance will be formally evaluated and one of the following actions shall be taken by the City or Superintendent based upon employee's performance and conduct:

(A)            The employee may assume the new position having successfully completed the probationary period.

(B)            The probationary period may be extended.

(C)            The employee may be demoted to a position commensurate with the employee's ability, if the lower position is available.

(D)            The employee may be terminated due to substandard performance and/or conduct as determined by the Mayor with the advice and consent of the City Council.

**11-4-5      PROBATIONARY PERIOD.** A minimum of **six (6) months** of employment will be designated as a probationary period for all employees. To assure that new employees are aware of the expectations and functions of their job and to answer any questions the probationary employee may have, a formal evaluation will be made at the end of the probationary period by the employee's supervisor. The probationary period is tolled during periods of approved leave of absences.

The probationary period also applies to employees who are rehired after previously terminating their employment with the City. All employees rehired by the City within **three (3) years** of their termination date may be eligible for benefits they earned during previous employment with the City. Eligibility for benefits lies within the discretion of the Mayor and City Council.

Probationary employees who are dismissed do not have redress through the grievance procedure. In the event that employment is terminated during the probationary period, any accrued benefits, leave time, etc., with the exception of vacation, will be lost.

## ARTICLE V – WAGES AND CLASSIFICATIONS

### **11-5-1      WAGES.**

(A)      **Paychecks.** Employees shall receive their paycheck twice monthly, the **fifteenth (15<sup>th</sup>) day** and the last day of the month. Employees shall work at least **two (2) weeks** before being paid, creating a **two (2) week** lag, which will be paid upon termination of employment. The paycheck actually issued will be for the preceding pay period.

(B)      **Compensation.** The basic rate of pay shall be set forth in the "Appropriation Ordinance" adopted by the City Council.

(C)      **Overtime.** Overtime at **one and one-half (1 ½) times** the regular rate of pay is available to employees working in excess of a **forty (40) hour** work period.

(D)      **Salary Increases.** Employees are eligible for a salary increase after the completion of the probationary period.

## ARTICLE VI – HOURS OF WORK

**11-6-1      WORK WEEK.** Each Superintendent will determine the work week for their own department. Superintendents must allow for continuous operation of the department or office.

No work shall be performed at home, without prior approval of the Superintendent.

Prior approval of immediate supervisors is necessary for any employee to work early or stay late to do work related activity. All City Department personnel are on 24-hour call to report to work. No person employed by the City Street Department shall work for more than **sixteen (16) hours** in a 24-hour period.

**11-6-2      LUNCH.** The following shall apply for lunches:

The Superintendent shall establish the lunch schedule for their own department.

Each Superintendent shall stagger the hours of the department staff during the lunch period to allow for continuous operation of the department or office.

Travel time to and from any eating place is included in the lunch period. The lunch break cannot be used for compensatory time or as a substitute for tardiness. Lunch periods may not be taken at the end of the day or in conjunction with a rest period unless the employee has obtained written approval from his or her immediate supervisor.

**11-6-3      TIME AND ATTENDANCE.** Each department shall maintain accurate daily attendance records. An employee shall be at their places of work in accordance with the attendance rules. Tardiness or other abuse of regular attendance will not be tolerated. The attendance records will indicate information in order to properly pay employees for actual work performed. An employee shall have the right to review his attendance record on file in the department.

No one will be permitted to sign in or out for another employee.

An employee shall, whenever possible, provide advance notice of absence from work.

When City offices and buildings are open, but inclement weather prevents employees from reaching the buildings, employees may account for such absences by using accrued time, such as vacation and compensatory time earned, or the employee may elect to be docked for time off. Sick leave may not be used to cover absence due to inclement weather.

**11-6-4      HOLIDAY PAY.** All full-time employees shall have time off with full salary payment on the day designated as a holiday by the City Council.

If a Holiday falls on an employee's regularly scheduled day off, the employee shall be entitled to an additional day off. Employees cannot use sick leave in lieu of scheduled holidays.

All employees covered by this Code, who are required to work on an official Holiday, shall receive a rate of **one and one-half (1 1/2) times** the regular rate of pay for the hours work on such holiday. The Superintendent shall approve the use of time with pay.

The term "last schedule work day" means the employee's full day of work.

To be eligible for holiday pay, the employee must work both the day before and the day after the holiday. The exception allows for absences for good cause that are approved by the Superintendent. Samples of this exception include the holiday, the Superintendent approving for good cause hospitalization the day before or the day after the holiday, and a Superintendent approving for good cause an employee calling in sick the day before or the day after a holiday, and placing the call at the last minute. In each of these examples, the Superintendent shall exercise judgment as to whether the sickness or hospitalization is for "good cause".

## ARTICLE VII - LEAVES

**11-7-1 LEAVE.** For all types of leaves, the Superintendent may require employees to use vacation, sick leave, comp time or any other type of accumulated or accrued benefits before the employee is placed on leave without pay status.

(A) **Holidays and Vacations.** The Superintendent of Public Works; all full-time Street Department employees, all full-time Water and Sewer Department employees shall be entitled to the following paid holidays each year: New Year's Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; the day after Thanksgiving; Christmas Day; and Easter Sunday.

All of the foregoing full-time employees shall be entitled to vacation leave with pay as follows: **five (5) days** after **six (6) months**; **ten (10) days** after the anniversary date of **one (1) year** of normal, continuous and uninterrupted service to the City by the employee; **fifteen (15) days** after the anniversary date of **seven (7) years** of normal, continuous and uninterrupted service to the City by the employee; and **twenty (20) days** after the anniversary day of **fifteen (15) years** of normal, continuous and uninterrupted service to the City by the employee, provided that said vacation leave after the **first (1st) year** and after the **tenth (10th) year** of said service by the employee shall be converted to, prorated and kept track of on a fiscal year basis. Vacation leave shall not be cumulative and the City employee shall take earned vacation by the end of each fiscal year, except as is otherwise necessary during the **second (2nd)** and **eleventh (11th) years** of service to convert said vacation leave to a fiscal year basis. The corporate authorities of the City, by motion or resolution, may allow earned vacation time to accumulate when it is in the best interest of the City.

Part-time employees are excluded from the provisions of this subsection. Computation of normal, continuous and uninterrupted service, for purpose of this subsection, shall not include service rendered prior to any severance of employment from this City. Employees as used in this subsection shall include the Superintendent of Public Works and the department supervisors as defined in this Code.

(B) **Jury Duty.** An employee shall be excused from work for days in which the employee serves on Jury Duty. The employee shall receive his regular pay for jury service. The employee must present proof of jury service and the amount of pay received is to be deposited in the City treasury. The employee shall also turn over to the City any expense allowances paid by the court, if the jury duty is located at the County Courthouse. If an employee is given an early release from jury duty, the employee shall then report to his or her regular work assignment.

(C) **Witness.** An employee shall be excused from work when lawfully subpoenaed to serve as a witness. The employee must present written proof of the summons to testify to qualify for an excused absence. Notice to employee's supervisor should be made in advance of appearing in court. An employee's excused absence from work shall be on an unpaid basis, unless the employee's witness activity is work related and the witness activity is requested by the County. The employee shall turn over to the County any witness fee when the employee's witness activity is work related.

**11-7-2 ILLNESS OR INJURY AT WORK.** Any employee who is ill or injured on the job shall immediately notify the Superintendent who may require the employee to be transported to a hospital for examination by a physician or surgeon.

For employees on an **eight (8) hour** work schedule, if an employee becomes ill while at work after the first **two (2) hours** of work, the employee shall lose **one-half (1/2) day** of accumulated sick time. For employees on a **twelve (12) hour** work schedule, if an employee becomes ill at work after the first **three (3) hours** of work, the employee shall lose **one-half (1/2) day** of accumulated sick time.

**11-7-3 MATERNITY AND REASONABLE ACCOMMODATION.** Pregnancy shall be considered the same as any short-term disability, and request for pregnancy leave shall be made through the disability leave clause. Request for parental leave following child birth shall be made through the Leave of Absence clause, **Section 11-7-8(G), Family and Medical Leave Act.**

If you are pregnant, recovering from childbirth, or have a condition related to pregnancy, you have the right to ask for a reasonable accommodation. This includes bathroom breaks, assistance with heavy lifting, a private space for expressing milk, or time off to recover from your pregnancy. For more information regarding your rights on Pregnancy in the Workplace, download the Illinois Department of Human Rights fact sheet at [www.illinois.gov/dhr](http://www.illinois.gov/dhr), or refer to the posted "Pregnancy Rights Notice."

**11-7-4      SICK LEAVE.**

(A) Each employee will be entitled to **ten (10) sick days** per calendar year.

(B) After **three (3) consecutive days** off due to illness, a doctor's verification shall be obtained and provided to the City in order for the employee to be credited for the sick days utilized.

(C) Each employee will be entitled to unlimited accumulated sick days.

Each employee is entitled to up to **three (3) weeks (fifteen (15) days)** recuperation leave with pay for confinement under doctor's care, in the hospital or at home, following release from the hospital under doctor's care. This benefit can be used only after all sick days, vacation and personal days an employee is otherwise entitled to have been used. Request for recuperation leave must be supported by a doctor's written permission or authorization to receive approval. After this benefit is used there will be no more paid days off excluding paid holidays.

(D) **Notification.** The Superintendent shall establish notification requirements for taking sick leave.

The employee shall state the nature of the illness or injury, location of confinement and the telephone number where the employee can be reached. The employee must also state whether the absence is claimed to be from a previous injury sustained while on duty. Supervisors are to be kept informed daily, whenever possible, of the employee's condition. Upon return to work, employees will inform their supervisor or Superintendent as to the cause of illness and indicate whether a continuing impairment might have occurred.

(E) **Resumption of Work.** In order to continue active work assignments or to resume work after an illness or injury or disability, employees shall provide the department with a written physician's statement releasing employee to assume activities within their position responsibility if:

- (1) Upon returning to work after prolonged illness for **five (5) consecutive days** or more;
- (2) Upon returning to work from an extended leave of absence;
- (3) After the employee has a potentially disabling illness, injury or condition;  
or
- (4) Upon returning to work after a diagnosed communicable disease.

**11-7-5      LEAVE OF ABSENCE.** No employee on leave of absence may earn vacation, or sick leave, except when the leave was for the purpose of accepting a temporary work assignment in another office.

All types of leave of absence do not earn vacations or sick leave while the employee is on leave of absence.

While the employee is on leave of absence, the length of service still continues to accumulate except for special leave situations under this Section (1) Special Leave, and for (7) Family and Medical Leave Act situations. Length of service is specifically prohibited from accumulating on Special Leave cases and on Family and Medical Leave Act situations. The prohibition on length of service accumulation is not contained in any other type of leave of absence situation. Therefore, the Code should be construed to allow accumulation of length of services while on leave of absence other than "special leave" and the "Family and Medical Leave Act".

Employee shall be granted an excused leave of absence for the following:

(A) **Special Leave.** All full-time and salary exempt employees who have completed **one (1) full year** of continuous service may request a special leave. Special leave will only be granted for personal reasons, and must be approved by employee's Superintendent. Special leave shall be granted without pay. The period for special leave shall not exceed **six (6) months**. An extension may be granted up to a maximum of **six (6) months** for a total of **one (1) year**. In order to continue to receive medical

and insurance benefits during a special leave, the employee shall contribute both the employee and the employer's share of IMRF and insurance costs. Length of service or benefits shall not accrue or accumulate during a special leave. A person either hired or promoted to fill the position vacated by the person on leave shall be considered in that position temporarily and shall relinquish it upon the employee's return.

If a special leave is approved by the City Council, coverage under Illinois Municipal Retirement Fund may be maintained pursuant to IMRF rules and regulations. A request form for special leave is found in **Appendix "E"** at the conclusion of this Chapter.

(B) **Military.** Any full-time, salaried exempt, or part-time employee who is a member of a Reserve component of the Armed Services, the Illinois National Guard or the Illinois Naval Militia, shall be allowed annual leave with pay for **fifteen (15) days** and the City shall pay the difference in salary and any additions or extensions thereof without pay as may be necessary for the employees to fulfill the military reserve obligation. Such leaves will be granted without loss of length of service or other accrued benefits.

In case of an emergency call up (or order to state active duty) by the Governor, the leave shall be granted for the duration of said emergency with pay and without loss of length of service or other accrued benefits.

Military earnings during the military reserve obligation or for the emergency call shall be submitted and assigned to the City, and the City shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earning for the period, the City Council shall return the difference to the employee.

To be eligible for military reserve leave or emergency call up pay, the employee shall provide the City with a certificate from the commanding officer of the employee's unit that the leave taken was for either such purpose.

Full-time employees entering into military service as a result of voluntary enlistment, induction into the service by draft, or conscription will be afforded all of the privileges provided by the **Illinois Compiled Statutes, Chapter 330, Section 60/1 et seq.**

(C) **City Disability Leave.** To be eligible for City Disability Leave, the employee must submit to the City Council a medical opinion that the employee cannot work in his normal job position, and a medical opinion that the employee may possibly be able to return to work within the next **six (6) months**. Employees are not eligible for disability benefits until they have been employed at least **one (1) year**. Employees may be required to use their accrued sick or vacation time to continue regular wages.

Employees shall submit a letter requesting disability leave to their Superintendent within a reasonable amount of time before disability leave is taken. Upon return to work, employees shall submit a release statement from their physician to the Superintendent. If the Superintendent has reason to believe that the employee is unable to perform the normal duties or the employee is able to perform duties and is still absent, they may seek and rely upon the decision of an impartial physician. The City Council shall select a physician who is not a City employee to act as an impartial physician.

(D) **Educational Leave.** The City Council may grant an employee an educational leave of absence for the purpose of engaging in a training course. No educational leave may be granted unless in the judgment of the City Council the training course would benefit the City by improving the employee's qualifications to perform the duties of the employee's position or by qualifying the employee for advancement in rank or grade to another position in the City service. Employee shall receive his regular pay during an education leave of absence for training courses when so authorized by the City Council.

Employees may request an educational leave without pay to seek further professional training in specialty fields. Such leave may be up to **ten (10) months** in duration and requires the approval of the City Council. An employee on education leave without pay does not accrue vacation or sick leave credit for the period of leave. When ready to return to work, the employee will be offered the first available full-time position at the same job level the employee held prior to departing on educational leave without pay.

(E) **Family and Medical Leave Act.** An employee is eligible for a leave of absence through the Family and Medical Leave Act of 1993. In order to be eligible for leave, an employee must have worked for the employer at least **twelve (12) months** and must have worked at least **one**

**thousand two hundred fifty (1,250) hours** over the previous **twelve (12) months** prior to the leave. Eligible female and male employees are allowed up to **twelve (12) weeks** of leave per **twelve (12) month period** following the birth of a child, the placement of a child for adoption or foster care, or the serious health condition of the employee or an immediate family member (defined for purposes of this Family and Medical Leave Act situation as including the employee's child, spouse or parent). The leave for birth or placement must take place within **twelve (12) months** of the birth or placement of the child.

The employee's leave shall be unpaid. The employee may, upon approval of the City Council, use accumulated sick leave and/or vacation leave. During the leave, the City shall continue to provide coverage under its group health plan. Following return upon leave, the employee shall be returned to a position with equivalent pay, benefits and other terms and conditions of employment.

In order to utilize leave of absence pursuant to the Family Medical Leave Act, the employee should give **thirty (30) day** notice.

For leave based upon serious health conditions, the employer may require certification from the employee's health care provider for leave. Employer reserves the right to require a second medical opinion at the employee's own expense. The request form is found in **Appendix "D"** at the conclusion of this Chapter.

(F) **Expiration of Leave.** When an employee returns from a leave of **six (6) months** or less, the Superintendent shall return the employee to the same or similar position in the same class in which the employee was incumbent prior to commencement of such leave.

An employee's same or similar position will not be protected for reductions in force or where the position has been eliminated. Employees are subject to termination if they are absent from work for more than **six (6) months**. No employee may be absent without permission of the supervisor to which assigned. In the absence of extenuating circumstances, an employee who is absent from work for any reason and fails to notify his or her supervisor within **two (2) working days** will be considered to have resigned.

No employee on leave of absence may earn vacation, or sick leave, except when the leave was for the purpose of accepting a temporary working assignment in another office.

## ARTICLE VIII – OTHER BENEFITS

**11-8-1      ILLINOIS MUNICIPAL RETIREMENT FUND.** The City will participate in contributions for all eligible employees to the Illinois Municipal Retirement Fund. The City shall follow all guidelines of IMRF in order to protect the benefits of the employees.

**11-8-2      INSURANCE.** Insurance will be provided on the following basis:  
(A) **Life, Medical Insurance.** All full-time employees and their families/dependants are covered by a medical plan funded by the City.

All salaried full-time employees are covered by life insurance and accidental death and dismemberment policy. A manual is available to employees at the time of hiring which further explains the policy. The manual is obtained from the City Clerk's Office.

The City Clerk's Office must be notified of a divorce or legal separation of the covered employee, and further must be notified when a child is no longer eligible as a covered dependent of the employee. **(Ord. No. 4-13-2015-1)**

(B) **Dental Benefits.** For full-time employees and their families/dependents, the City will pay for **two (2)** cleanings per year. The City will further pay **one-half (1/2)** of any dental work up to **One Thousand Dollars (\$1,000.00)** per year per family. **(Ord. No. 4-13-2015-1)**

(C) **Legal Defense and Liability Insurance.** In any claim or action instituted against an employee, or former employee, by a third party, where such claim or action arises out of any act or omission, made in good faith, occurring within the scope of employment with the City, of the employee, or former employee, the City shall, upon written request of the employee, or former employee, appear and defend the employee or former employee, against any such claim or action, including the process of appeal. The City Attorney shall appear for and defend the employee unless the claim or action has been tendered to and accepted by the City's insurer. This Section excludes disciplinary proceedings or criminal proceedings. **(Ord. No. 4-13-2015-1)**

(D) **Other Types of Insurance.** All classifications of employees will be covered by the provisions of Social Security legislation, and salary deductions will be made in accordance with the law.

Employees are covered in accordance with the Workers' Compensation Act, **Illinois Compiled Statutes, Chapter 820, Section 305/1 et seq.**

Any work-related injury must be reported to the Superintendent.

All employees are covered by unemployment insurance through the State of Illinois. All contributions required to be paid by the City to the State, shall be paid by the City of Macon. **(Ord. No. 4-13-2015-1)**

**11-8-3      TRAINING.** For meetings and seminars, employees may be granted leave with pay to attend meetings, seminars and conventions of professional and technical organizations, when such attendance would benefit the employee's ability to perform the job, and is approved in advance by the Superintendent.

For any training programs conducted after regular working hours, such training shall be voluntary unless arrangements for such training includes the granting of overtime.

All employees shall be reimbursed for mileage expenses incurred while attending assigned schools outside of Macon County, Illinois. Upon receipt of a notice to attend the training school, the employee will request the use of a departmental vehicle to transport those attending to and from school. If a departmental vehicle is not available, reimbursement shall be made for the employee's use of their personal vehicle. When **two (2)** or more persons attend the same school at the same time the Superintendent may require that only **one (1) person** will be eligible to receive reimbursement for travel. The rate of reimbursement shall be established by the City Council.



**11-8-4      DEATH BENEFITS.** Each employee shall fill out a designation of beneficiary form.

Upon the death of an employee, the designated beneficiary shall be entitled to receive from the appropriation for personal services theretofore available for payment of the employee's compensation, such sums for any accrued vacation period to which the employee was entitled to at the time of death.

Such payment shall be computed by multiplying the employee's daily rate of pay by the number of days of accrued vacation at the time of death.

Upon the death of an employee, the estate shall receive any unpaid compensation, accrued overtime, or other benefits the employee would have been allowed had the employee survived.

Family members of deceased employees should contact the City Clerk's Office for explanation of any further benefits the family members or the estate of the deceased employee may be entitled to.

## **ARTICLE IX – REGULATIONS AND RESTRICTIONS**

**11-9-1      ACCIDENTS/INJURIES.** Anytime an employee is involved in an automobile accident with a City automobile or in a personal automobile while on City business, the employee shall notify his or her Superintendent immediately with all pertinent information including whether personal injury is involved and whether any traffic citations were issued. All Superintendents shall within **twenty-four (24) hours** notify the City Attorney's Office if any traffic citations were issued to a City employee and shall provide the City Attorney with a copy of the citations. An employee is obligated to cooperate with the City and any of the City's legal representatives regarding the accident and any citations that may have been issued.

**11-9-2      APPEARANCE.** Neatness and good taste in dress, as well as care toward personal hygiene, are expected of all employees. For safety and hygienic purposes, employees may be required to comply with any appropriate dress code that is set forth by the Superintendent during the performance of their duties.

Employees may be requested to change inappropriate dress, and work lost while doing so will not be compensated by the department. Employees may be evaluated on their dress and appearance. The Superintendent is the only individual of each department who may make exceptions to the dress code.

**11-9-3      USE OF DEPARTMENT PROPERTY.** All department property and equipment entrusted to any employee will be used in accordance with the property's prescribed function. All damage through recklessness, gross negligence, intentional act, deliberate misuse, or theft shall be replaced and paid for by the employee committing the violation. Such replacement of property by the employee shall not be considered the exclusive remedy against the employee, and the employee may still be subject to discipline. All department property, personal lockers, and personal offices are subject to search and seizure. All department property shall be inspected by the employee's immediate supervisor prior to issuance of the property.

All employees are required to return all department property or equipment in their possession upon separation, promotion, and/or transfer.

**11-9-4      TELEPHONE USAGE.** Good telephone habits are an indication that the department is interested in serving the public. At all times, answer promptly and courteously. Identify yourself by name and section, be friendly and helpful. Write time and date of any message from the caller, transfer calls tactfully, give accurate information, do not keep the caller waiting and hang up carefully.

Employees must keep incoming and outgoing personal calls to a minimum.

**11-9-5      CORRESPONDENCE AND COMMUNICATIONS.** No employee shall use their official position, engage in official transactions or business to harass any individual or to secure a benefit for himself or other individuals. Courtesy should be given in all communications and correspondence, and all employees should refrain from unnecessarily criticizing any individuals or agencies concerning official transactions or business.

**11-9-6      SMOKING.** Smoking by City employees will only be allowed in designated areas, including smokeless tobacco.

**11-9-7      PHOTO I.D.'S.** The City Council may issue a photo I.D. card for employees.

All employees who are issued a shield badge and/or photo I.D. are required to be in possession of the badge and/or photo I.D. on and off duty. Employees will not use their shield or identification card for personal business or personal gain. If a shield or identification card is lost or stolen, it must be reported in writing to the director without delay.

**11-9-8      SPEECH AND DISSEMINATION OF INFORMATION.** Employees are encouraged to appear before civic organizations, fraternal organizations or any other group in an official capacity. Employees must notify the Superintendent prior to accepting such speaking engagements.

Employees are cautioned against making statements or giving impressions regarding official agency policy or position without prior expressed authority being granted. Normally, the Superintendent has the sole right to adopt and interpret the policies of the organization. If in doubt, it is always preferable to consult the Superintendent before making any statements that might possibly be misinterpreted or misconstrued by the general public or press.

The Superintendent will make all news releases concerning the department.

The City shall comply with the Illinois Freedom of Information Act, and employees are allowed to disseminate information pursuant to the Act. However, employees are not allowed to disclose any information that is exempted by Illinois Freedom of Information Act or prevented from disclosure by any other state statutes.

**11-9-9      RELATIONS WITH CREDITORS.** The City will charge employees any authorized costs when making wage deduction pursuant to court order or State or Federal statutes.

**11-9-10      POSSESSION OF FIRE ARMS.** Unless authorized by the appropriate Superintendent, no employee of any department has legal authority to carry weapons while in the performance of their official duties.

**11-9-11      ETHICS.** Employees will not recommend or promote the sale of any specific brand name product or equipment.

Many employees in the course of their work have access to medical information about patients, clients, employees, or other individuals. This may be medical, legal or job related information. Such information is not to be repeated or discussed outside the department or with other personnel unless such information is a necessary part of the employee's assigned duty.

Employee's shall inform the Superintendent of any possible conflict of interest situations they may have.

Employees are prohibited from accepting gifts, gratuities, or any item of value for work performed on behalf of the department.

**11-9-12      OTHER EMPLOYMENT.** Employees are prohibited from having conflicting employment while having a full-time position. An employee may not be paid by another employer for the same **forty (40) hour** period employee is being paid by the department. If a full-time employee performs outside services or employment, such services or employment must be reported to the Superintendent for prior approval, and advance notification must be given by the employee to the Personnel Department.

Fees earned by an employee for serving as an instructor for a class during other than normal working hours which is not sponsored by the department in another community agency, will be dealt with as follows:

- (A) No overtime will be earned and the fee retained, or;
- (B) Overtime will be earned and the fee surrendered to the City Clerk and recorded as miscellaneous income.

Employees who are injured while engaging in other employment must notify the Superintendent and the City Clerk.

**11-9-13      PHYSICAL EXAMINATIONS.** Each applicant for employment may be required to successfully complete a post-offer physical examination by a doctor of the employer's choice, including a drug screen upon the request of the City. At any time, employees may be required to submit to a physical examination. As a condition of their employment, the employees of the department must authorize the release of medical testing information including drug screens to the City for departmental use only.

Each employee authorized to carry and use a gun while at work for the City, and all employees engaging in heavy manual labor as their principal form of job activity for the City shall be required to submit to an annual physical exam and/or drug screens by a doctor of the employer's choice.

Drug screens can be conducted on a random basis for any security personnel employed by the City, except those under police personnel contract, for any employee authorized to carry and use a gun while performing work related activities for the City and for any employee that is required to hold other than a Class A driver's license for work related purposes. For all other employees, drug screens shall be conducted upon probable cause.

The term "drug screens", as used throughout and disclose to the Superintendent, any drug or alcohol problem that the employee may currently have.

**11-9-14      REIMBURSEMENT OF COST OF TRAINING.** If an employee leaves the department's employment before the completion of **three (3) years** from the initial date of employment, that employee will be liable for all costs incurred in the employee's selection, background investigation, equipment issue and training, prorated over a **three (3) year** period. Incurred training costs will be deducted from any remaining paychecks.

**11-9-15      PRESCRIPTION DRUG USE.** Any employee who is taking prescription or over-the-counter drugs or medication which may impact on abilities to perform work shall report the use of the drugs or medications to the immediate supervisor, along with the name and address of any medical doctors prescribing the medication.

**11-9-16      DRUG FREE WORKPLACE.** All employees, as a condition of employment, will comply with the City's Drug Free Workplace Policy, attached to this Code as Appendix "A".

**11-9-17      RIGHTS OF EMPLOYEES.**  
(A) **Personnel File.** Employees are allowed to look at their own personnel files during normal business hours. Persons wishing to view their own file shall file a written request with the Elected Official/Department Head or designated representative. A copy of said request shall be placed in the employee's personnel file. Nothing should be placed in an employee's personnel file nor shall anything be removed from the file without the consent of the Elected Official/Department Head. Records of prior grievances and discipline action shall be maintained in the employee's personnel file. The final decision to remove items lies within the discretion of the Elected Official/Department Head.

(B) **References.** Employees or former employees have the right to obtain references or recommendations. Such references shall provide the applicable date of hire and the last date employed, and a general description of the applicable job duties. Additional comments concerning the employee or former employee's job performance dependabilities lies within the sound discretion of the Elected Official/Department Head.

(C) **Safety.** The Elected Official/Department Head shall implement any safety procedures adopted by the City, and employees shall comply with any of the safety procedures.

All department employees are directed to report any hazardous conditions to their supervisor immediately.

Due to the open-office design of many department buildings, it is impossible to provide security for personal belongings left unattended. Staff members are advised to keep their wallets, purses, etc. in their possession at all times. The department cannot be responsible for losses due to theft.

(D) **Alcohol and Drug Problems.** The demands of the modern world are being felt by everyone. Our daily lives are more complicated and more hectic than ever before. The majority of families have two breadwinners. Children often have jobs of their own. In addition, everyone is involved in outside activities of all types. The Modern world can be a two-edged sword: rewarding and enriching on one side and extremely sharp and stressful on the other.

Unfortunately, occasionally the stress of our world sometimes leads to abuse of alcohol and/or drugs. The City wants to assure its employees that, if there comes a time when you are experiencing or worried about an alcohol and/or drug problem, every reasonable effort will be made to help you while working for a permanent solution to the problem.

## **ARTICLE X – RIGHTS OF EMPLOYER**

**11-10-1      CITY'S RIGHTS.** The employee recognizes that the City possesses the exclusive right to operate and direct the employees of the City in all aspects, including, but not limited to, all rights and authority granted by law.

The employee further recognizes that this Code is not a binding contract between the City and the employee. Nothing contained in this Code shall be construed as creating an employment agreement between the City and its employees from time to time.

The City has the right to unilaterally create new employment policies and regulations not mentioned in this Code, and to change provisions of this Code without prior notice, approval or consent of the employees of the City.

The employer has the ultimate responsibility for proper management including but not limited to responsibilities and the right for the following:

(A)                To maintain executive management and administrative control of the department and its property, facilities and staff.

(B)                To hire all employees and to determine their qualifications and the conditions for their continued employment or their dismissal or demotion.

(C)                To direct, supervise, promote, suspend, discipline, terminate, assign and schedule employees.

(D)                To relieve employees from duties because of a lack of work or funds, or under conditions where continued work would be inefficient or nonproductive or under conditions as may be deemed necessary or advisable by the department.

(E)                To determine services to be rendered, operations to be performed, utilization of technology and budgetary matters.

(F)                To determine the methods, processes, means, job classifications and personnel by which the operations of the department are to be conducted.

It is recognized that the employer normally exercises most of the powers, rights, authorities, duties and responsibilities through and with the cooperation of the administrative staff.

**11-10-2      LENGTH OF SERVICE.** Length of service is defined as the length of continuous service of an employee since the employee's last date of hire with the City within the employee's department. In the event an employee is transferred from or to another department of the City, the employee's total continuous employment with the City will be used as the basis for vacation and sick leave only.

An employee's continuous service record shall be broken by voluntary resignation or discharge. If such continuous service is broken due to curtailment of operation, said employee shall be considered on layoff.

**11-10-3      EXEMPTIONS.** All employees that are governed by a collective bargaining agreement between the employer and a union are exempt from this Code.

All employees covered through Macon's Police Union are exempt from this Code as to hiring, promotion, discipline, or dismissal, but are otherwise covered by this Code.

**11-10-4      DISCIPLINE.** The formal disciplinary process is a five step procedure, but dismissal may occur at any step in the process. Superintendents may use the Discipline Form attached as Appendix "C" for documentation purposes.

Under normal circumstances, these steps would be as follows:

(A)                **Verbal Reprimand.** A verbal reprimand informs an employee of unsatisfactory conduct, attitude or performance, and acknowledges that continued such actions will result in more severe disciplinary actions. The reprimand should be done in private, and should be documented with the date and nature of the problem and placed in the employee's personnel file.

(B) **Written Reprimand.** A written reprimand informs an employee of unsatisfactory conduct, attitude or performance. Written reprimand is more severe than a verbal reprimand, but serves the same purpose to acknowledge further unsatisfactory conduct, attitude, or performance will result in more severe disciplinary action. A copy of the written reprimand will be sent to the employee, the Superintendent and employee's personnel file.

(C) **Probation.** Employee may be placed on probation by the Superintendent if the employee's performance is substandard and/or the employee's conduct and behavior are inappropriate and not condoned by management. Employee may be placed on probation not to exceed **six (6) months**. At the end of **three (3) months**, an informal evaluation of the employee's performance will be conducted. At the end of the probationary period, the employee's performance will be formally evaluated. Evaluations will determine if the employee should be retained. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of the probationary period, recommendation from the employee's immediate supervisor, and approval of the Superintendent.

(D) **Suspension.** Suspension of an employee would be at the discretion of the Superintendent. The suspension will result in a loss of salary for the period of the suspension. Upon return to work the suspended employee will be placed on probationary status for a period not to exceed **six (6) months**. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of a probationary period, a recommendation from the employee's immediate supervisor, and the approval of a Superintendent. The period of suspension may be up to but not exceeding **thirty (30) days** off without pay in one calendar year. The suspension may include demotion, and is within the discretion of the Superintendent.

(E) **Dismissal.** Dismissal should be used as a disciplinary action of last resort at the discretion of the Superintendent. All employees are subject to discharge by the Superintendent during any of the disciplinary steps.

(F) **Code of Conduct.** Disciplinary action may be brought against an employee for the following, including but not limited to:

- (1) Violating any provisions of this Personnel Code.
- (2) Knowingly falsifying a report.
- (3) Being insubordinate to or showing disrespect towards superiors.
- (4) Neglecting to perform the job or performing the job inefficiently.
- (5) Engaging in any conduct unbecoming of a City employee or that discredits the City.
- (6) Leaving the assigned job without permission.
- (7) Absence from work without leave or permission.
- (8) Willfully destroying or damaging any property of the City.
- (9) Taking or giving bribes.
- (10) Being under the influence of intoxicating beverages while at work.
- (11) Using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substances, or failing to report to the employee's Superintendent any arrest or conviction for using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substance.
- (12) Failure of any employee to notify their Superintendent within **five (5) days** after an arrest or conviction of a violation of any local, state, or federal criminal drug statute.
- (13) Using a City vehicle without the knowledge of the immediate supervisor.
- (14) Improperly operating a City vehicle or permitting an unauthorized person to operate a City vehicle.
- (15) Excessive unexcused absence from work or tardiness.
- (16) Possession of explosives, firearms or other dangerous weapons on City premises, unless otherwise permitted.
- (17) Use of overtime for other than work purposes.

- (18) Failure to follow any safety rules, regulations, or manuals.
- (19) Gambling during working hours around City premises.
- (20) Sleeping on the job.
- (21) Being discourteous to the public.
- (22) Engaging in or instigating or causing an interruption or impeding work.
- (23) Substantial misrepresentation of facts and obtaining employment with the City.
- (24) The use or consumption of City property for personal or private purposes, or the use of City employees during working hours for such purposes.
- (25) Disorderly conduct during working time or on City premises, including fighting, interfering with work of another, or threatening or abusing any person by word or act.
- (26) Unauthorized use of City property such as City owned vehicles, equipment and materials.
- (27) Abuse of sick leave by misrepresentation of the leave request.
- (28) Violation of a written order of a Superintendent.
- (29) Failure to pay legitimate debts, thus exposing the City to harassment by creditors.
- (30) Using profanity on the job.
- (31) Releasing confidential information.
- (32) Using or attempting to use an official position to secure special privileges, exemptions, or personal gain except as may be otherwise provided by law.
- (33) Engaging in disreputable acts and not conducting themselves with "good moral character".
- (34) Abuse of telephone usage.
- (35) Theft of any City or employee property.
- (36) Discriminating against any person, individual, entity, co-employee, on the basis of race, color, religion, sex, national origin, age, handicap or disability, ancestry, marital status, sex harassment or any other prohibited form of discrimination under federal or state law or government contract or grantee regulations.

(G) **Political Activities.** No form of discipline can occur because of any employee's political activity or political beliefs. This prohibition on discipline does not apply to individuals in policy making or confidential positions or where an overriding interest or vital importance exists which requires that an employee's political beliefs and activities conform to those of the City's Superintendent.

The City also recognizes that false accusations can have serious affects on innocent men and women. We trust that all employees will continue to act in a responsible and professional manner to establish a pleasant working environment free of discrimination.

**11-10-5 GRIEVANCE PROCEDURE.** The purpose of a grievance procedure is to establish and maintain harmonious and cooperative working relationships between the City and its employees, to assure equitable treatment of employees, and to provide expeditious means of resolving employee dissatisfaction over circumstances or conditions of employment.

Strict adherence to the grievance procedures and time limits is mandatory, except that the time limits may be extended for good cause.

A grievance is defined as a dispute, disagreement, complaint, or any matter concerning any terms or conditions of employment, or concerning the application of any departmental policy, or concerning any employee relationship, or work related issue.

As used in this Section, the term days shall mean working days of the employee filing the grievance.



At any step, if a written response is not provided to the grieving employee within the **ten (10) day** time frame, the grievance will be considered denied at that step, and the employee may proceed to the next step.

If any Superintendent is disciplined and/or discharged by the Mayor with the advice and consent of the City Council, the discipline and/or discharge shall constitute the final resolution of the matter and there shall be no access in this instance to the various steps of the grievance procedure. The failure of a reappointment of the Superintendent by the Mayor shall not be interpreted to constitute discipline and/or discharge of an ongoing employment relationship with the City.

Steps:

(1) A grieving employee shall within **five (5) days** after he learns of the circumstances or conditions which prompted the grievance, submit the grievance to the employee's immediate supervisor, in writing, informing such immediate supervisor of the grievance and the particulars concerning the same. The immediate supervisor shall provide a written response to the grieving employee within **ten (10) days** after receiving the grievance.

(2) If the grievance is not resolved to the employee's satisfaction, the employee may submit the grievance to the Mayor by summarizing the grievance in writing. The grievance must be submitted to the Mayor within **five (5) days** of the decision of the immediate supervisor.

For all other employees, the grievance shall be before the Mayor.

**11-10-6 LAYOFFS.** In the event it becomes necessary to layoff employees for any reason, employees will be laid off based on the following criteria: Employee's knowledge, skills, and abilities in relation to positions available, lack of work, lack of funds, the employee's length of service, the employee's work record including commendations as well as disciplinary action, the employee's attitude and relations with other employee's as well as other agencies and change in duties of the department. The employee shall receive **two (2) weeks** notice.

**11-10-7 RESIGNATION.** Sick leave, vacation, and retirement fund benefits cease at midnight on the date of termination. Life and health insurance will cease at the end of the month of the termination. Employees may elect to continue participation in the plan on a self pay basis as provided by federal statutes. The employee will be paid for each day of accrued and unused vacation time. Monies accumulated in the employee's retirement account may be refundable, according to IMRF Rules. Forms required to request this refund are available from the City Clerk's office.

## **ARTICLE XI - DRUG FREE WORKPLACE POLICY**

**11-11-1      DRUG FREE WORKPLACE.** All employees, as a condition of employment, shall comply with the City's Drug Free Workplace Policy that is found in this Division.

**11-11-2      PURPOSE OF POLICY.** Drug abuse affects all aspects of our lives - it threatens the workplace as well as the home, the school, and the community. The City must take a firm stance against illicit drug use. The use of drugs, which term for the purposes of this policy shall include alcohol in the workplace, is unacceptable since it can adversely affect health, safety, and productivity, as well as public confidence and trust. When drug use and/or involvement interferes with an employee's efficient and safe performance of work responsibilities and/or reduces the employee's dependability and accountability, it creates a problem for the whole organization.

Drug abuse inflicts notable human expense. Personal tragedies, feelings of anxiety and depression, and diminishing coping skills are reflected on an individual level. Dysfunctional and strained relationships mark the heavy burden felt by the families of the drug and alcohol abuser.

The cost of drug abuse, both on a personal and organizational level, is unacceptable. The rising incidence in substance abuse makes it imperative that the City combat this issue by implementing a zero tolerance policy of drug use in the workplace.

**11-11-3      DRUG FREE WORKPLACE STATEMENT.** The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including cannabis, is prohibited in the workplace. Controlled substance means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act. Disciplinary action, up to and including dismissal can be taken against employees for drug violations.

All employees will, as a condition of employment:

- (A) Agree not to manufacture, distribute, dispense, or possess controlled substances or alcohol in the workplace.
- (B) Notify their respective Superintendent of any arrest or conviction of any local, state or federal criminal drug statute no later than **twenty-four (24) hours** after such arrest or conviction.
- (C) Abide by the conditions set forth in this statement.

**11-11-4      VIOLATIONS.**

- (A) Employees are subject to discipline, including discharge for violation of the above policy.
- (B) Require the satisfactory participation and completion of a State licensed drug rehabilitation program, as sanctioned by the employer.
- (C) The City shall notify the appropriate State Agency from which grant funds were received of the employee's conviction within **ten (10) days** after receiving notice from an employee of any criminal drug statute conviction for a violation in the workplace.

**11-11-5      EMPLOYEE ASSISTANCE.** A referral network to assist those who may be experiencing problems with drugs and/or alcohol will be established for all City employees.

**11-11-6      STATUS OF EMPLOYMENT; REHAB COSTS.** There is no requirement by the employer to keep an employee on active employment status who is receiving rehabilitative treatment if it is determined that the employee's current use of drugs prevents the individual from performing work related duties or whose continuance on active status could constitute a threat to the property and/or safety of others. **The employee shall pay for all costs of rehabilitation.** The employee may use accumulated paid leave, and take unpaid leave pending treatment, at the discretion of the employer, and so long as the employee advised the Superintendent of use or abuse of drugs prior to occurrence of reasonable suspicion.

## **ARTICLE XII – COMPUTER USAGE POLICY**

**11-12-1      COMPUTER USAGE PROCEDURE.** Routinely all personnel will have access to a computer. The following procedures must be adhered to:

(A)            All employees will only use the "Log-in ID", "User ID" and "Passwords" assigned to them, i.e. use of a supervisor "User ID" and "Passwords" by a line officer is prohibited unless authorized by the Administration. Use is a privilege, not a right, which may be suspended or terminated by Mayor when, in his/her judgment, this policy has been violated by the user.

No employee is authorized to share their "password" with anyone except the Supervisor assigned to overlook all passwords in the department.

(B)            It is not permissible to use City computers and equipment in any inappropriate manner, such as to disgrace the department or a fellow employee. It is forbidden to use profanity or vulgar language on any department computer equipment.

(C)            Only floppy disks which are requisitioned from the storerooms and the data processing department are authorized to be used in department computers. No outside floppy disks will be authorized to be used except with permission from Administration.

(D)            No employee shall be allowed to do personal work at his or her City computer. This is with or without the use of any floppy disk.

(E)            No employee shall be allowed to copy any City or department document to a floppy disk and use it outside the office without permission from Administration.

(F)            No employee shall be allowed to have any unauthorized programs, utilities, games or files on their City PC.

(G)            Any variance from the above procedures shall have prior Administration permission.

Information and data maintained in the electronic media on City computer system are protected by the same laws and policies, and are subject to the same limitations, as information and communications in other media. Said information and data are the property of the City.

Before storing or sending confidential or personal information, users should understand that most materials on City system are, by definition, public records. As such, they are subject to laws and policies that may compel the City to disclose them. The privacy of the materials kept in electronic data storage and electronic mail is neither a right nor is it guaranteed.

## **ARTICLE XIII – ELECTRONIC COMMUNICATIONS**

**11-13-1      POLICY; INTRODUCTION/PURPOSE.** This policy is intended to serve as a guide on the proper use of the municipal electronic communication systems. This policy covers the use of all forms of electronic communications, including but not limited to e-mail, voice mail, fax machines, external bulletin boards, Intranet and the Internet, and applies to all users. Users are expected to read, understand and follow the provisions of this policy and will be held responsible for knowing its contents. Use of the electronic communication system constitutes acceptance of this policy and its requirements.

The City provides electronic mail (e-mail) and/or Internet access to Elected Officials and Staff who need it to perform the functions of their position. The purpose of this document is to communicate to all personnel their responsibility for acceptable use of the Internet and e-mail (whether sent over the Internet or over the City's own network). Policies and procedures are also outlined for the disclosure and monitoring of the contents of e-mail messages stored in the system when required.

The City's objectives for Employees to use e-mail and/or the Internet include:

- (A) exchanging information more efficiently than by telephone or written memorandum;
- (B) gathering information and performing research for departments; and
- (C) reducing the handling of paper copy.

**11-13-2      POLICY DEFINITIONS.** As used in this Policy, the terms listed below shall be defined as follows:

(A) **Electronic Mail (E-Mail).** Electronic mail may include non-interactive communication of text, data, image, or voice messages between a sender and designated recipient(s) by systems utilizing telecommunications links. It may also include correspondence transmitted and stored electronically using software facilities called "mail", "facsimile", "messaging" systems or voice messages transmitted and stored for later retrieval from a computer system.

(B) **Encryption Software.** Proprietary software that changes information from its native state to an unrecognizable coded state that can only be returned to its native state with special software.

(C) **Internet.** A worldwide network of networks, connecting informational networks communicating through a common communications language or "Protocol".

(D) **Intranet.** An in-house web site that serves the users of the City. Although Intranet pages may link to the Internet, an Intranet is not a site accessed by the general public.

(E) **World Wide Web.** An Internet client-server distributed information and retrieval system based upon hypertext transfer protocol (http) that transfers hypertext documents that can contain text, graphics, audio, video, and other multimedia file types across a varied array of computer systems.

(F) **Users.** Elected Officials, Department Heads, Employees, Volunteers, Contractors and Consultants.

(G) **Firewall.** An electronic device used to protect private networks from unauthorized access from users on the Internet.

**11-13-3      OWNERSHIP.** The electronic communication system is the property of the City. All computer equipment, computer hardware and computer software provided by the City are the property of the City. All communications and information transmitted by, received from, or stored in these systems are the property of the City.

**11-13-4      USE OF ELECTRONIC COMMUNICATIONS.** The City's electronic communications systems, including e-mail and the Internet, are intended for City business use only. Personal uses of the Internet and e-mail systems are prohibited. The City reserves the right to use

filtering software to block access to Internet sites that are considered inappropriate or non-productive. The filtered sites shall be reviewed and approved by the Mayor.

Before using these systems, all users shall understand that any information that is created, sent, received, accessed or stored in these systems shall be the property of the City and shall not be private. If a User is permitted to use electronic communication systems, such use shall not violate any section of this policy or interfere with user's work performance.

Users shall use the same care and discretion when writing e-mail and other electronic communications as they would with any formal written communication. Any messages or information sent by users to other individuals via electronic communication systems, such as the Internet or e-mail, are statements identifiable and attributable to the City. Consequently, all electronic communications sent by users shall be professional and comply with this policy.

**11-13-5      PROHIBITED COMMUNICATIONS.** Under no circumstances may any user operate the City's electronic communications systems for creating, possessing, uploading, downloading, accessing, transmitting or distributing material that is illegal, sexually explicit, discriminatory, defamatory or interferes with the productivity of coworkers. Specifically prohibited communications include, but are not limited to, communications that promote or transact the following: illegal activities; outside business interests; malicious use; personal activities (including chat rooms); jokes; political causes; football pools or other sorts of gambling; recreational games; the creation or distribution of chain letters; list servers for non-work purposes; "spams" (mailing to a large number of people that contain unwanted solicitations or information); sexual or any other form of harassment; discrimination on the basis of race, creed, color, gender, religion or disability; or for solicitations or advertisements for non-work purposes. Users may not engage in any use that violates copyright or trademark laws.

Also prohibited is any activity that could negatively impact public trust and confidence in the City or create the appearance of impropriety.

Users are also prohibited from posting information, opinions or comments to Internet discussion groups (for example: news groups, chat, list servers or electronic bulletin boards). Under no circumstances may any user represent their own views as those of the City.

Users may not disclose confidential or sensitive information. Personal information such as the home addresses, phone numbers, and social security numbers of Elected Officials or Employees should never be disclosed on the Internet.

**11-13-6      NO PRESUMPTION OF POLICY.** Although users may use passwords to access some electronic communication systems, these communications should not be considered private. Users should *always assume* that any communications, whether business-related or personal, created, sent, received or stored on the City's electronic communication systems may be read or heard by someone other than the intended recipient.

Users should also recognize that e-mail messages deleted from the system may still be retrieved from the computer's back-up system when requested by authorized personnel. Consequently, messages that were previously deleted may be recreated, printed out, or forwarded to someone else without the user's knowledge.

**11-13-7      CITY'S RIGHT TO MONITOR USE.** Under authorization of the Mayor, the City may monitor, intercept, access, and disclose all information created, sent, received, or stored on its electronic communication systems at any time, with or without notice to the user. The contents of computers, voice mail, e-mail and other electronic communications will be inspected when there are allegations that there have been breaches of confidentiality, security, or violations of this Electronic Communications Policy. These inspections will also be conducted when it is necessary to locate substantive information that is not readily available by less intrusive means. Before providing access to store electronic communications such as e-mail messages, written authorization will be required from the Mayor.

The contents of the computers, voice mail, e-mail and other electronic communications may be turned over to the appropriate authority when there are allegations that there have been violations of law.

In addition, the City will regularly monitor and maintain a log of the user's Internet access, including the type of sites accessed, the name of the server, and the time of day that access occurs. The Mayor will have access to this log upon request. They may use this information that was obtained through monitoring as a basis for employee discipline.

The Mayor may authorize individuals for investigative purposes to engage in activities otherwise prohibited by this policy.

**11-13-8      PROHIBITED ACTIVITIES.** Users shall not download software programs of any kind. No software is to be installed on City computers without the approval of the City Council. Users may not upload, download, or otherwise transmit copyrighted, trademarked, or patented material; trade secrets; or confidential, private or proprietary information or materials. Users may not use the City's electronic communication systems to gain unauthorized access to remote computers or other systems or to damage, alter, or disrupt such computers or systems in any way, nor may users use someone else's code or password or disclose anyone's code or password including their own. It is a violation of this policy for users to intentionally intercept, eavesdrop, record or alter another person's Internet and e-mail messages. Users may not allow unauthorized individuals to have access to or use the City's electronic communication systems, or otherwise permit any use that would jeopardize the security of the City's electronic communication systems. Also, users may not post an unauthorized home page or similar web site.

Users may not make unauthorized commitments or promises that might be perceived as binding the City. Users must use their real names when sending e-mail messages or other electronic communications and may not misrepresent, obscure or in any way attempt to subvert the information necessary to identify the actual person responsible for the electronic communication. Sending an e-mail message under a fictitious or false name is a violation of this policy. Likewise, using another user's account or login ID constitutes a violation of this policy.

**11-13-9      PASSWORDS.** Each user will maintain a unique password. Users must keep their passwords confidential and must never leave their computers unattended when logged into the system. Passwords shall be changed whenever a password may have been compromised or revealed or when the computer security system requests a new password.

Directories of user e-mail addresses may not be made available for public access. No visitors, contractors or temporary employees may use the City's e-mail without prior written authorization from the Mayor.

**11-13-10      INTERNET USAGE.** Access to the Internet from any PC connected to the City's network is only allowed in accordance with this policy. Alternate methods of Internet access, such as using a modem to access a personal dial-up Internet account is prohibited as it may compromise the City's network security exposing it to potential harm from computer hackers.

Sessions on the Internet are logged automatically in exactly the same way that phone numbers are logged in the phone system. Do not use the Internet for tasks that you would not want to be logged.

Web browsers leave "footprints" providing a trail of all site visits. Do not visit any site where you would be reluctant to leave your name and work locations.

Use appropriate judgment before filling out a form included in a Web page. The form shall pass through many interconnecting computers and networks before reaching its destination. Other individuals will be able to eavesdrop on it. Personal or valuable information on the form may not remain confidential. Under no circumstances should you ever put a Social Security number on the Internet.

An Internet message sent from the City's address constitutes a City communication; therefore, it should be composed and structured correctly. Whenever possible, spell check messages prior to transmission, especially when sending to a non-City address.

Sending e-mail from the City's address can be likened to sending a letter on City letterhead. Messages may be forwarded by the recipient to others, printed in a location where others may view the message, and/or directed to the wrong recipient. Also, computer forensic experts can often retrieve e-mail previously deleted. An ill-considered remark can return to haunt the sender later.

Be courteous and follow generally accepted standards of etiquette. Protect others' privacy and confidentiality. Consider the City's needs before sending, filing, or destroying e-mail messages. Remove personal messages, temporary records and duplicate copies in a timely manner.

**11-13-11      RECORDS RETAINED.** Certain significant types of e-mail messages or their attached files may be considered records and should be retained if required by the City's record-retention policies. Examples of messages sent by e-mail that may constitute records include:

- (A) policies and directives;
- (B) correspondence or memoranda related to official business;
- (C) work schedules and assignments;
- (D) agendas and minutes of meetings;
- (E) drafts of documents that are circulated for comment or approval;
- (F) any document that initiates, authorizes, or completes a business transaction; and
- (G) final reports or recommendations.

**11-13-12      RECORDS DISPOSAL.** The content and maintenance of a user's electronic mailbox are the user's responsibility. The content and maintenance of a user's disk storage area are the user's responsibility. Each user should review his/her electronic records for deletion every **thirty (30) days**.

Messages of transitory or little value that are not normally retained in record-keeping systems should be regularly deleted. Informational messages, such as meeting notices, reminders, informal notes, and telephone messages should be deleted once the administrative purpose is served. If it is necessary to retain any e-mail message for an extended period, transfer it from the e-mail system to an appropriate electronic or other filing system. With the approval of the Mayor, the City Clerk or one of his/her staff members designated by him/her is permitted to remove any information retained in an e-mail system for more than **thirty (30) days**.

**11-13-13      ACCESSING USER E-MAIL DURING ABSENCE.** During a user's absence, the Mayor may authorize the City Clerk to access the user's e-mail messages and electronic Internet records without the consent of the user when necessary to carry out normal business functions.

**11-13-14      FIREWALLS AND NETWORK PROTECTION.** Firewalls and other devices to ensure the safety of the City private network will be installed to protect all City Electronic Communication Systems. Local governments are often targets of hackers and unauthorized intrusions because of the unique types of information stored on their systems. For this reason, the City takes a *very cautious* approach to security regarding the Internet and e-mail. Policies to ensure the security of the system include, but are not limited to: blocking access to certain Internet sites; filtering out potentially threatening e-mail attachments; filtering out dangerous types of web pages including Java Script, and ActiveX programs. Other methods of security may be deployed as new threats are discovered.

Any attempts to bypass or disable the security features installed by the City will be in violation of this policy and may result in disciplinary action.

**11-13-15      PASSWORD PROTECTION.** Users should use caution when using encryption software or password protecting their files. Password protected files cannot be retrieved without the necessary password. The City is not responsible for any lost, damaged or inaccessible files that result from password protection.

**11-13-16      VIRUSES AND TAMPERING.** Any files downloaded from the Internet must be scanned with virus detection software before installation and execution. All computers designated as having access to the Internet and e-mail must have virus detection software installed on them. Users may not deliberately disable the virus protection capabilities of these systems. The intentional introduction of viruses, attempts to breach system security, or other malicious tampering with any of the City's electronic communication systems is expressly prohibited. Users must immediately report any viruses, tampering or other system breaches to the Mayor or a designated officer.

Many viruses are transmitted through the e-mail system as attachments. Caution should be practiced prior to the accessing of any attachments to e-mail messages. Never access any unexpected attachments without verifying the source and reason for it, even if you recognize the sender of the e-mail. It is common practice for hackers to alter the source of an e-mail in an attempt to spread a virus.

**11-13-17      DISCLAIMER OF LIABILITY FOR USE OF THE INTERNET.** The City is not responsible for material viewed or downloaded by users from the Internet. The Internet provides access to a significant amount of information, some of which contains offensive, sexually explicit and inappropriate material. It is difficult to avoid contact with this material; therefore, users of the Internet do so at their own risk.

**11-13-18      DUTY NOT TO WASTE ELECTRONIC COMMUNICATIONS RESOURCES.** Users must not deliberately perform actions that waste electronic communication resources or unfairly monopolize resources to the exclusion of other users. This includes, but is not limited to, subscribing to list servers, mailing lists or web sites not directly related to the user's job responsibilities; spending nonproductive time on the Internet; and doing large non-work related file downloads or mass mailings. Electronic communication resources are limited and users have a duty to conserve these resources.

**11-13-19      E-MAIL ADDRESSES.** The City reserves the right to keep a user's e-mail address active for a reasonable period of time following the user's departure to ensure that important business communications reach their respective department.

**11-13-20      FREEDOM OF INFORMATION ACT REQUESTS.** The City will not accept Freedom of Information Act (F.O.I.A.) requests from the public via the Internet. If a citizen e-mails a F.O.I.A. request to a user, the employee should notify the citizen that these requests must be made in writing in compliance with the Freedom of Information Code. **(See Chapter 22)**

**11-13-21      USE OF CREDIT CARDS ON THE INTERNET.** Before making purchases on the Internet, users who are authorized to use City credit cards must ensure that they are using a secured site. The City recommends that users do not use their credit cards over the Internet and expressly disclaims responsibility for any loss or damages that results from credit card usage over the Internet.

**11-13-22      VIOLATIONS.** Violations of this policy may subject employees to disciplinary action ranging from the removal of electronic communication privileges to dismissal from employment. City employees who observe violations of this policy are obligated to report the violations to the Mayor or City Clerk.

**11-13-23      POLICY CHANGES.** The City reserves the right to change this policy at any time with notice. Nothing in this policy is intended or should be construed as an agreement and/or a contract expressed or implied. Policy changes will be disseminated electronically or in written form within **forty-eight (48) hours** of taking effect after an ordinance has been adopted.



## **ARTICLE XIV - RIGHTS OF EMPLOYEES**

**11-14-1      PERSONNEL FILE.** Employees are allowed to look at their own personnel files during normal business hours. Persons wishing to view their own file shall file a written request with the Mayor or the City Clerk. A copy of the request shall be placed in the employee's personnel file. Nothing should be placed in an employee's personnel file nor shall anything be removed from the file without the consent of the Mayor and City Council. Records of prior grievances and discipline action shall be maintained in the employee's personnel file. The final decision to remove items lies within the discretion of the Mayor and the City Council.

**11-14-2      REFERENCES.** Employees or former employees have the right to obtain references or recommendations. Such references shall provide the applicable date of hire and the last date employed, and a general description of the applicable job duties. Additional comments concerning the employee or former employee's job performance dependabilities lies within the sound discretion of the Superintendent.

**11-14-3      SAFETY.** The Superintendent shall implement any safety procedures adopted by the City, and employees shall comply with any of the safety procedures.

All employees are directed to report any hazardous conditions to their supervisor immediately.

Due to the open-office design of many department buildings, it is impossible to provide security for personal belongings left unattended. Employees are advised to keep their wallets, purses, etc. in their possession at all times. The Municipality cannot be responsible for losses due to theft.

## **ARTICLE XV - SEXUAL MISCONDUCT POLICY**

**11-15-1      SEXUAL MISCONDUCT POLICY STATEMENT.** The City will not tolerate and will seek to eradicate any behavior by its employees, volunteers or students which constitutes sexual misconduct toward another employee, volunteer or student. "Sexual misconduct" means any actual, attempted or alleged sexual molestation, assault, abuse, sexual exploitation or sexual injury. "Sexual misconduct" does not include "sexual harassment".

**11-15-2      REPORTING PROCEDURES AND DESIGNATED SEXUAL ABUSE COORDINATOR.** It is the express policy of the City to encourage victims of sexual misconduct, and their parents or guardians in the case of minors, to come forward with such claims. The City shall designate a Sexual Abuse Coordinator, who hereinafter shall be referred to as "Coordinator", who shall remain accountable for the implementation and monitoring of this policy. The identity of the Sexual Abuse Coordinator shall remain on file with the City. In order to conduct an immediate investigation, any incident of sexual misconduct shall be reported as quickly as possible in confidence, as follows:

(A)      **Employees and Volunteers.** Employees and volunteers are required to report any known or suspected incidents of sexual misconduct. They must also report to their supervisor or the Coordinator. If the person to whom an employee or volunteer is directed to report is the offending person, the report should be made to the next higher level of administration or supervision.

(B)      **Investigation and Confidentiality.** All formal complaints will be given a full impartial and timely investigation. During such investigation, while every effort will be made to protect the privacy rights of all parties' confidentiality cannot be guaranteed.

(C)      **Discipline.** Any City employee or volunteer who is determined, after an investigation, to have engaged in sexual misconduct in violation of this policy will be subject to disciplinary action up to and including discharge.

False accusations regarding sexual misconduct will not be tolerated, and any person knowingly making a false accusation shall likewise be subject to disciplinary action up to and including discharge, with regard to employees or volunteers.

The City shall discipline any individual who retaliates against any person who reports alleged sexual misconduct or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to a sexual misconduct complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

**11-15-3      CHILD ABUSE.** Sexual abuse of a minor is a crime.

(A)      **Child Abuse Incident Reporting and Follow-Up.** Any case of known or suspected child abuse of a minor must be reported immediately in compliance with Illinois mandatory reporting guidelines and to the Coordinator and the City Attorney's Office.

In the event that the Coordinator is first notified of an incident of known or suspected child abuse, the Coordinator shall immediately notify the child's parent or legal guardian as the case be, and the appropriate legal authorities as required by state or local law. The Coordinator shall prepare a Suspected Child Abuse Standard Report and immediately follow-up to investigate the incident and to ascertain the condition of the child. The Coordinator shall communicate any questions or concerns about any incident with the State's Attorney.

Any employee or volunteer involved in a reported incident of sexual misconduct or child abuse shall be immediately relieved of responsibilities that involve interaction with minors or shall be suspended, as determined by the employee's supervisor. Reinstatement of employees or volunteers involved in a reported incident of child abuse shall occur only after all allegations of child abuse have been cleared by the County.

(B)      **Maintenance of Records and Documents.** The Coordinator shall maintain all records and documentation required by law or otherwise required by this and other such related policies of the City including all documents related to procedures for hiring-screening, employee/volunteer code of conduct, training, sign-in/sign-out, pick-up and release procedures, incident reporting follow-up and disciplinary action.

## **ARTICLE XVI – SOCIAL MEDIA POLICY**

**11-16-1      MISSION STATEMENT.** It shall be the mission of the City to ensure its employees maintain professional conduct in their on and off work lives. This shall include the image an employee portrays of themselves on the internet and computer related media.

**11-16-2      PURPOSE.** The purpose of this policy is to outline the expectations of employees with respect to their use of social media and social networking and the direct effect such use has upon the reputation and perception of the City.

**11-16-3      POLICY.** Employees shall not use any form of social media or social networking, including but limited to: Facebook, Twitter, MySpace, LinkedIn, Tumblr, YouTube, Google+, Pinterest, Instagram, Foursquare, The Squad Room, usenet groups, online forums, message boards or bulletin boards, blogs, and other similarly developed formats, in any way so as to tarnish the City's reputation. Employees of the City are embodiments of our mission. It is vital that each employee accept their role as ambassadors of the department, striving to maintain public trust and confidence, in not only their professional actions but also in their personal and online actions. Any online activity that has the effect of diminishing the public's trust and/or confidence in the City will hinder the efforts of the City to fulfill its mission. Any online actions taken that detract from the mission of the City, or reflects negatively on the position of the City will be viewed as a direct violation of this policy. For police officers: by virtue of the position of peace officer, they are held to a higher standard than general members of the public and their online activities should reflect such professional expectations and standards.

**11-16-4      RULES AND REGULATIONS.**

(A) Employees are prohibited from using City computers or cell phones/devices for any unauthorized purpose, including the participating in social media or social networking.

(B) Employees are prohibited from using any social media or social networking platform while at work. Police officers may seek permission from the Mayor to use social media or networking for investigative or for public information purposes.

(C) Unless granted explicit permission, employees including police officers of the City are prohibited from posting any of the following in any social networking platform, either on their own sites, the sites of others known to them, the sites of others unknown to them, news media pages, or other information exchange forums:

- (1) Any text, photograph, audio, video, or any other multimedia file related to any investigation of the police department, both current and past.
- (2) Any text, photograph, audio, video, or any other multimedia file related to any past or current action of the City police department, either in homage or critique.
- (3) Any text, photograph, audio, video, or any other multimedia file that is related to any City department business or event.

(D) Employees who choose to maintain or participate in social media or social networking platforms while off work shall conduct themselves professionally and in such a manner that will not reflect negatively upon the City or its mission. In the course of operating or participating in such venues, the following rules shall apply:

- (1) Employees will be held responsible for the content that appears on their maintained social media or social networking sites and will be obligated to remove any posting or material contributed by others that reflects negatively upon the City.
- (2) Sexually graphic or explicit material, of any kind, shall not be posted by the employee on any form of social media or social networking sites.

- (3) Sexually graphic or explicit material posted by others to the employee's social media or social networking sites shall be immediately removed.
- (4) Weaponry, owned by the City, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites.
- (5) Weaponry, privately owned by any police officer, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites if such displays or depictions promote a disparaging image to the City.
- (6) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the public shall not be detrimental to the City's mission nor shall it, in any way, undermine the public's trust or confidence of the City departments.
- (7) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the legal, judicial or criminal systems shall not, in any way, undermine the public's trust and confidence of the City departments.
- (8) Any posting that detracts from the City department's mission will be considered a direct violation of this policy.

(E) Employees who are brought under administrative or internal investigation related to their performance, functionality or duties may be ordered to provide the City, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(F) Employees who are brought under administrative or internal investigation related to the City's operation, productivity, efficiency, morale or reputation, may be ordered to provide the City, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(G) If requested, any employee shall complete an affidavit attesting to all the social media and social networking platforms in which they mail or participate.

(H) Any candidate seeking employment with the City shall complete an affidavit attesting to all the social media and social networking platforms in which they maintain or participate.

## **ARTICLE XVII – ANTI-BULLYING POLICY**

**11-17-1      APPLICATION OF POLICY.** The City finds a safe work environment is beneficial for employees and promotes productivity. Workplace bullying has been linked to absenteeism, drug and alcohol use, and sexual violence. The City considers workplace bullying unacceptable and will not tolerate it. The anti-bullying policy shall apply to all individuals who are employees, volunteers and contractors. For purposes of this policy:

- (A)            **"Employee"** is defined as an individual working for the City for remuneration;
- (B)            **"Volunteer"** is defined as an individual who volunteers services to the City without remuneration;
- (C)            **"Contractor"** is defined as an individual who contracts with the City to provide services, or an individual who works for a contractor of the City.

**11-17-2      DEFINITION.** Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a person that has or can be reasonably predicted to have the effect of one or more of the following:

- (A)            placing the person in reasonable fear of harm to the person or the person's property;
- (B)            causing a substantially detrimental effect on the person's physical or mental health;
- (C)            substantially interfering with the person's productivity; or
- (D)            substantially interfering with the person's ability to participate in or benefit from the opportunities offered by the employer.

Bullying may be intentional or unintentional. The City considers the following types of behavior illustrative examples of bullying: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

**11-17-3      BULLYING PROHIBITED.** Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, and any other distinguishing characteristic is prohibited in all places of employment, and an employer shall prevent bullying in its place of employment.

- (A)            No person shall be subjected to bullying:
  - (1)            during any period of employment activity;
  - (2)            while working, on property of the employer, or at employer-sponsored or employer-sanctioned events or activities; or
  - (3)            through the transmission of information from an employment utilized telephone, computer, computer network, or other similar electronic employer-utilized equipment.
- (B)            Nothing in this policy is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment of the United States Constitution.

**11-17-4      DISCIPLINARY ACTION.** Any employee or volunteer who is determined, after an investigation, to have engaged in bullying in violation of this policy shall be subject to disciplinary action up to and including immediate discharge. Any contractor found to be in violation of this policy may be subject to contract cancellation.

(A) **False Accusations.** False accusations regarding bullying against employees, volunteers, contractors, or elected officials shall not be tolerated, and any person knowingly making a false accusation shall be subject to disciplinary action up to and including immediate discharge.

(B) **Retaliation for Reporting Bullying.** The City shall discipline any employee or volunteer who retaliates against any person who reports who reports alleged bullying, or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to bullying complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Contractors are likewise prohibited from retaliating.

**11-17-5 REPORTING AND COMPLAINT PROCEDURE.** The City encourages all employees, volunteers or contractors to promptly report any instance of bullying behavior. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of bullying. Therefore, while no fixed reporting period has been established, prompt reporting of complaints or concerns is encouraged so that rapid and constructive action can be taken. The City shall make every effort to stop alleged workplace bullying before it becomes severe or pervasive, but can only do so with the cooperation of its employees.

Reports of bullying will be treated seriously, and investigated promptly and impartially. The City further encourages all individuals to whom this policy applies to formally report any concerns of assault, battery, or other bullying behavior of a criminal nature to the City Attorney's office. The City Council requires any supervisor who witnesses bullying, irrespective of reporting relationship or his/her responsibility to address it, to promptly report this conduct to the Police Chief or the Mayor.

Individuals who believe they have experienced conduct that they believe violates this policy, or who have concerns about such matter, should report their complaints or concerns verbally or in writing to his or her supervisor, or the City Attorney, before the conduct becomes severe or pervasive. If a verbal report is made, it shall be documented in writing by the official to whom it is reported. Individuals should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated City representatives identified above.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to bullying conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that such behavior immediately stop.

## ARTICLE XVIII – DOMESTIC AND SEXUAL VIOLENCE POLICY

**11-18-1      PURPOSE OF POLICY.** Domestic violence can permeate the lives and compromise the safety of employees with tragic, destructive and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past. Domestic violence represents a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against another in an intimate relationship or in the same household, with the goal of establishing and maintaining power and control over the victim. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The City will take appropriate actions to promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

**11-18-2      DEFINITION.** For purposes of this policy and pursuant to the Illinois Victims' Economic Security and Safety Act (VESSA), the following terms are defined as follows:

(A)      **"Abuser":** A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

(B)      **"Domestic Violence":** Domestic violence means abuse by a family or household member, as defined by this policy pursuant to Section 103 of the Illinois Domestic Violence Act of 1986. Domestic violence includes sexual assault or stalking.

(C)      **"Employee":** A person working for the City for remuneration for services.

(D)      **"Family or Household Member":** For employees with a family or household member who is a victim of domestic or sexual violence, this means spouse, parent, son, daughter, other person related by blood or by present or prior marriage, another person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

(E)      **"Parent"** means biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter as defined herein.

(F)      **"Son or Daughter"** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under **eighteen (18) years** of age, or is **eighteen (18) years** of age or older and incapable of self-care because of a mental or physical disability.

**11-18-3      VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA).** The person against whom an abuser directs coercive and/or violent acts, including an employee who is a victim of domestic or sexual violence, or an employee's family or household member who is a victim of domestic or sexual violence, and whose interests are not adverse to the employee as it related to domestic or sexual violence.

**11-18-4      POLICY.**

(A)      **Employee Awareness.** The City shall take reasonable actions to educate employees regarding the effects of domestic violence and methods to report such violence to authorities. It is the policy of the City that information on domestic violence and available resources shall be available to employees through the City Council and by this written policy, which shall be disseminated to employees.

(B)      **Non-Discriminatory Policy.** Non-Discriminatory and Responsive Personnel Policies for Victimized Employees of the City shall ensure that personnel policies and procedures do not

discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- (1) Illinois law prohibits employers from interfering with, restraining, or denying the exercise of any right provided under VESSA. This law requires employers, when given **forty-eight (48) hours** prior notification, to allow time off for employed victims of domestic or sexual violence and employees with a family or household member who is a victim of domestic or sexual violence, to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from the employer for the employee or the family or household member who is a victim.
- (2) Illinois law prohibits employers from discriminating against any employee who is a victim of domestic or sexual violence or any employee who has a family or household member who is a victim of domestic or sexual violence.
- (3) An employee who is a victim of domestic or sexual violence, or has a family or household member who is a victim of domestic or sexual violence and whose interests are not adverse to the employee as it relates to domestic or sexual violence, may take unpaid leave from work to address domestic or sexual violence by:
  - (a) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the victim;
  - (b) obtaining services from a victim services organization for the victim;
  - (c) obtaining psychological or other counseling for the victim;
  - (d) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the victim;
  - (e) seeking legal assistance or remedies to ensure the health and safety of the victim, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.
- (4) The employee shall be entitled to a total of **twelve (12) workweeks** of leave during any **twelve (12) month** period. This policy does not create a right for an employee to take an unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to, the unpaid leave time permitted by the federal Family Medical Leave Act. Leave may be taken intermittently or on a reduced work schedule. An employee may substitute accumulated paid leave for unpaid leave; however, the paid leave will count toward the number of workweeks used for purposes of this policy. The employee shall provide at least **forty-eight (48) hours** advance notice of the employee's intention to take leave, unless providing such notice is not practicable. No action will be taken against an employee for failing to provide **forty-eight (48) hours** advance notice if the employee provides certification that leave was used for the purposes outlined in **Section 11-18-4(B)(2)** of this Section and can demonstrate that advance notice was not practicable.
- (5) During a leave taken pursuant to this policy, the City shall maintain coverage under its group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment for the duration of such leave. If the employee fails to return from leave, however, the City may recover any premium costs it paid for such coverage if the reason for the employee not returning is other than the continuation, recurrence, or



onset of domestic or sexual violence or circumstances beyond the control of the employee. Neither seniority nor leave benefits will accrue to the employee during unpaid leave.

- (6) The City, upon request, will assist the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family or household member who has been a victim of domestic violence, the employee's supervisor or the City Council (or their designee) will evaluate the employee's request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.
- (7) The City requires certification from an employee for leave under this policy. The employee shall certify that the leave is for one of the purposes enumerated in **Section 11-18-4(B)** of this Section. Certification shall be provided to the employer within a time period set by the employer.
- (8) The City understands that victims of domestic violence may lack the required documentation or have difficulty obtaining the required certification to justify absences without compromising their safety. Therefore, the Mayor or his designee shall consult with the employee to identify what documentation she/he might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirement of the employer.
- (9) All information provided to the employer pursuant to notification and certification requirements of this policy, and the purposes for which leave may be requested pursuant to this policy, shall be retained in strictest confidence by the employer, except to the extent that disclosure is requested or consented to in writing by the employee, or otherwise required by applicable federal or State law. Reported information shall be kept private to the greatest extent possible by Federal law, State law, and City policy; however, information may have to be disclosed pursuant to a subpoena, Illinois Supreme Court Rules, a court of law, or where otherwise required by law. Where medical information is received by the City from an employee who is the victim of domestic violence, such medical information shall be kept confidential.
- (10) Employees who are victims of domestic violence and who are legally separated from a covered spouse or civil-union partner, shall be allowed to make reasonable changes in benefits at any time during the calendar year, provided the change is requested within **thirty (30) days** of the separation and is in accordance with the City policies, rules, and regulations.
- (11) The City will not make inquiries about a job applicant's current or past domestic violence victimization, and employment decisions will not be based on any assumptions about or knowledge of such exposure.

(C) **Accountability for Employees Who are Abusers.** The City will hold employees, individuals who volunteer services to the City without remuneration (hereafter "volunteers"), and individuals who contract with the City or work for contractors of the City (hereafter "contractors"), accountable for engaging in the following behavior: (i) using City resources to commit an act of domestic violence; (ii) committing an act of domestic violence from or at the workplace or from any other location while on official City business; or (iii) using their job-related authority and/or City resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

Any physical assault or threat made by an employee, volunteer, or contractor, while on City premises, during working hours, while representing the City, or at a City-sponsored event, is a serious

violation of this policy. This policy applies not only to acts against employees, but to acts against all other persons. Those found to have violated this policy will be subject to corrective or disciplinary action, up to and including discharge.

- (1) In cases in which the City has found that an employee, volunteer, or contractor, has threatened, harassed, or abused an intimate partner at the workplace using City resources such as work time, workplace telephones, facsimile machines, mail, e-mail or other means, said employee shall be subject to corrective or disciplinary action.
- (2) In cases in which the City has verification that an employee, volunteer, or contractor is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee, volunteer or contractor has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, the Mayor shall determine if corrective action is warranted.
- (3) In cases in which any employee, volunteer, or contractor intentionally uses his/her job-related authority and/or intentionally uses City resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his/her behavior, said individual may be subject to corrective or disciplinary action.

## **APPENDIX A**

### **MACON DRUG FREE WORKPLACE POLICY**

#### **PHILOSOPHY**

Drug abuse affects all aspects of our lives - it threatens the workplace as well as the home, the school, and the community. The City must take a firm stance against illicit drug use. The use of drugs, which term for the purposes of this policy shall include alcohol in the workplace, is unacceptable since it can adversely affect health, safety, and productivity, as well as public confidence and trust. When drug use and/or involvement interferes with an employee's efficient and safe performance of work responsibilities and/or reduces the employee's dependability and accountability, it creates a problem for the whole organization.

Drug abuse inflicts notable human expense. Personal tragedies, feelings of anxiety and depression, and diminishing coping skills are reflected on an individual level. Dysfunctional and strained relationships mark the heavy burden felt by the families of the drug and alcohol abuser.

The cost of drug abuse, both on a personal and organizational level, is unacceptable. The rising incidence in substance abuse makes it imperative that the City combat this issue by implementing a zero tolerance policy of drug use in the workplace.

#### **DRUG FREE WORKPLACE STATEMENT**

The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the workplace. Controlled substance means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act. Disciplinary action, up to and including dismissal can be taken against employees for drug violations.

All employees will, as a condition of employment:

1. Agree not to manufacture, distribute, dispense, or possess controlled substances or alcohol in the workplace.
2. Notify their respective Elected Official/Department Head of any arrest or conviction of any local, state or federal criminal drug statute no later than **twenty-four (24) hours** after such arrest or conviction.
3. Abide by the conditions set forth in this statement.

#### **VIOLATIONS**

1. Employees are subject to discipline, including discharge for violation of the above policy.
2. Require the satisfactory participation and completion of a State licensed drug rehabilitation program, as sanctioned by the employer.
3. The City shall notify the appropriate State Agency from which grant funds were received of the employee's conviction within **ten (10) days** after receiving notice from an employee of any criminal drug statute conviction for a violation in the workplace.

**EMPLOYEE ASSISTANCE**

A referral network to assist those who may be experiencing problems with drugs and/or alcohol has been established for all City employees.

**ADDITIONAL PROVISIONS**

There is no requirement by the employer to keep an employee on active employment status who is receiving rehabilitative treatment if it is determined that the employee's current use of drugs prevents the individual from performing work related duties or whose continuance on active status could constitute a threat to the property and/or safety of others. The employee shall pay for all costs of rehabilitation. The employee may use accumulated paid leave, or take unpaid leave pending treatment, at the discretion of the employer, and so long as the employee advised the Elected Official/Department Head of use or abuse of drugs prior to occurrence of reasonable suspicion.

## **APPENDIX B**

### **EMPLOYEE NOTIFICATION OF PERSONNEL CODE AND DRUG FREE WORKPLACE POLICY AND DISCLAIMER OF EMPLOYMENT**

The Employee Code of the City is not intended to create any employment relationship with any employees that is contractual in nature. All employees are employed at the will of the City, and employees can be terminated at will. All employment policies of the City are subject to change without notice and/or approval of any employee. Any and all discipline and/or discharge procedures contained in this Code are illustrative in nature, and only provide examples of the manner in which employees may be disciplined or terminated. Any and all such procedures are not meant to be the sole or exclusive way in which discipline or discharge could occur.

By signing this disclaimer, the employee understands that the employment relationship between the employee and the City is NOT contractual in nature; that employment can be terminated at the will of the City, that all employment policies are subject to change without notice and/or approval of the employee; and that any and all discipline and/or discharge procedures contained in the Code are merely illustrative in nature, and are not meant to be the sole or exclusive manner in which discipline and/or discharge could occur.

I have been given a copy of the City's Employee Code, originally adopted \_\_\_\_\_, 1998.

I understand that contained within the Employee Code is the Macon Drug Free Workplace Policy. I have read and understood the Drug Free Workplace Policy, and agree to abide by its terms and conditions.

Name \_\_\_\_\_

Date \_\_\_\_\_

This form is to be retained by the City Clerk.

**APPENDIX C**

**EMPLOYEE CODE: DISCIPLINE FORM**

Date \_\_\_\_\_

Employee Name \_\_\_\_\_

Employee's Job Position \_\_\_\_\_

City Department \_\_\_\_\_

Department Head \_\_\_\_\_

Type of Discipline (check one):

\_\_\_\_\_ Verbal Reprimand  
\_\_\_\_\_ Written Reprimand  
\_\_\_\_\_ Probation  
\_\_\_\_\_ Suspension  
\_\_\_\_\_ Dismissal

State the Section of the Employee Code violated:

Section \_\_\_\_\_, Subsection \_\_\_\_\_, Page Number \_\_\_\_\_

State any Code of Conduct violation, listing the Code of Conduct

Subparagraph Number \_\_\_\_\_

State the facts which support the violation \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE \_\_\_\_\_

\_\_\_\_\_  
Elected Official/Department Head

DATE \_\_\_\_\_

\_\_\_\_\_  
(Signature of Employee)

## **APPENDIX D**

### **AMERICANS WITH DISABILITY ACT GRIEVANCE PROCEDURE**

1. All complaints regarding access or alleged discrimination should be submitted in writing to the ADA Coordinator for resolution. A record of the complaint and action taken will be maintained. A decision by the ADA Coordinator will be rendered promptly.
2. If the complaints cannot be resolved to the satisfaction of the complainant by the ADA Coordinator, then for building accessibility issues, the matter shall be turned over to the City Council for consideration. For employment and public service issues, the matter will be forwarded to the City Council for consideration.
3. The complaint will be reviewed and decided upon by the City Council. The decision of the City Council shall be considered final.
4. A record of action taken on each request or complaint shall be maintained as a part of the records or minutes at each level of the grievance process.
5. The individual's right to prompt and equitable resolution of the complaint shall not be impaired by his/her pursuit of other remedies, such as the filing of a complaint with the U.S. Department of Justice or any other appropriate federal agency. Furthermore, the filing of a lawsuit in state or federal district court can occur at any time. The use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

## APPENDIX E

### REQUEST FOR FAMILY OR MEDICAL LEAVE

Request for Family or Medical Leave must be made, if practical, at least 30 days prior to the date the requested leave is to begin.

Name \_\_\_\_\_ Date \_\_\_\_\_  
Department \_\_\_\_\_ Title \_\_\_\_\_

Status ☐ Full-Time ☐ Part-Time ☐ Temporary

Hire Date: \_\_\_\_\_ Length of Service \_\_\_\_\_

I request Family or Medical Leave for one or more of the following reasons:

☐ Because of the birth of my child and in order to care for him or her\*  
Expected date of birth \_\_\_\_\_ Actual date of birth \_\_\_\_\_  
Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

☐ Because of the placement of a child with me for adoption or foster care\*\*  
Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

☐ In order to care for my spouse, child, or parent who has a serious health condition\*  
Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

☐ For a serious health condition that makes me unable to perform by job\*  
Describe: \_\_\_\_\_  
\_\_\_\_\_  
Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

\* A physician's certification will be required for leave due to a serious health condition.

\*\* Certification will be required for leave due to adoption or foster care.

☐ For other reasons. Describe: \_\_\_\_\_  
\_\_\_\_\_  
Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

☐ Requested intermittent leave schedule (if applicable; subject to employer's approval).  
\_\_\_\_\_  
\_\_\_\_\_

Have you taken a Family or Medical Leave in the past 12 months? ☐ Yes ☐ No  
If yes, how many workdays? \_\_\_\_\_

I understand and agree to the following provisions:

I have worked for the City of Macon at least one year and at least 1,250 hours in the previous 12 months.

If I fail to return to work after the leave for reasons other than the continuation, recurrence, or onset of a serious health condition that would entitle me to Medical Leave or other circumstances beyond my control, I may be financially responsible for the medical insurance premiums the City paid while I was on leave.



This leave will be unpaid, unless under the City Policy, I would be eligible for sick leave or have accrued vacation or comp time; or in the case of my own disability, payment will occur under a disability program with IMRF, if I am so covered.

I may be required to exhaust my vacation, comp time, or sick leave as part of my 12 weeks of leave.

After 12 weeks of leave, if I do not return to work or contact my supervisor or manager on the date intended, it will be considered that I abandoned my job.

Employee Signature \_\_\_\_\_  
Address \_\_\_\_\_

Date \_\_\_\_\_  
Phone \_\_\_\_\_

#### LEAVE APPROVAL

For full day leave:

Elected Official/Department Head \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

For intermittent or reduced day leave:

Elected Official/Department Head \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### PAYROLL INSTRUCTIONS

[ ] With pay from \_\_\_\_\_ to \_\_\_\_\_ Employee # \_\_\_\_\_  
[ ] Without pay from \_\_\_\_\_ to \_\_\_\_\_

Comments: \_\_\_\_\_

**PLEASE FORWARD COMPLETED REQUEST TO THE PERSONNEL DEPT. FOR FURTHER PROCESSING.**

## ***CHAPTER 13 – FIREWORKS REGULATIONS***

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>FIREWORKS DISPLAYS</i></b>	
	<i>Section 13-1-1 - Definitions</i>	<i>13-1</i>
	<i>Section 13-1-2 - Permit</i>	<i>13-1</i>
	<i>Section 13-1-3 - Requirements for Permit</i>	<i>13-2</i>
	<i>Section 13-1-4 - Penalty</i>	<i>13-2</i>

## CHAPTER 13

### FIREWORKS REGULATIONS

#### ARTICLE I – FIREWORKS DISPLAYS

**13-1-1**      **DEFINITIONS.** As used in this Chapter, the following words shall have the following meanings:

**"1.3G Fireworks"** means those fireworks used for professional outdoor displays and classified as fireworks UN0333, UN0334, or UN0335 by the United States Department of Transportation under 49 C.F.R. 172.101.

**"Chief"** means the Fire Chief of the Macon Fire Protection District, which provides fire protection to all areas within the City of Macon, Illinois.

**"Consumer Fireworks"** means those fireworks that must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Products Safety Commission, as set forth in 16 C.F.R. Parts 1500 and 1507, and classified as fireworks UN0336 or UN0337 by the United States Department of Transportation under 49 C.F.R. 172.101. "Consumer Fireworks" shall not include snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers", "booby traps", "snappers", "trick matches", "cigarette loads", and "auto burglar alarms"; sparklers; toy pistols, toy canes, toy guns, and other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps that contain less than twenty hundredths grains of explosive mixture; the sale and use of which shall be permitted at all times.

**"Consumer Fireworks Display" or "Consumer Display"** means the detonation, ignition, or deflagration of consumer fireworks to produce a visual or audible effect.

**"Consumer Operator"** means an adult individual who is responsible for the safety, setup, and discharge of the consumer fireworks display and who has completed the training required in Section 2.2 of the Fireworks Use Act.

**"Fireworks Use Act"** means the Illinois Fireworks Use Act (**425 ILCS 35/0.01 et seq.**).

**"Flame Effect"** means the detonation, ignition, or deflagration of flammable gases, liquids, or special materials to produce a thermal, physical, visual, or audible effect before the public, invitees, or licensees, regardless of whether admission is charged, in accordance with National Fire Protection Association 160 guidelines, and as may be further defined in the Pyrotechnic Operator Licensing Act.

**"Lead Pyrotechnic Operator"** means an individual who is responsible for the safety, setup, and discharge of the pyrotechnic display and who is licensed pursuant to the Pyrotechnic Operator Licensing Act.

**"Office"** means the Office of the Illinois State Fire Marshal.

**"Person"** means an individual, firm, corporation, association, partnership, company, consortium, joint venture, or commercial entity.

**"Pyrotechnic Display"** means the detonation, ignition, or deflagration of display fireworks or flame effects to produce visual or audible effects of an exhibitional nature before the public, invitees, or licensees, regardless of whether admission is charged, and as may be further defined in the Pyrotechnic Operator Licensing Act.

**"Pyrotechnic Operator Licensing Act"** means the Illinois Pyrotechnic Distributor and Operator Licensing Act (**225 ILCS 227/1 et seq.**).

#### **13-1-2**      **PERMIT.**

(A) It shall be unlawful for any person to conduct a consumer fireworks display or consumer display or a pyrotechnic display within the City without having first secured a permit therefore issued by the City Clerk, and executed by the Fire Chief or his designee. It is unlawful for any person to conduct a consumer fireworks display or consumer display or a pyrotechnic display within the City in a manner at variance with the terms and conditions of the permit issued for such display.

(B) Application for the permit shall be made not less than **fifteen (15) days** in advance of the date of the display on a form provided by the City Clerk.

(C) A fee of \$\_\_\_\_\_ shall be provided by the applicant at the time the application for the permit is filed with the City Clerk.

(D) A permit for a pyrotechnic display shall identify the lead pyrotechnic operator; a consumer display shall identify the consumer operator.

(E) No permit issued hereunder shall be transferable.

### **13-1-3            REQUIREMENTS FOR PERMIT.**

(A) A permit for a consumer fireworks display or consumer display for a pyrotechnic display may be issued only after the Chief or his designee has inspected the site and determined that the display can be performed in full compliance with the rules adopted by the State Fire Marshal and that the display shall not be hazardous to property or endanger any person or persons. The Chief must execute the permit before it may be issued.

(B) The applicant shall have in place at the time the application is filed and during the time the display is to be conducted, liability coverage for bodily injury in an amount not less than **One Million Dollars (\$1,000,000.00)** and for property damage in an amount not less than **Five Hundred Thousand Dollars (\$500,000.00)** and shall furnish the City at the time of making application for the permit, a certificate of insurance showing that such coverage is in force and naming the City, its officers, employees, and agents, as additional insureds covered by such insurance, and including a provision that such policy or policies may not be canceled or amended without **fourteen (14) days** prior to written notice having been given to the City.

(C) Every pyrotechnic display shall be conducted by a licensed lead pyrotechnic operator who is specified in the application for the permit, and the applicant shall provide the City Clerk with a copy of his license pursuant to the Pyrotechnic Operator Licensing Act.

(D) Every consumer display shall be conducted by a competent individual who is specified in the application for the permit, and who has received training from a consumer fireworks training class approved by the Office of the State Fire Marshal. A copy of certification or proof that the individual has completed the requisite training shall accompany the application for the permit.

(E) The applicant shall include with his or her application a site plan in sufficient detail to allow the Chief to determine that the display can be performed in full compliance with the rules adopted by the State Fire Marshal and that the display shall not be hazardous to property or endanger any person or persons. Any revisions to the site plan required by the Chief shall be shown on a revised site plan accompanying the permit.

### **13-1-4            PENALTY.**

(A) Any persons violating any of the provisions of this Article shall be guilty of a class 2 Misdemeanor.

(B) All prior inconsistent ordinances and resolutions of the City are hereby repealed.

(C) The City Clerk is authorized and directed to publish this ordinance in pamphlet form in the time and manner and in accordance with the provisions of **65 ILCS 5/1-2-4.**

(D) This Chapter shall take effect **ten (10) days** after its publication, in accordance with law.

**(Ord. No. 06-12-2006-4)**

## **CHAPTER 15 – FRANCHISES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>AGREMENTS</i></b>	
	<i>Section 15-1-1 - Gas Franchise - Ameren</i>	<i>15-1</i>
	<i>Appendix "A"</i>	<i>15-1</i>

## **CHAPTER 15**

### **FRANCHISES**

#### **ARTICLE I – AGREEMENTS**

**15-1-1      GAS FRANCHISE - AMEREN.** The natural gas franchise between the City and Ameren Illinois is hereby included as **Appendix "A"**. (Ord. No. 05-09-2011-1)

#### **APPENDIX "A"**

**AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 10 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE A GAS UTILITY SYSTEM IN THE CITY OF MACON, COUNTY OF MACON AND STATE OF ILLINOIS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MACON, COUNTY OF MACON, AND THE STATE OF ILLINOIS, AS FOLLOWS:**

**SECTION 1.** It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a gas utility system within the City as originally authorized by Ordinance No. 401 approved on July 10, 1961. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of gas energy and other purposes within the City for the benefit of its citizens and residents as well as other consumers of gas energy located within its corporate limits.

**SECTION 2.** There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the City of Macon (hereinafter referred to as "Municipality"), a gas utility system for the transmission, distribution and/or sale of gas energy and other purposes (the "System"), together with the right, privilege and authority to lay, erect, construct, install, operate and/or maintain all necessary mains, pipes, valves, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places as agreed upon by both parties.

**SECTION 3.** All mains, pipes, valves and apparatus shall, so far as practicable, be placed underground and shall be so located and laid as not to interfere unnecessarily with any pipes, conduits, sewers, drains, pavements, public improvements existing at the time of such location, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof and in default thereof said Municipality may repair such damage and charge the cost thereof to, and collect the same from, the Company. Company shall use reasonable good faith efforts to notify Municipality when it plans to install or replace any mains, pipes, valves and apparatus under this Ordinance, and to permit the Municipality to review the proposed location of the mains, pipes, valves and apparatus to be installed or relocated by staking or otherwise. Company may consider any requests by the City to install or relocate mains, pipes, valves and apparatus in a different location. There shall be no unnecessary obstruction to the streets, avenues, alleys and public places of said Municipality in the laying, installation, operation or maintenance of any of said mains, pipes, valves or apparatus. All facilities of Company in said Municipality shall be

installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

When any street, avenue, alley, bridge, easement, right of way and/or other public place shall be graded, curbed, paved or otherwise changed so as to make the resetting or relocation of any pipes or other equipment placed or installed under this Ordinance necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such pipes or other equipment, and the Company's obligation shall be limited to resetting or relocating pipes or other equipment of the same type and configuration as the displaced pipes or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location.

**SECTION 4.** The rates to be charged by the Company for gas service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

**SECTION 5.** As a further consideration for the rights, privileges and authorities granted by this Ordinance, the Company shall, throughout the period in which Company shall exercise the rights, privileges and authority granted by this Ordinance furnish to the said Municipality compensation in the amount of \$545, payable annually, within 30 days of the anniversary date. Municipality may request a revision to the compensation amount after five years from the date of passage of this Ordinance if Municipality has a reasonable belief that its population has increased or decreased by 3% or more. Municipality must request the revision at least 60 days prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by 3% or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional five year periods throughout the term of this Ordinance.

**SECTION 6.** The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

**SECTION 7.** This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within ninety (90) days after due notice to the Company of the enactment of this Ordinance, file with the City Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of ninety (90) days, all rights, privileges, and authority herein granted shall become null and void.

**SECTION 8.** All rights, privileges and authority given and granted by this Ordinance are granted for a term of 10 years from and after the acceptance of this Ordinance as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

**SECTION 9.** The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate

non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, under, along, over and across each and all of such vacated premises which are at that time in use by the Company.

**SECTION 10.** All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

**SECTION 11.** This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its facilities. Except in cases of emergency, prior to engaging in any excavation activity that is expected to create an obstruction or other hazardous condition in any street avenue, alley or public place, the Company shall notify Municipality of the location and extent of the planned excavation. In cases of emergency, Company shall notify Municipality of the location and extent of any such activity as soon as practicable after the emergency has been abated.

**SECTION 12.** If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

**SECTION 13.** If, at any time, during the term of this contract, Municipality permits another entity or person to provide gas distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this Ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

**SECTION 14.** The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all mains, pipes, valves, equipment and other apparatus placed under the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

**SECTION 15.** This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the City Clerk according to the terms prescribed herein. This Ordinance shall be in full force from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

**(Ord. No. 2011-\_\_\_\_; 05-09-11)**



## **CHAPTER 16 – HEALTH**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>TRASH HAULERS</i></b>	
	<i>Division I - Definitions</i>	
	<i>Section 16-1-1 - Definitions</i>	<i>16-1</i>
	<i>Section 16-1-2 - Reserved</i>	
	<i>Division II – Refuse Collection</i>	
	<i>Section 16-1-3 - Refuse Containers Required</i>	<i>16-1</i>
	<i>Section 16-1-4 - License Required</i>	<i>16-2</i>
	<i>Section 16-1-5 - Required Equipment</i>	<i>16-2</i>
	<i>Section 16-1-6 - Forms From Clerk</i>	<i>16-2</i>
	<i>Section 16-1-7 - Hearing by Mayor</i>	<i>16-2</i>
	<i>Section 16-1-8 - Denial of Permit</i>	<i>16-2</i>
	<i>Section 16-1-9 - Surety Bond</i>	<i>16-2</i>
	<i>Section 16-1-10 - Equipment Disrepair</i>	<i>16-3</i>
	<i>Section 16-1-11 - Disposal Location</i>	<i>16-3</i>
	<i>Section 16-1-12 - Customer List</i>	<i>16-3</i>
	<i>Section 16-1-13 - Rates</i>	<i>16-3</i>
	<i>Section 16-1-14 - Vehicle Requirements</i>	<i>16-3</i>
	<i>Section 16-1-15 - License Fee</i>	<i>16-3</i>
	<i>Section 16-1-16 - Appeal</i>	<i>16-4</i>
	<i>Section 16-1-17 - City Council Appeal</i>	<i>16-4</i>
	<i>Section 16-1-18 - Council Decision</i>	<i>16-4</i>
	<i>Section 16-1-19 - Payment Required</i>	<i>16-4</i>
	<i>Section 16-1-20 - Service Required</i>	<i>16-4</i>
	<i>Section 16-1-21 - Reporting Required</i>	<i>16-4</i>
	<i>Section 16-1-22 - 16-1-24 Reserved</i>	
	<i>Division III – Rules and Regulations</i>	
	<i>Section 16-1-25 - License; Vehicle Condition</i>	<i>16-4</i>
	<i>Section 16-1-26 - Extension of Repair</i>	<i>16-5</i>
	<i>Section 16-1-27 - Vehicle Inspection Record</i>	<i>16-5</i>
<b><i>II</i></b>	<b><i>RECYCLABLE MATERIALS</i></b>	
	<i>Section 16-2-1 - Definitions</i>	<i>16-6</i>
	<i>Section 16-2-2 - Recycling Contract</i>	<i>16-6</i>
	<i>Section 16-2-3 - Service Charge</i>	<i>16-6</i>
	<i>Section 16-2-4 - Mandatory Charge</i>	<i>16-6</i>
	<i>Section 16-2-5 - Billing</i>	<i>16-6</i>
	<i>Section 16-2-6 - No Scavenging</i>	<i>16-6</i>

## CHAPTER 16

### HEALTH

#### ARTICLE I – TRASH HAULERS

##### DIVISION I - DEFINITIONS

###### 16-1-1

(A)

**DEFINITIONS.** As used in this Article, the following definitions shall apply:

**"Refuse"** means and includes:

- (1) Garbage, including waste resulting from the hauling, preparation, cooking and consumption of food and waste from the handling, processing, storage, and sale of produce.
- (2) Combustible rubbish, including, but not limited to papers, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and bedding.
- (3) Non-combustible rubbish, including, but not limited to, metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, and other mineral waste.
- (4) Street rubbish, including, but not limited to, street sweepings, dirt, leaves, catch-basin dirt, and contents of litter receptacles.
- (5) Ashes, including residue from fires used for cooking and for heating buildings.
- (6) Bulky wastes, including large auto parts, tires, stoves, refrigerators and other large appliances.
- (7) Construction and demolition wastes, including, but not limited to lumber, roofing and sheathing scraps, rubble, broken concrete and plaster, and conduit pipe, wire and insulation.
- (8) Putrescible industrial refuse, including solid putrescible wastes resulting from industrial processes and manufacturing operations such as food processing wastes.
- (9) Non-putrescible industrial wastes, including solid non-putrescible wastes resulting from industrial processes and manufacturing operations, such as boiler house cinders, wood, plastic, and metal scraps and shavings.
- (10) Household pets, birds, rodents and the wastes thereof.

(B)

**"Refuse Hauling Vehicle"** means any vehicle of any kind used in hauling refuse to any disposal area at any time whether such use be casual or infrequent, or regular, except such vehicles owned or operated by any incorporated city, village or town used only in hauling refuse to a refuse disposal area maintained exclusively by such city, village or town.

(C)

**"Inspector"** means the Mayor of the City or the agent designated by him for that purpose.

###### 16-1-2

**RESERVED.**

##### DIVISION II - REFUSE COLLECTION

###### 16-1-3

**REFUSE CONTAINERS REQUIRED.** It shall be the duty of every tenant, lessee, or occupant of every dwelling, tenement house, lodging house, hotel, restaurant, boarding house, or other person, persons, firm or corporation, on whose premises kitchen and household refuse collects to provide, and at all times to keep within such building, or on the premises, refuse containers sufficient to hold all kitchen and household refuse which may accumulate on the premises, between collections, such

containers to be of metal or plastic, water tight, and with a tight fitting cover or plastic, and equipped with suitable handles, and of such sizes as to be easily handled by one man; which containers shall be placed at all times so as to be readily accessible for removal and emptying, and where they shall not be a public nuisance. No person, firm or corporation, unless authorized and licensed for the purpose, as hereinafter specified, shall interfere with such containers or the contents thereof. All other refuse may be placed in a separate fireproof receptacle, readily accessible for emptying or removal, and of such size as to be easily handled by one man, and where such receptacles shall not be a public nuisance. All such refuse shall be removed at least twice each week.

**16-1-4      LICENSE REQUIRED.** No person, firm or corporation shall engage in the business of collecting refuse or be permitted to haul, convey, or transport over and upon the streets or roads of the City, any refuse as defined or other materials giving off noxious odors, unless he shall first secure an annual refuse collection license. Only **one (1) license** shall be issued for such business for the City.

**16-1-5      REQUIRED EQUIPMENT.** No applicant shall be granted a license until he shall have provided himself with the proper and necessary machinery and appliances for properly taking care of and disposing of said refuse in conformity with this Chapter and the health regulations of the State of Illinois. Such applicant must own each vehicle used by him in the business or refuse collection. No license shall be granted to any applicant who has been guilty of any violation of any health or sanitary provision of any city, village or unincorporated town in Macon County, Illinois, of the County of Macon, or the State of Illinois.

**16-1-6      FORMS FROM CLERK.** All applications for annual refuse collection licenses shall be made on forms provided by the City and shall be filed with the City Clerk.

**16-1-7      HEARING BY MAYOR.** The Mayor, shall within **thirty (30) days** after the filing of each application, other than renewal, hold a hearing thereon to determine whether said issuance of said license would be necessary and desirable in the light of promotion and protection of the health of the residents of his district and the control of disease therein. In such determination the inspector shall consider as factors therein, but shall not be limited to the following:

- (A)            The areas to be served by the applicant.
- (B)            Whether public convenience and necessity required the issuance of such license.
- (C)            The equipment to be used by the applicant in operating under such license.
- (D)            The ability of such applicant to properly operate and maintain the proposed service.

No such grant of license shall be construed as a monopoly or an exclusive privilege, immunity or franchise.

**16-1-8      DENIAL OF PERMIT.** In the event an application for license is denied by the Mayor, another such application for license by the same applicant shall not be filed within the period of **one (1) year** from the date of such denial. No annual Refuse Hauling License shall be issued to any person who, or any firm or corporation which, or any other officer of which, shall have been convicted of any violation of this Article within **three (3) years** next preceding the date of application for such license.

**16-1-9      SURETY BOND.** Before a license hereunder shall be issued each applicant shall execute and deliver to the City, a surety bond in the penal sum of **One Thousand Dollars (\$1,000.00)** running to the City, such bond to be conditioned that such applicant shall at all times conduct an orderly

business and that he shall at all times observe and comply with the ordinances of the City relative to the license issued hereunder, and that such licensee will pay all fines, penalties and costs which such licensee may incur for any violation of any ordinance of the City, and further that he will provide for his customers the full service for which they may have made any payment in advance.

**16-1-10      EQUIPMENT DISREPAIR.** If during the period covered by the license granted, the licensee shall permit his equipment to fall into disrepair or fail to keep the same in a sanitary condition when not in use or fail to keep the same up to the standard required by this Article, or fail to obey any of the provisions of this Article, or to give adequate service, the license may be revoked in the manner provided in this Code.

**16-1-11      DISPOSAL LOCATION.** The licensee must designate in his application the location of the places where he intends to dispose of refuse collected by him. Any change in such location shall be at once reported to the Mayor. No refuse shall be dumped at places which are in violation of the Zoning Code of the County, or other Ordinances of this County, and of any city or village in this County.

**16-1-12      CUSTOMER LIST.** The licensee shall at all times keep a list of the names of his customers and their addresses and shall, upon request, deliver a copy of the same to the Mayor. He shall also keep, at all times, a map and a description of the compact area in which he renders service, and shall, upon request, deliver a copy of same to the Mayor.

**16-1-13      RATES.** The rates for hauling refuse shall be fair and reasonable. The licensee at the time of his application for a license must turn over to the Mayor, his schedule of rates for services rendered. Any change in such schedule must, at the time of taking effect, be reported to the Mayor, in writing. No charge will be made other than on the basis of such rate schedule on file with the Mayor. This schedule shall include private contracts.

**16-1-14      VEHICLE REQUIREMENTS.** All licensees and all vehicles used in the collection of refuse shall conform to the following requirements:

- (A) Vehicles shall at all times be kept in a neat, clean and sanitary condition.
- (B) Vehicles shall be kept thoroughly cleaned so that when empty they will give off no offensive or obnoxious odors.
- (C) Vehicle beds shall be of the packer-loader type and shall be in good operating condition for all haulers who operate regularly scheduled routes collecting from individual home owners or of a covered water tight metal bed in good operating condition in all other cases.
- (D) Vehicles shall not be overloaded.
- (E) Vehicles shall not be parked on the public way of the City in any one place for a period longer than is necessary to dispose of the refuse of the customer being immediately served.
- (F) Vehicles shall at all times be kept neatly painted.
- (G) Vehicles shall be inspected under the direction of the Mayor, on or near the **first (1<sup>st</sup>) day of January and July** each year and at such other times as he may direct.
- (H) The bed of any vehicle used for hauling refuse from without the limits of the City, into and over the public way of said City must comply with the regulations in this Section provided. No refuse shall be brought into the County from a location outside the County without prior consent of the City Council.

**16-1-15      LICENSE FEE.** The license fee shall be **Twenty-Five Dollars (\$25.00)** for each vehicle used. All license shall expire on **June 30<sup>th</sup>** in each year.

**16-1-16      APPEAL.** An appeal may be taken from the decision of the Mayor, in any case covered by this Code, by the person aggrieved thereby. Such appeal shall be taken within a period not to exceed **thirty (30) days** from the date of the issuance of the decision on the matter appealed from, by filing with the City Clerk, a notice of appeal specifying the grounds therefor.

**16-1-17      CITY COUNCIL APPEAL.** Upon receipt of a notice of appeal the City Clerk shall forthwith transmit notice thereof to the Mayor, who shall thereupon place the matter upon the agenda of the City Council, of the meeting next following, whereupon the City Clerk shall forthwith notify the party or parties involved of the date, time and place of said hearing.

**16-1-18      COUNCIL DECISION.** The City Council may reverse or affirm wholly or in part, or may modify the order or decision of the Mayor, as in the City Council's opinion ought to be done in the premises, and to that end shall have all powers for the officer from whom the appeal is taken; provided however, that no decision of the City Council may be reversed without a **two-thirds (2/3)** favorable vote of all the members of the City Council, present and voting.

**16-1-19      PAYMENT REQUIRED.** All owners of residential premises in the City shall subscribe to, and be a customer of, the licensee for refuse removal for the residential area containing said premises, as described herein, and it shall be unlawful, and a violation of this Section, for any such owner to fail at any time to be fully and lawfully entitled to receive refuse removal service from such licensee. It shall be a defense to any prosecution for a violation hereof that the licensee from whom the property owner is required to receive service has failed to provide such service in material breach of the provisions of the Chapter or any other applicable law or ordinance, or in material breach of any lawful agreement between said owner and licensee. **(Ord. No. 08-13-07-1)**

**16-1-20      SERVICE REQUIRED.** Each licensee shall provide service to all residential premises in each residential area served under such license unless said producers are delinquent in the payment of any fees for such service, as authorized hereby, or are otherwise in material breach of the provisions of this Chapter or any other applicable law or ordinance or are in material breach of any lawful agreement between said owner and licensee. **(Ord. No. 08-13-07-1)**

**16-1-21      REPORTING REQUIRED.** Each licensee shall immediately report to the City Clerk, the name and address of any person whose service has been suspended for delinquent payment of fees for refuse removal. **(Ord. No. 08-13-07-1)**

**16-1-22 - 16-1-24      RESERVED.**

### **DIVISION III - RULES AND REGULATIONS**

**16-1-25      LICENSE; VEHICLE CONDITION.** No person, firm or corporation owning, controlling or operating any vehicle used for the purpose of transporting, carrying or hauling refuse in Macon County, Illinois, shall cause or permit any vehicle to be so loaded, out of repair or unloaded shall drop, fall, be blown upon, or be otherwise deposited, or some upon any public way or place other than a refuse disposal area for which a license has been issued, provided above.

**16-1-26      EXTENSION OF REPAIR.** Reasonable extensions of time to accomplish corrections may be granted by the inspector or the City Council, upon request in writing showing good cause for such extension.

**16-1-27      VEHICLE INSPECTION RECORD.** The inspector shall keep an annual record showing the date of inspection of each licensed refuse hauling vehicle.

**(Ord. No. 08-13-07-1)**

## **CHAPTER 21 - LIQUOR**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 21-1-1 - Definitions</i>	<i>21-1</i>
<b><i>II</i></b>	<b><i>LICENSES</i></b>	
	<i>Section 21-2-1 - License Required</i>	<i>21-4</i>
	<i>Section 21-2-2 - Applications</i>	<i>21-4</i>
	<i>Section 21-2-3 - Examination of Applicant</i>	<i>21-5</i>
	<i>Section 21-2-4 - Prohibited Licenses</i>	<i>21-5</i>
	<i>Section 21-2-5 - Term; Fee Submitted in Advance</i>	<i>21-7</i>
	<i>Section 21-2-6 - Classification – Fee - Limitation</i>	<i>21-7</i>
	<i>Section 21-2-7 - Nature of License</i>	<i>21-8</i>
	<i>Section 21-2-8 - Limitation of Licenses</i>	<i>21-8</i>
	<i>Section 21-2-9 - Dramshop Insurance</i>	<i>21-8</i>
	<i>Section 21-2-10 - Display of License</i>	<i>21-8</i>
	<i>Section 21-2-11 - Record of Licenses</i>	<i>21-8</i>
<b><i>III</i></b>	<b><i>REGULATIONS</i></b>	
	<i>Section 21-3-1 - Hours</i>	<i>21-9</i>
	<i>Section 21-3-2 - Happy Hour Restrictions</i>	<i>21-9</i>
	<i>Section 21-3-3 - Prohibited Locations</i>	<i>21-11</i>
	<i>Section 21-3-4 - Change of Location</i>	<i>21-11</i>
	<i>Section 21-3-5 - Stores Selling School Supplies, Lunches, Etc.</i>	<i>21-11</i>
	<i>Section 21-3-6 - Transporting, Etc. in Motor Vehicles</i>	<i>21-11</i>
	<i>Section 21-3-7 - Open Liquor – Cup-to-Go Prohibited</i>	<i>21-11</i>
	<i>Section 21-3-8 - Liquor in Vehicles; Underage</i>	<i>21-12</i>
	<i>Section 21-3-9 - Restricted Residential Areas</i>	<i>21-12</i>
	<i>Section 21-3-10 - Election Days</i>	<i>21-12</i>
	<i>Section 21-3-11 - Unlawful Acts</i>	<i>21-12</i>
	<i>Section 21-3-12 - Unlawful Entertainment</i>	<i>21-12</i>
	<i>Section 21-3-13 - Sanitary Conditions</i>	<i>21-13</i>
	<i>Section 21-3-14 - Diseased Employees</i>	<i>21-13</i>
	<i>Section 21-3-15 - Health Permit</i>	<i>21-13</i>
	<i>Section 21-3-16 - Peddling</i>	<i>21-13</i>
	<i>Section 21-3-17 - Gambling</i>	<i>21-13</i>
	<i>Section 21-3-18 - Disorderly House</i>	<i>21-13</i>
	<i>Section 21-3-19 - Prohibited Sales - Generally</i>	<i>21-13</i>
	<i>Section 21-3-20 - Persons Selling Liquor</i>	<i>21-13</i>
	<i>Section 21-3-21 - Underaged; Entry on Licensed Premises</i>	<i>21-14</i>
	<i>Section 21-3-22 - Unlawful Purchase of Liquor</i>	<i>21-14</i>
	<i>Section 21-3-23 - Identification Required</i>	<i>21-14</i>
	<i>Section 21-3-24 - Transfer of Identification Card</i>	<i>21-14</i>
	<i>Section 21-3-25 - Posting Warning</i>	<i>21-14</i>
	<i>Section 21-3-26 - Exclusionary Provision</i>	<i>21-14</i>
	<i>Section 21-3-27 - Inspections</i>	<i>21-15</i>
	<i>Section 21-3-28 - Books and Records--Available Upon Reasonable Notice and Maintained in State Records</i>	<i>21-15</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>REGULATIONS (CONTINUED)</b>	
	Section 21-3-29 - Restrictions on Licensee	21-15
	Section 21-3-30 - Selling False Identification	21-15
	Section 21-3-31 - False Identification	21-15
	Section 21-3-32 - Underaged Drinking on Streets	21-16
	Section 21-3-33 - Residential Drinking	21-16
	Section 21-3-34 - Renting Hotel Rooms for Drinking	21-16
	Section 21-3-35 - Outdoor Events for Holders of Class "A" Liquor Licenses	21-16
	Section 21-3-36 - BASSET Training Required	21-16
<b>IV</b>	<b>VIOLATIONS AND PENALTIES</b>	
	Section 21-4-1 - Owner of Premises Permitting Violation	21-18
	Section 21-4-2 - Acts of Agent or Employee - Liability; Knowledge	21-18
	Section 21-4-3 - Revocation of License After Conviction	21-18
	Section 21-4-4 - Revocation of License When Employee Convicted	21-18
	Section 21-4-5 - Misbranding	21-18
	Section 21-4-6 - Abatement of Place Used in Violation	21-18
	Section 21-4-7 - Use of Premises for One Year After Revocation	21-18
	Section 21-4-8 - Revocation of Licenses	21-19
	Section 21-4-9 - Complaints by Residents	21-19
	Section 21-4-10 - Revocation or Suspension of Local License; - Notice and Hearing	21-19
	Section 21-4-11 - Appeals from Order of Liquor Commissioner	21-20
	Section 21-4-12 - Subsequent Violations in a Year	21-20
	Section 21-4-13 - Appeal Limitations for Subsequent Violation	21-20



## CHAPTER 21

### LIQUOR

#### ARTICLE I – GENERALLY

**21-1-1**        **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

**"ALCOHOL"** means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

**"ALCOHOLIC LIQUOR"** includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(235 ILCS 5/1-3.05)**

**"BEER"** means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(235 ILCS 1-3.04)**

**"CATERER RETAILER"** means a person who serves alcoholic liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. **(235 ILCS 5/1-3.34)**

**"CLOSE"** means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

**"CLUB"** means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(235 ILCS 5/1-3.24)**

**"CORPORATION"** means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the "Business Corporation Act" of Illinois. **(Rule 100.10(b))**

**"DISTILLED SPIRITS"**. See "Spirits".

**"EVENT"** means a single theme. **(Rules and Regulations 100.10(o))**

**"HOTEL"** means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(235 ILCS 5/1-3.25)**

**"MANAGER" OR "AGENT"** means any individual employed by any licensed place of business, provided said individual possess the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe. **(Rule 100.10(f))**

**"MAYOR"** means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"** and all references to Liquor Commissioner shall refer to the Mayor unless otherwise provided.

**"MEAL"** means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

**"ORIGINAL PACKAGE"** means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(235 ILCS 5/1-3.06)**

**"PACKAGE LIQUOR STORE"** means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

**"PARTNER"** is any individual who is a member of a co-partnership. "Co-partnership" means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

**"PREMISES/PLACE OF BUSINESS"** means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

**"PRIVATE FUNCTION"** means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

**"PUBLIC PLACE"** means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **"public place"** and **"public premises"** shall be interchangeable for the purposes of this Chapter.

**"RESIDENT"** means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the premises covered by the license are located for at least **ninety (90) days** prior to making application for such license and is a registered voter. **(Rule 100.10(a))**

**"RESTAURANT"** means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(235 ILCS 5/1-3.23)**

**"RETAILER"** means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.17)**

**"SALE"** means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(235 ILCS 5/1-3.21)**

**"SELL AT RETAIL" and "SALE OF RETAIL"** refer to any mean sales for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.18)**

**"SPECIAL EVENT"** means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(235 ILCS 5/1-3.30)**

**"SPECIAL EVENTS RETAILER"** means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(235 ILCS 5/1-3.17.1)**

**"SPIRITS"** means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(235 ILCS 5/1-3.02)**

**"TO SELL"** includes to keep or expose for sale and to keep with intent to sell. **(235 ILCS 5/1-3.22)**

**"WINE"** means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined. **(235 ILCS 5/1-3.03)**

**[All references to "Rules" refer to Illinois Liquor Control Commission Rules located in Title 11; Subtitle A; Chapter 1; Part 1; Section 100.5 et seq. of the Illinois Administration Code.]**

## ARTICLE II - LICENSES

**21-2-1      LICENSE REQUIRED.** No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this municipality without having a license to do so, issued by the Mayor of this municipality in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois.**

A similar valid license issued by the Mayor of this municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(235 ILCS 5/4-1)**

**21-2-2      APPLICATIONS.** The Mayor is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the Municipal Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

(A)            The name, age, and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof, and in the case of a corporation for profit or a club, the date of incorporation, the object for which it was organized, the names and addresses of the officers, directors and the name of the person who will be managing the establishment for which the license is sought, and if a majority in interest of the stock of such corporation is owned by one person or his nominee, the address and name of such person.

(B)            The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.

(C)            The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D)            The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E)            The location and description of the premises or place of business which is to be operated under such license.

(F)            Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G)            That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H)            Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I)            That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **one (1) member** of such partnership, firm, association or club, or by the president and secretary of such corporation.

**One (1) copy** of the application shall be retained by the Mayor, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of the application and may make further comments regarding that application. The copies shall be returned to the Mayor and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. **(235 ILCS 5/7-1)**

**21-2-3 EXAMINATION OF APPLICANT.** The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf. **(235 ILCS 5/4-5)**

**21-2-4 PROHIBITED LICENSEES.** Except as otherwise provided in paragraph (U) of this Section, no license of any kind pursuant to state law in **235 ILCS 5/7-1** shall be issued by the Mayor to the following:

- (A) A person who is not a resident of this City;
- (B) A person who is not of good character and reputation in the community in which he resides;
- (C) A person who is not **twenty-one (21) years** of age;
- (D) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant;
- (E) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;
- (F) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- (G) A person whose license issued under this Act has been revoked for cause;
- (H) A person who, at the time of the application for renewal of any license issued hereunder, would not be eligible for such license upon first application;
- (I) A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residence within the political subdivision, unless residency is required by local ordinance;
- (J) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision;
- (K) A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the **"Business Corporation Act of 1983"** to transact business in Illinois;
- (L) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee;
- (M) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act or has forfeited his bond to appear in court to answer charges for any such violation;
- (N) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;
- (O) Any law enforcing public official, any mayor, alderman, or a member of a city council or commission; and no such official shall be interested directly in the manufacture, sale, or

distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission and except that a license may be granted, in a City with a population of **fifty thousand (50,000)** or less, to any alderman, in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the State Commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the council to which the license holder is elected;

(P) A person who is not a beneficial owner of the business to be operated by the licensee;

(Q) A person who has been convicted of a gambling offense as prescribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961, or as prescribed by a statute replaced by any of the aforesaid statutory provisions;

(R) A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

(S) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in Section 5/6-21 of Chapter 235 of the Illinois Compiled Statutes;

(T) A person who is delinquent in the payment of any indebtedness or obligation to the City;

(U) A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Mayor shall determine if all provisions of this paragraph (U) have been met before any action on the corporation's license is initiated;

(V) A co-partnership to which a federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamps or federal wagering stamp by the federal government for the current tax period;

(W) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than **twenty percent (20%)** of the stock of such corporation has been issued a federal wagering stamp for the current tax period. **(235 ILCS 5/6-2)**

(X) No licensee operating video gaming terminals pursuant to **Section 7-3-1 et seq.** of this Code, whose place of business obtained an initial license, permit or certificate for the sale of alcohol for consumption on the licensed premises on or after **August 8, 2016**, who fails to derive at least **sixty percent (60%)** or more of its gross annual revenues from food and beverages sales (excluding packaged liquor) may renew its license.

No licensee operating video gaming terminals pursuant to **Section 7-3-1 et seq.** of this Code, whose place of business obtained an initial license, permit or certificate for the sale of alcohol for consumption on the licensed premises on or after **August 8, 2016** upon initial application, must show a reasonable likelihood of deriving at least **sixty percent (60%)** or more of its gross annual revenues from food and beverages sales (excluding packaged liquor). If such a showing is not made no liquor license shall issue.

Pursuant to the powers granted to the Mayor under **Section 21-2-3** of this Code a licensee who obtained a license on or after **August 8, 2016**, whose gross revenues of food and beverage sales appear to have fallen below **sixty percent (60%)** for a period of **ninety (90) consecutive days** may receive a notice of revocation and shall have the books and records of any such licensee examined and the licensee may be examined under oath. Upon determination that less than **sixty percent (60%)** of its gross annual revenues are derived from food and beverages sales, the Mayor, in his/her discretion, may revoke the liquor license. **(Ord. No. 2016-08-08-3)**

**21-2-5 TERM; FEE SUBMITTED IN ADVANCE.** Retail liquor licenses issued under this Chapter shall be valid for a **twelve (12) month period** upon the payment of the license fee as hereinafter set forth unless sooner revoked or suspended. The **twelve (12) month period** shall be from **May 1<sup>st</sup> to April 30<sup>th</sup>** of the following year. If the license is issued after **May 1<sup>st</sup>**, the fee may be pro-rated by the quarter.

The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Mayor as hereinbefore provided. In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited in the Municipal General Fund. The application for a license shall be filed with the Municipal Clerk.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license. **(235 ILCS 5/4-1)**

**21-2-6 CLASSIFICATION - FEE - LIMITATION.** Every person engaged in the retail sale of alcoholic liquor in the City shall pay an annual license fee. Such licenses shall be divided into classes as defined in paragraph (A) – (D) below. Additional license definitions, regulations or restrictions may appear elsewhere in this Code. **(Ord. No. 03-11-2002-1)**

(A) **Class "A" License.** There is hereby created a Class "A" liquor license, which shall authorize consumption of alcoholic liquor on or off the premises specified. The annual fee shall be **Five Hundred Dollars (\$500.00)**.

(B) **Class "B" Licenses.** There is hereby created a Class "B" liquor license, which shall authorize the sale of alcoholic liquor, but no consumption on the premises where sold. The annual license fee shall be **Five Hundred Dollars (\$500.00)**. **(Ord. No. 04-09-01-3)**

(C) **Class "C" Licenses: Seasonal.** Upon application, the Liquor Commissioner is authorized to issue a Class "C" seasonal license for a period of **seven (7) months** or less which would allow the sale and consumption of beer and wine on the premises. The fee for said license shall be **Five Hundred Dollars (\$500.00)** per year. Class "C" Seasonal Licenses for race tracks are further restricted. The Seasonal Liquor License period shall be co-extensive with the period for the race track license as specified in **Section 7-3-1** of this Code. Further, the sale of beer and wine is restricted to race nights. Prior approval of the sale of beer and wine at special events must be obtained from the City Council. Sales of beer and wine shall commence no earlier than **5:00 P.M.** and shall end **one-half (1/2) hour** prior to the cessation of racing. In the event of a cancellation or postponement due to rain or any other cause, beer and wine sales shall cease. **(235 ILCS 5/4-1)**

(D) **Class "D" Licenses: Civic Organizations, Etc.** Upon application, the Liquor Commissioner is authorized to issue a Class "D" license for a period of **twelve (12)** or **twenty-four (24) hours** to any civic or religious organization which keeps or desires to keep any place selling or offering for sale, or in any manner dealing in any alcoholic liquors. The fee for such license shall be for the sale of alcoholic liquors, the sum of **One Dollar (\$1.00)** for each **twelve (12) hours**; for more than **twelve (12) hours** and not more than **twenty-four (24) hours** within any **one (1) day**, the fee shall be **Two Dollars (\$2.00)**, subject to the provisions of this Chapter. Class "D" licenses do not count when computing paragraph (E) limitations. **(235 ILCS 5/4-1)**

(E) **License Limitation.** The total number of retail licenses of all kinds for the sale of alcoholic liquors at retail in the City, be and the same is restricted to **one (1) license** for each **two hundred (200) residents** of the City. The computation of such number shall be based upon the published figures of the Federal Census of the population of the City last taken prior to application provided that fractional parts of **two hundred (200)** shall not be counted. **(Ord. No. 02-13-2012-1)**

**21-2-7            NATURE OF LICENSE.** A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided, and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee. **(235 ILCS 5/6-1) (See Attorney General's Report No. 703; 01-08-48)**

**21-2-8            LIMITATION OF LICENSES.**

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in the territory annexed to the municipality. Licenses may be issued to them or renewed by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions and contingencies contained herein shall apply.

(B) **Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then, in that event, the Mayor shall extend the period of time for which a liquor license may be held by the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**.

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(235 ILCS 5/4-1)**

**21-2-9            DRAMSHOP INSURANCE.** No license shall be issued hereunder unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the State of Illinois, certifying that the applicant has the following coverages up to the full amount of potential liability as established by the Illinois Compiled Statutes from time to time. **(235 ILCS 5/6-21)**

**21-2-10          DISPLAY OF LICENSE.** Every licensee under this Chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. **(235 ILCS 5/6-24)**

**21-2-11          RECORD OF LICENSES.** The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours**. **(235 ILCS 5/4-1)**



## ARTICLE III - REGULATIONS

### 21-3-1

**HOURS.** The hours for retail liquor licenses shall be as follows:

(A) **Sale Hours for All Licenses.** It shall be unlawful to give or sell or offer for sale or gift or in any way provide any alcoholic liquors, spirits, beer, or wine in the City during the following hours:

**Hours:**

Monday	From	2:00 A.M.	to	6:00 A.M.
Tuesday	From	2:00 A.M.	to	6:00 A.M.
Wednesday	From	2:00 A.M.	to	6:00 A.M.
Thursday	From	2:00 A.M.	to	6:00 A.M.
Friday	From	2:00 A.M.	to	6:00 A.M.
Saturday	From	2:00 A.M.	to	6:00 A.M.
Sunday	From	2:00 A.M.	to	6:00 A.M.

No alcoholic liquor shall be sold and all Class "A" licensed premises must remain closed at all times specified above.

The times referred to above shall refer to Daylight Savings Time or, when the same is in effect in the City and upon cessation of Daylight Savings Time, shall be Central Standard Time.

All patrons or customers shall leave the premises at the specified closing time and shall not remain on the premises thereafter. All patrons or customers shall leave the parking areas and grounds adjacent to the premises by **2:15 A.M.** and shall not remain on the parking areas and grounds adjacent to the premises thereafter. **(235 ILCS 5/4-1) (Ord. No. 12-09-2002-3)**

### 21-3-2

#### **HAPPY HOUR RESTRICTIONS.**

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

- (1) Sell more than **one (1) drink** of alcoholic liquor for the price of **one (1) drink** of alcoholic liquor;
- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public or as provided by **235 ILCS 5/6-28.5**;
- (3) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
- (4) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
- (5) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (1) through (4).

(C) Permitted happy hours and meal packages, party packages, and entertainment packages.

(1) As used in this Section:

- (a) **"Dedicated event space"** means a room or rooms or other clearly delineated space within a retail licensee's premises that is reserved for the exclusive use of party package invitees during

the entirety of a party package. Furniture, stanchions and ropes, or other room dividers may be used to clearly delineate a dedicated event space.

(b) **"Meal package"** means a food and beverage package, which may or may not include entertainment, where the service of alcoholic liquor is an accompaniment to the food, including, but not limited to, a meal, tour, tasting, or any combination thereof for a fixed price by a retail licensee or any other licensee operating within a sports facility, restaurant, winery, brewery, or distillery.

(c) **"Party package"** means a private party, function, or event for a specific social or business occasion, either arranged by invitation or reservation for a defined number of individuals, that is not open to the general public and where attendees are served both food and alcohol for a fixed price in a dedicated event space.

(2) A retail licensee may:

(a) offer free food or entertainment at any time;

(b) include drinks of alcoholic liquor as part of a meal package;

(c) sell or offer for sale a party package only if the retail licensee:

(i) offers food in the dedicated event space;

(ii) limits the party package to no more than **three (3) hours**;

(iii) distributes wristbands, lanyards, shirts, or any other such wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space; and

(iv) excludes individuals not participating in the party package from the dedicated event space;

(d) include drinks of alcoholic liquor as part of a hotel package;

(e) negotiate drinks of alcoholic liquor as part of a hotel package;

(f) provide room service to persons renting rooms at a hotel;

(g) sell pitchers (or the equivalent, including, but not limited to, buckets of bottled beer), carafes, or bottles of alcoholic liquor which are customarily sold in such manner, or sell bottles of spirits;

(h) advertise events permitted under this Section;

(i) include drinks of alcoholic liquor as part of an entertainment package where the licensee is separately licensed by a municipal ordinance that (i) restricts dates of operation to dates during which there is an event at an adjacent stadium, (ii) restricts hours of serving alcoholic liquor to **two (2) hours** before the event and **one (1) hour** after the event, (iii) restricts alcoholic liquor sales to beer and wine, (iv) requires tickets for admission to the establishment, and (v) prohibits sale of admission tickets on the day of an event and permits the sale of admission tickets for single events only; and

(j) discount any drink of alcoholic liquor during a specified time period only if:

(i) the price of the drink of alcoholic liquor is not changed during the time that it is discounted;

(ii) the period of time during which any drink of alcoholic liquor is discounted does not exceed **four (4) hours** per day and **fifteen (15) hours** per week; however, this

- period of time is not required to be consecutive and may be divided by the licensee in any manner;
- (iii) the drink of alcoholic liquor is not discounted between the hours of **10:00 P.M.** and the licensed premises' closing hour; and
  - (iv) notice of the discount of the drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least **seven (7) days** prior to the specified time.

(D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by **Article IV** of this Chapter. **(235 ILCS 5/6-28)**

**21-3-3      PROHIBITED LOCATIONS.** No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one hundred (100) feet** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(235 ILCS 5/6-11)**

**21-3-4      CHANGE OF LOCATION.** A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Mayor. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the Code of this municipality. **(235 ILCS 5/7-14)**

**21-3-5      STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC.** No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors. **(235 ILCS 5/6-12)**

**21-3-6      TRANSPORTING, ETC., IN MOTOR VEHICLES.** No person shall, within this municipality, transport, carry, possess, or have any alcoholic liquor in, upon, or about any motor vehicle in or on any public street, alley or place, except in the original package and with the seal unbroken.

**21-3-7      OPEN LIQUOR - CUP-TO-GO PROHIBITED.** The licensee shall not knowingly permit any person to leave his premises with open liquor or in a "**cup-to-go**".

**21-3-8            LIQUOR IN VEHICLES; UNDERAGE.** The presence in a vehicle other than a public vehicle of any alcoholic liquor shall be prima facie evidence that it is in the possession of and is being carried by all persons occupying such vehicle at the time of which such alcoholic liquor is found, except under the following circumstances:

- (A)                If such liquor is found on the person of one of the occupants therein; or
- (B)                If such vehicle contains at least one occupant over **twenty-one (21) years of age.**

**21-3-9            RESTRICTED RESIDENTIAL AREAS.** It shall be unlawful to establish a retail liquor business within the municipality in violation of the restrictions of the Zoning Code. **(See Chapter 40 of the Revised Code)**

**21-3-10          ELECTION DAYS.** All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter.

**21-3-11          UNLAWFUL ACTS.** It shall be unlawful for any person to do or commit any of the following acts within the City, to-wit:

- (A)                Drink any alcoholic liquors on any public street, alley, sidewalk, or other public way without special permission granted by the Mayor.
- (B)                Drink any alcoholic liquors in any public park, except with the permission of the Mayor.
- (C)                Drink any alcoholic liquors on any private property without permission of an owner thereof.
- (D)                Appear on or in any public street, alley, sidewalk or other public place, including parks and recreation areas, in an intoxicated condition.

**21-3-12          UNLAWFUL ENTERTAINMENT.** No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any    topless and/or bottomless employee and/or employees **[topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward]**, or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guest.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guest or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guest to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this municipality licensed to sell alcoholic liquor are prohibited:

- (A)                The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;
- (B)                The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
- (C)                The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
- (D)                The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to view any portion of his or her breasts, buttocks, genitals, vulva, or anus;

(E) The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

**21-3-13      SANITARY CONDITIONS.** All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(410 ILCS 650/1, et seq.)**

**21-3-14      DISEASED EMPLOYEES.** It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(410 ILCS 650/10)**

**21-3-15      HEALTH PERMIT.** Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

**21-3-16      PEDDLING.** It shall be unlawful to peddle alcoholic liquor in this municipality. **(235 ILCS 5/4-1)**

**21-3-17      GAMBLING.** It is unlawful to keep, place, maintain or operate any gambling device or instrument in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away, except in the following instances:

(A) **Bingo.** When conducting or participating in the game commonly known as Bingo, when conducted in accordance with the Bingo License and Tax Act **(230 ILCS 25/1 et seq.);**

(B) **Video Poker.** Video Gaming Terminal games at a licensed establishment, licensed fraternal organization, or licensed veteran's establishment, when conducted in accordance with the Video Gaming Act. **(230 ILCS 40/1 et seq.)**

**21-3-18      DISORDERLY HOUSE.** Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(235 ILCS 5/4-1)**

**21-3-19      PROHIBITED SALES - GENERALLY.** No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service. **(235 ILCS 5/6-16)**

**21-3-20      PERSONS SELLING LIQUOR.** It shall be unlawful for any person under the age of **twenty-one (21) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any Class "A" or "B" licensed retail premises. **(235 ILCS 5/4-1)**

**21-3-21      UNDERAGED; ENTRY ON LICENSED PREMISES.** It shall be unlawful for any person under the age of **twenty-one (21) years** to enter upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a Class "A" license unless accompanied by a parent or legal guardian. No holder of a Class "A" license, nor any officer, associate, member, representative, agent or employee of such licensee shall permit any person under the age of **twenty-one (21) years** not accompanied by a parent or legal guardian to enter the licensed premises. For the purpose of preventing the violation of this Section, any holder of a Class "A" license, or his agent or employee, may refuse to permit entry onto the licensed premises of any person under the age of **twenty-one (21) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **twenty-one (21) years** is that person's parent or legal guardian. **(235 ILCS 5/4-1) (Ord. No. 04-09-01-3)**

**21-3-22      UNLAWFUL PURCHASE OF LIQUOR.** Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. **(235 ILCS 5/6-20)**

**21-3-23      IDENTIFICATION REQUIRED.** If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. **(235 ILCS 5/6-20)**

**21-3-24      TRANSFER OF IDENTIFICATION CARD.** No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(235 ILCS 5/6-20)**

**21-3-25      POSTING WARNING.** In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the Municipal Clerk, and which shall read as follows:

#### **UNDERAGE LIQUOR WARNING**

**"YOU ARE SUBJECT TO A FINE UP TO \$750 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR."**

**21-3-26      EXCLUSIONARY PROVISION.** The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(235 ILCS 5/6-20)**

**21-3-27      INSPECTIONS.** It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or the Liquor Commissioner for the purpose of making an inspection of such premises or any part thereof. **(235 ILCS 5/4-4)**

**21-3-28      BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS.** It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. **(235 ILCS 5/6-10)**

**21-3-29      RESTRICTIONS ON LICENSEE.** In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(235 ILCS 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(235 ILCS 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(235 ILCS 5/6-19)**

(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(235 ILCS 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(235 ILCS 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the commissioner on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

**21-3-30      SELLING FALSE IDENTIFICATION.** Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(235 ILCS 5/6-16)**

**21-3-31      FALSE IDENTIFICATION.** Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(235 ILCS 5/6-16)**

**21-3-32      UNDERAGED DRINKING ON STREETS.** Any person under the age of **twenty-one (21) years** who has any alcoholic beverage in his possession on any street or highway or in any public place, or in any place open to the public is guilty of violating this Code. This section does not apply to possession by a person under the age of **twenty-one (21) years** making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment. **(235 ILCS 5/6-16)**

**21-3-33      RESIDENTIAL DRINKING.** Any person shall be guilty of a violation of this Code where he or she knowingly permits a gathering at a residence which he or she occupies of **two (2) or more persons** where any one or more of the persons is under **eighteen (18) years** of age and the following factors also apply:

(A) the person occupying the residence knows that any such person under the age of **eighteen (18)** is in possession of or is consuming any alcoholic beverage; and

(B) the possession or consumption of the alcohol by the person under **eighteen (18)** is not otherwise permitted by this Code and

(C) the person occupying the residence knows that the person under the age of **eighteen (18)** leaves the residence in an intoxicated condition.

For the purposes of this section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee. **(235 ILCS 5/6-16)**

**21-3-34      RENTING HOTEL ROOMS FOR DRINKING.** Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(235 ILCS 5/6-16)**

**21-3-35      OUTDOOR EVENTS FOR HOLDERS OF CLASS "A" LIQUOR LICENSES.** Every person engaged in the retail sale of alcoholic liquor in the City that currently holds a Class "A" license may sell alcoholic liquor and allow its consumption outside the confines of the building or structure within which alcoholic liquor is normally dispensed. This activity shall be defined as an outdoor event. Outdoor events shall be confined within the property boundaries of the property. The number of outdoor events shall be limited to **twelve (12)** per year. The events may begin no earlier than **12:00 P.M.** and end no later than **12:00 A.M.** **(Ord. No. 12-09-2002-1)**

**21-3-36      BASSET TRAINING REQUIRED.**

(A) For all licenses issued on or after **October 1, 2016** and all original or renewal applications for Classes "A" to "D" liquor licenses shall be accompanied with proof of completion of a State Certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all persons who sell or serve alcoholic beverages, all management personnel working on premises, and anyone whose job description entails the checking of identification for the purpose of alcoholic beverages, pursuant to that license.

(B) A state certified BASSET training program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by **235 ILCS 5/3-12(11.1)** and **6-27** and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card (a picture type ID is optional), to participants as proof of completion.

(C) After **October 1, 2016**, any new owner, manager, employee, or agent requiring BASSET training, shall within **ninety (90) days** from the beginning of their employment with that licensee, complete an ILCC BASSET approved seller/server training program and shall until completion of the BASSET program work under the supervision of a person who has completed BASSET training.



(D) A photo copy of certificate of completion for all owners, managers, employees, or agents required by this Section to have BASSET training shall be maintained, by the establishment, in manner that will allow inspection, upon demand, by any designee of both the state or local liquor control authorities.

(E) The City will honor all State of Illinois Liquor Control Commission (ILCC) BASSET approved programs.

## **ARTICLE IV - VIOLATIONS AND PENALTIES**

**21-4-1      OWNER OF PREMISES PERMITTING VIOLATION.** If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(235 ILCS 5/10-2)**

**21-4-2      ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE.** Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(235 ILCS 5/10-3)**

**21-4-3      REVOCATION OF LICENSE AFTER CONVICTION.** Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Mayor, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license. **(235 ILCS 5/10-4)**

**21-4-4      REVOCATION OF LICENSE WHEN EMPLOYEE CONVICTED.** Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and as to the premises, as if said licensee had himself been convicted. **(235 ILCS 5/10-5)**

**21-4-5      MISBRANDING.** Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(235 ILCS 5/10-6)**

**21-4-6      ABATEMENT OF PLACE USED IN VIOLATION.** Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(235 ILCS 5/10-7)**

**21-4-7      USE OF PREMISES FOR ONE YEAR AFTER REVOCATION.** When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(235 ILCS 5/7-13)**

**21-4-8      REVOCATION OF LICENSES.** The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A)            In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for violation of any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B)            To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C)            To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D)            To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E)            To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F)            The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(235 ILCS 5/4-4)**

**21-4-9      COMPLAINT BY RESIDENTS.** Any **five (5) residents** of the municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(235 ILCS 5/7-7)**

**21-4-10      REVOCATION OR SUSPENSION OF LOCAL LICENSE; - NOTICE AND HEARING.** The Liquor Commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of the **Illinois Liquor Act**, any valid ordinance adopted by the municipality, any applicable rule or regulation established by the Liquor Commissioner or the State Commission which is not inconsistent with law.

(A)            **Fine as Opposed to Suspension or Revocation.** In addition to the suspension, the Local Liquor Control Commissioner in any county or municipality may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for a first violation within a twelve (12) month period, One Thousand Five Hundred Dollars (\$1,500.00) for a second violation within a twelve (12) month period, and Two Thousand Five Hundred Dollars (\$2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars (\$15,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. (See P.A. 89-0063)

(B)            **Revocation and Suspension: Notice.** However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a **three (3) day** written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Liquor

Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than **seven (7) days**, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) **Hearing.** The Liquor Commissioner shall, within **five (5) days** after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the **five (5) days** upon the license. The findings of the Commissioner shall be predicted upon competent evidence. **(235 ILCS 5/7-5)**

**21-4-11      APPEALS FROM ORDER OF LIQUOR COMMISSIONER.** Except as provided in this section, any order or action of a Local Liquor Control Commissioner levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than **thirty (30) days** to grant a hearing upon a complaint to revoke or suspend a license may within **twenty (20) days** after notice of such order or action by appealed by any resident of the municipality under the jurisdiction of the Liquor Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Liquor Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. **(235 ILCS 5/7-9)**

**21-4-12      SUBSEQUENT VIOLATIONS IN A YEAR.** In any case in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period**. **(235 ILCS 5/7-9)**

**21-4-13      APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION.** Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(235 ILCS 5/7-9)**

## APPLICATION FOR CITY LIQUOR RETAILER'S LICENSE

TO: Mayor  
City of Macon

\_\_\_\_\_  
\_\_\_\_\_

The undersigned hereby make(s) application for the issuance of a city retailer's license for the sale of alcoholic liquor for the term beginning \_\_\_\_\_, 20\_\_\_\_, and ending \_\_\_\_\_, 20\_\_\_\_, and hereby certify(ies) to the following facts:

- 1) Applicant's full name \_\_\_\_\_  
(If a partnership or corporation give names of all owners of more than 5%)  
Name under which business is to be conducted: \_\_\_\_\_
- 2) Location of place of business for which license is sought \_\_\_\_\_
  - A) \_\_\_\_\_  
Exact address by street and number/zip code
  - B) \_\_\_\_\_  
(Full description of location, place or premises, specifying floor, room, etc.)
- 3) State principal kind of business \_\_\_\_\_
- 4) Class of license applied for \_\_\_\_\_
  - 5) Does applicant seek a license to sell alcoholic liquor upon the premises as a restaurant? \_\_\_\_\_  
\_\_\_\_\_
- If so, are premises:
  - A) Maintained and held out to the public as a place where meals are actually and regularly served? \_\_\_\_\_
  - B) Provided with adequate and sanitary kitchen and dining room equipment and capacity with sufficient employees to prepare, cook and serve suitable food? \_\_\_\_\_  
\_\_\_\_\_
- 6) Does applicant own premises for which this license is sought? \_\_\_\_\_
- 7) Has applicant a lease on such premises covering the full period for which the license is sought? \_\_\_\_\_ If so, attach copy.
- 8) Is applicant licensed as a food dispenser? \_\_\_\_\_
- 9) Is the location of applicant's business for which license is sought within 100 feet property line to property line, of any school, hospital, home for aged or indigent persons, or for veterans, their wives or children, or any military or naval station, or 100 feet building to building from a church? \_\_\_\_\_
- 10) Is any law enforcing public official, mayor, alderman, member of the city council or commission, or any president or member of a county board directly interested in the business for which this license is sought? \_\_\_\_\_
- 11) Has any manufacturer, importing distributor or distributor directly or indirectly paid or agreed to pay for this license, advanced money or anything of value, or any credit (other than merchandising credit in the ordinary course of business for a period not to exceed 30 days), or is such person directly or indirectly interested in the ownership, conduct or operation of the place of business? \_\_\_\_\_  
\_\_\_\_\_

- 12) Is the applicant or any affiliate, associate, subsidiary, officer, director or other agent engaged in the manufacture of alcoholic liquors? \_\_\_\_\_  
\_\_\_\_\_  
If so, at what location or locations? \_\_\_\_\_
- 13) Is the applicant engaged in the business of an importing distributor or distributor of alcoholic liquors? \_\_\_\_\_  
If so, at what location or locations? \_\_\_\_\_
- 14) Will the business be conducted by a manager or agent? \_\_\_\_\_  
If so, give name and residence address of such manager or agent:  
Name \_\_\_\_\_  
Address \_\_\_\_\_
- 15) Do you hold any other current business licenses issued by the City? \_\_\_\_\_ If so, what type of license do you currently hold and what is the address of the licensed premises?  
(Type) \_\_\_\_\_  
(Address) \_\_\_\_\_

**Individual Applicant:**

- 16) A) Name \_\_\_\_\_  
Date of birth \_\_\_\_\_  
Month/Day/Year
- B) Residence address \_\_\_\_\_  
(give street and number)  
Telephone number \_\_\_\_\_
- C) Place of birth \_\_\_\_\_
- D) Are you a citizen of the United States? \_\_\_\_\_  
If a naturalized citizen, when naturalized? \_\_\_\_\_  
Month/Day/Year  
Where naturalized? \_\_\_\_\_  
(City and State)  
Court in which (or law under which) naturalized \_\_\_\_\_
- E) Have you ever been convicted of any felony under any Federal or State law?  
\_\_\_\_\_  
If so, give date and state offense \_\_\_\_\_
- F) Have you ever been convicted of being the keeper of a house of ill fame; or of pandering or other crime or misdemeanor opposed to decency and morality? \_\_\_\_\_  
\_\_\_\_\_  
If so, give dates and state offense \_\_\_\_\_
- G) Have you ever been convicted of a violation of a Federal or State liquor law since February 1, 1934? \_\_\_\_\_  
If so, give dates and state offense \_\_\_\_\_
- H) Have you ever permitted an appearance bond forfeiture for any of the violations mentioned in paragraph (G)? \_\_\_\_\_
- I) Have you made application for other similar license for premises other than described in this application? \_\_\_\_\_  
If so, give date, location of premises and disposition of application \_\_\_\_\_  
\_\_\_\_\_

- J) Has any license previously issued to you by State, Federal or local authorities been revoked, suspended or fined? \_\_\_\_\_  
If so, state reasons therefor and date(s) \_\_\_\_\_

**Co-partnership/Corporate Applicant:**

- 17) A) Name of partner, or corporate officers and directors and shareholders, if any:  
(attached separate sheet if necessary)  
Date of birth \_\_\_\_\_  
Month/Day/Year
- B) Residence address \_\_\_\_\_  
(City and State)  
Telephone number \_\_\_\_\_
- C) Place of birth \_\_\_\_\_  
Month/Day/Year
- D) Are you a citizen of the United States? \_\_\_\_\_  
If a naturalized citizen, when naturalized? \_\_\_\_\_  
Month/Day/Year  
Where naturalized? \_\_\_\_\_  
(City and State)  
Court in which (or law under which) naturalized \_\_\_\_\_
- E) Have you ever been convicted of any felony under any Federal or State law? \_\_\_\_\_  
If so, give date and state offense \_\_\_\_\_
- F) Have you ever been convicted of being the keeper of a house of ill fame; or of pandering or other crime or misdemeanor opposed to decency and morality? \_\_\_\_\_  
If so, give dates and state offense \_\_\_\_\_
- G) Have you ever been convicted of a violation of a Federal or State liquor law since February 1, 1934? \_\_\_\_\_  
If so, give dates and state offense \_\_\_\_\_
- H) Have you ever permitted an appearance bond forfeiture for any of the violations mentioned in paragraph (G)? \_\_\_\_\_
- I) Have you made application for other similar license for premises other than described in this application? \_\_\_\_\_  
If so, give date, location of premises and disposition of application \_\_\_\_\_
- J) Has any license previously issued to you by State, Federal or local authorities been revoked, suspended or fined? \_\_\_\_\_  
If so, state reasons therefor and date(s) \_\_\_\_\_

**APPENDIX IV**

**AFFIDAVIT**

**STATE OF ILLINOIS        )**  
                                  **)       SS**  
**COUNTY OF MACON        )**

I (or we) swear (or affirm) that I (or we) will not violate any of the ordinances of the City of Macon or the laws of the State of Illinois or the laws of the United States of America, in the conduct of the place of business described herein and that the statements contained in this application are true and correct to the best of my (our) knowledge and belief.

Subscribed and Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature of Applicant)



## **CHAPTER 22 - MANDATED POLICIES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>IDENTITY THEFT</i></b>	
	<i>Section 22-1-1 - Program Adoption</i>	<i>22-1</i>
	<i>Section 22-1-2 - Program Purpose and Definitions</i>	<i>22-1</i>
	<i>Section 22-1-3 - Identification of Red Flags</i>	<i>22-2</i>
	<i>Section 22-1-4 - Detecting Red Flags</i>	<i>22-3</i>
	<i>Section 22-1-5 - Preventing and Mitigating Identity Theft</i>	<i>22-3</i>
	<i>Section 22-1-6 - Program Updates</i>	<i>22-4</i>
	<i>Section 22-1-7 - Program Administration</i>	<i>22-4</i>
<b><i>II</i></b>	<b><i>USE OF SOCIAL SECURITY NUMBERS</i></b>	
	<i>Section 22-2-1 - Definitions</i>	<i>22-5</i>
	<i>Section 22-2-2 - Prohibited Activities</i>	<i>22-5</i>
	<i>Section 22-2-3 - Public Inspection and Copying of Documents</i>	<i>22-6</i>
	<i>Section 22-2-4 - Applicability</i>	<i>22-6</i>
	<i>Section 22-2-5 - Compliance with Federal Law</i>	<i>22-6</i>
	<i>Section 22-2-6 - Embedded Social Security Numbers</i>	<i>22-7</i>
	<i>Section 22-2-7 - Identity--Protection Requirements</i>	<i>22-7</i>
	<i>Section 22-2-8 - Penalty</i>	<i>22-7</i>
	<i>Section 22-2-9 - Amendment of Privacy Policy</i>	<i>22-7</i>
	<i>Section 22-2-10 - Conflict with Stricter Laws</i>	<i>22-7</i>
<b><i>III</i></b>	<b><i>FREEDOM OF INFORMATION POLICY</i></b>	
	<i>Section 22-3-1 - Public Records Available</i>	<i>22-8</i>
	<i>Section 22-3-2 - Designation, Duties and Training of Freedom of Information Act Officers</i>	<i>22-8</i>
	<i>Section 22-3-3 - Procedures</i>	<i>22-8</i>
	<i>Section 22-3-4 - Requests to Inspect or Copy</i>	<i>22-8</i>
	<i>Section 22-3-5 - Request for Commercial Purposes</i>	<i>22-9</i>
	<i>Section 22-3-6 - Fees</i>	<i>22-10</i>
	<i>Section 22-3-7 - Public File</i>	<i>22-10</i>
	<i>Section 22-3-8 - Granting or Denial of Requests</i>	<i>22-10</i>
	<i>Section 22-3-9 - Certain Information Exempt From Inspection and Copying</i>	<i>22-10</i>
	<i>Section 22-3-10 - Notice of Denial of Request; Appeals</i>	<i>22-10</i>
<b><i>IV</i></b>	<b><i>FAIR HOUSING CODE</i></b>	
	<i>Section 22-4-1 - Declaration of Policy</i>	<i>22-11</i>
	<i>Section 22-4-2 - Definitions</i>	<i>22-11</i>
	<i>Section 22-4-3 - Prohibited Acts</i>	<i>22-12</i>
	<i>Section 22-4-4 - Penalty</i>	<i>22-12</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b>INVESTMENT POLICY</b>	
	Section 22-5-1 - Investment Policy	22-13
	Section 22-5-2 - Scope	22-13
	Section 22-5-3 - Prudence	22-13
	Section 22-5-4 - Objective	22-13
	Section 22-5-5 - Delegation of Authority	22-13
	Section 22-5-6 - Ethics and Conflicts of Interest	22-13
	Section 22-5-7 - Authorized Financial Dealers and Institutions	22-13
	Section 22-5-8 - Authorized and Suitable Investments	22-13
	Section 22-5-9 - Collateralization	22-13
	Section 22-5-10 - Safekeeping and Custody	22-14
	Section 22-5-11 - Diversification	22-14
	Section 22-5-12 - Maximum Maturities	22-14
	Section 22-5-13 - Internal Control	22-14
	Section 22-5-14 - Performance Standards	22-14
	Section 22-5-15 - Reporting	22-14
	Section 22-5-16 - Investment Policy Adoption and Modification	22-14
<b>VI</b>	<b>ETHICS CODE</b>	
	Section 22-6-1 - State Officials and Employees Ethics Act	22-15
<b>VII</b>	<b>POLICY PROHIBITING SEXUAL HARASSMENT</b>	
	Section 22-7-1 - Prohibition on Sexual Harassment	22-16
	Section 22-7-2 - Definition of Sexual Harassment	22-16
	Section 22-7-3 - Procedure for Reporting an Allegation of Sexual Harassment	22-16
	Section 22-7-4 - Prohibition on Retaliation for Reporting Sexual Harassment Allegations	22-17
	Section 22-7-5 - Consequences of a Violation of the Prohibition on Sexual Harassment	22-18
	Section 22-7-6 - Consequences for Knowingly Making a False Report	22-19
	Section 22-7-7 - Employee Receipt and Acceptance	22-19
<b>VIII</b>	<b>EQUAL EMPLOYMENT POLICY</b>	
	Section 22-8-1 - Adoption of Codes	22-20
	Section 22-8-2 - Non-Discriminatory Practices	22-20
	Section 22-8-3 - Contracting with Non-Complaints	22-20
	Section 22-8-4 - Outreach to All	22-22
	Section 22-8-5 - Minority Hiring	22-22
	Section 22-8-6 - Accommodations for Disabled	22-22
	Section 22-8-7 - Compliance by Employees	22-22
	Section 22-8-8 - Designated Enforcers	22-22

## CHAPTER 22

### MANDATED POLICIES

#### ARTICLE I – IDENTITY THEFT

**22-1-1      PROGRAM ADOPTION.** The City developed this Identity Theft Prevention Program pursuant to the Federal Trade Commission's Red Flags Rule, which implements Section 114 of the Fair and Accurate Credit Transactions of 2003. 16 C.F.R. § 681.2. This Program was developed with oversight and approval of the City. After consideration of the size and complexity of the Utility's operations and account systems, and the nature and scope of the Utility's activities, the City Council determined that this Program was appropriate for the City, and therefore approved this Program on February 9, 2009.

**22-1-2      PROGRAM PURPOSE AND DEFINITIONS.**  
(A) **Fulfilling Requirements of the Red Flags Rule.** Under the Red Flag Rule, every financial institution and creditor is required to establish an "Identity Theft Prevention Program" tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

- (1) Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
- (2) Detect Red Flags that have been incorporated into the Program;
- (3) Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
- (4) Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

(B) **Red Flags Rule Definitions Used in this Program.** The Red Flags Rule defines "Identity Theft" as "fraud committed using the identifying information of another person" and a "Red Flag" as "a pattern, practice, or specific activity that indicates the possible existence of Identity Theft."

According to the Rule, a municipal utility is a creditor subject to the Rule requirements. The Rule defines creditors "to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors."

All the Utility's accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the Rule. Under the Rule, a "covered account" is:

- (1) Any account the Utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
- (2) Any other account the Utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Utility from Identity Theft.

"Identifying information" is defined under the Rules as "any name or number that may be used, alone or in conjunction with any other information, to identify a specific person," including: name, address, telephone number, social security number, date of birth, government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer's Internet Protocol address, or routing code.

**22-1-3 IDENTIFICATION OF RED FLAGS.** In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The Utility identifies the following red flags, in each of the listed categories:

- (A) **Notifications and Warnings From Credit Reporting Agencies; Red Flags.**
  - (1) Report of fraud accompanying a credit report;
  - (2) Notice or report from a credit agency of a credit freeze on a customer or applicant;
  - (3) Notice or report from a credit agency of an active duty alert for an applicant; and
  - (4) Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.
- (B) **Suspicious Documents; Red Flags.**
  - (1) Identification document or card that appears to be forged, altered or inauthentic;
  - (2) Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
  - (3) Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
  - (4) Application for service that appears to have been altered or forged.
- (C) **Suspicious Personal Identifying Information; Red Flags.**
  - (1) Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
  - (2) Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
  - (3) Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
  - (4) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
  - (5) Social security number presented that is the same as one given by another customer;
  - (6) An address or phone number presented that is the same as that of another person;
  - (7) A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
  - (8) A person's identifying information is not consistent with the information that is on file for the customer.
- (D) **Suspicious Account Activity or Unusual Use of Account; Red Flags.**
  - (1) Change of address for an account followed by a request to change the account holder's name;
  - (2) Payments stop on an otherwise consistently up-to-date account;
  - (3) Account used in a way that is not consistent with prior use (example: very high activity);
  - (4) Mail sent to the account holder is repeatedly returned as undeliverable;
  - (5) Notice to the Utility that a customer is not receiving mail sent by the Utility;
  - (6) Notice to the Utility that an account has unauthorized activity;
  - (7) Breach in the Utility's computer system security; and
  - (8) Unauthorized access to or use of customer account information.

(E)

**Alerts From Others; Red Flag.**

- (1) Notice to the Utility from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

**22-1-4**

**DETECTING RED FLAGS.**

(A) **New Accounts.** In order to detect any of the Red Flags identified above associated with the opening of a **new account**, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

- (1) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- (2) Verify the customer's identity (for instance, review a driver's license or other identification card);
- (3) Review documentation showing the existence of a business entity; and
- (4) Independently contact the customer.

(B) **Existing Accounts.** In order to detect any of the Red Flags identified above for an **existing account**, Utility personnel will take the following steps to monitor transactions with an account:

- (1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- (2) Verify the validity of requests to change billing addresses; and
- (3) Verify changes in banking information given for billing and payment purposes.

**22-1-5**

**PREVENTING AND MITIGATING IDENTITY THEFT.**

(A) **Prevent and Mitigate.** In the event Utility personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

- (1) Continue to monitor an account for evidence of Identity Theft;
- (2) Contact the customer;
- (3) Change any passwords or other security devices that permit access to accounts;
- (4) Not open a new account;
- (5) Close an existing account;
- (6) Reopen an account with a new number;
- (7) Notify the Program Administrator for determination of the appropriate step(s) to take;
- (8) Notify law enforcement; or
- (9) Determine that no response is warranted under the particular circumstances.

(B) **Protect Customer Identifying Information.** In order to further prevent the likelihood of Identity Theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

- (1) Ensure that its website is secure or provide clear notice that the website is not secure;
- (2) Ensure complete and secure destruction of paper documents and computer files containing customer information;
- (3) Ensure that office computers are password protected and that computer screens lock after a set period of time;
- (4) Keep offices clear of papers containing customer information;
- (5) Request only the last 4 digits of social security numbers (if any);
- (6) Ensure computer virus protection is up to date; and

- (7) Require and keep only the kinds of customer information that are necessary for utility purposes.

**22-1-6      PROGRAM UPDATES.** The Program Administrator will periodically review and update this Program to reflect changes in risks to customers and the soundness of the Utility from Identity Theft. In doing so, the Program Administrator will consider the Utility's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the Utility's business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the City Council with his or her recommended changes and the City Council will make a determination of whether to accept, modify or reject those changes to the Program.

**22-1-7      PROGRAM ADMINISTRATION.**

(A) **Oversight.** Responsibility for developing, implementing and updating this Program lies with an Identity Theft Committee for the Utility. The Committee is headed by a Program Administrator who may be the head of the Utility or his or her appointee. Two or more other individuals appointed by the head of the Utility or the Program Administrator comprise the remainder of the committee membership. The Program Administrator will be responsible for the Program administration, for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

(B) **Staff Training and Reports.** Utility staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected.

(C) **Service Provider Arrangements.** In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

- (1) Require, by contract, that service providers have such policies and procedures in place; and
- (2) Require, by contract, that service providers review the Utility's Program and report any Red Flags to the Program Administrator.

(D) **Non-Disclosure of Specific Practices.** For the effectiveness of this Identity Theft Prevention Program, knowledge about specific Red Flag identification, detection, mitigation and prevention practices must be limited to the Identity Theft Committee who developed this Program and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered "security information" as defined in Minnesota Statutes Section 13.37 and are unavailable to the public because disclosure of them would be likely to substantially jeopardized the security of information against improper use, that use being to circumvent the Utility's Identity Theft prevention efforts in order to facilitate the commission of Identity Theft.

**(In Part Ord. No. 04-13-2009-1)**

## ARTICLE II - USE OF SOCIAL SECURITY NUMBERS

### 22-2-1 DEFINITIONS.

**"Person"** means any individual in the employ of the City.

**"Policy" or "Privacy Policy"** means this document, as now or hereafter amended.

**"Publicly post" or "publicly display"** means to intentionally communicate or otherwise intentionally make available to the general public.

**"Social Security Number"** means the nine (9) digit number assigned to an individual by the United States Social Security Administration for the purposes authorized or required under the United States Social Security Act of August 14, 1935, as amended (Public Law 74-271).

### 22-2-2 PROHIBITED ACTIVITIES.

(A) No officer or employee of the City shall do any of the following:

- (1) Publicly post or publicly display in any manner an individual's Social Security Number.
- (2) Print an individual's Social Security Number on any card required for the individual to access products or services provided by the person or entity.
- (3) Require an individual to transmit his or her Social Security Number over the Internet, unless the connection is secure or the Social Security Number is encrypted.
- (4) Print an individual's Social Security Number on any materials that are mailed to the individual, through the United States Postal Service, any private mail service, electronic mail, or a similar method of delivery, unless Illinois or federal law requires the Social Security Number to be on the document to be mailed. Notwithstanding any provision in this Section to the contrary, Social Security Numbers may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Illinois Unemployment Insurance Act, any material mailed in connection with any tax administered by the Illinois Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security Number. A Social Security Number that may permissibly be mailed under this Section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.

(B) Except as otherwise provided in this policy, beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City shall do any of the following:

- (1) Collect, use, or disclose a Social Security number from an individual, unless
  - (i) required to do so under State or Federal law, rules, or regulations, or the collection, use, or disclosure of the Social Security Number is otherwise necessary for the performance of that agency's duties and responsibilities;
  - (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and
  - (iii) the Social Security Number collected is relevant to the documented need and purpose.
- (2) Require an individual to use his or her Social Security Number to access an Internet website.
- (3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

- (C) The prohibitions in subsection (B) do not apply in the following circumstances:
- (1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the City or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the City must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the City to protect an individual's Social Security Number will be achieved.
  - (2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.
  - (3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: City employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a City facility.
  - (4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.
  - (5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.
- (D) Any standards of the City for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the City shall control.

**22-2-3      PUBLIC INSPECTION AND COPYING OF DOCUMENTS.** Notwithstanding any other provision of this policy to the contrary, all officers and employees of the City must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an individual's Social Security Number. All officers and employees of the City must redact Social Security Numbers from the information or documents before allowing the public inspection or copying of the information or documents.

**22-2-4      APPLICABILITY.**

(A) This policy does not apply to the collection, use, or disclosure of a Social Security Number as required by State or Federal law, rule, or regulation.

(B) This policy does not apply to documents that are required to be open to the public under any State or Federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois.

**22-2-5      COMPLIANCE WITH FEDERAL LAW.** If a federal law takes effect requiring any federal agency to establish a national unique patient health identifier program, the City shall follow that law.



**22-2-6            EMBEDDED SOCIAL SECURITY NUMBERS.** Beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City may encode or embed a Social Security Number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of removing the Social Security Number as required by this Policy.

**22-2-7            IDENTITY--PROTECTION REQUIREMENTS.**

(A) All officers, employees and agents of the City identified as having access to Social Security Numbers in the course of performing their duties to be trained to protect the confidentiality of all Social Security Numbers. Training shall include instructions on the proper handling of information that contains Social Security Numbers from the time of collection through the destruction of the information.

(B) Only employees who are required to use or handle information or documents that contain Social Security Numbers have access to such information or documents.

(C) Social Security Numbers requested from an individual shall be provided in a manner that makes the Social Security Number easily redacted if required to be released as part of a public records' request.

(D) When collecting a Social Security Number or upon request by the individual, a statement of the purpose or purposes for which the City is collecting and using the Social Security Number be provided.

(E) A written copy of this Privacy Policy, and any amendment thereto, shall be filed with the City Council within **thirty (30) days** after approval of this Policy or any amendment thereto.

(F) The City shall advise its employees of the existence of the Policy and make a copy of this Policy available to each employee, and shall also make this Privacy Policy available to any member of the public, upon request and at no charge for a single copy of this Privacy Policy. If the City amends this Privacy Policy, then the City shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

**22-2-8            PENALTY.** Any person who violates any portion of this Article, as now or hereafter amended, shall be subject to a fine of not less than **One Hundred Dollars (\$100.00)** for the first such violation and a fine of not less than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereafter.

**22-2-9            AMENDMENT OF PRIVACY POLICY.** The Privacy Policy adopted in this Division and Chapter shall be subject to amendment from time to time by the City Council as the City Council shall deem necessary in its sole discretion in order to maintain the City's compliance with the Illinois Identity Protection Act as now or hereafter amended.

**22-2-10          CONFLICT WITH STRICTER LAWS.** This Policy does not supersede any more restrictive law, rule, or regulation regarding the collection, use, or disclosure of Social Security Numbers.

**[NOTE: This Policy is to comply with Public Act 096-9874 of the State of Illinois, cited as the Identity Protection Act, and codified as Title 30, Act 5, Section 1, et seq., as now or hereafter amended.]**

### **ARTICLE III - FREEDOM OF INFORMATION POLICY**

**22-3-1      PUBLIC RECORDS AVAILABLE.** To the extent required by the Freedom of Information Act, **5 ILCS 140-1 et seq.** the City shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of the Freedom of Information Act, **5 ILCSA 140/7.**

#### **22-3-2      DESIGNATION, DUTIES AND TRAINING OF FREEDOM OF INFORMATION ACT OFFICERS.**

(A) The City Administrative Assistant is hereby designated to act as Freedom of Information Officer. The Officer shall receive requests submitted to the City under the Freedom of Information Act, insure that the City responds to requests in a timely fashion, and issue responses under the Freedom of Information Act. The Freedom of Information officer shall develop a list of documents or categories of records that the City shall immediately disclose upon request.

(B) Upon receiving a request for a public record, the Freedom of Information Officer shall:

- (1) Note the date the City receives the written request;
- (2) Compute the date on which the period for response will expire and make a notation of that date on the written request;
- (3) Maintain an electronic or paper copy of the written request including all documents submitted with the request until the request has been complied with or denied; and
- (4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the person making the request, and a copy of other communications regarding the request.

(C) The Freedom of Information Act officers shall successfully complete an electronic training curriculum to be developed by the Public Access Counselor in the office of the Attorney General of the State of Illinois and thereafter successfully complete an annual training program. Thereafter when a new Freedom of Information officer is designated by the City, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information officer.

**22-3-3      PROCEDURES.** The City shall prominently display at the City Clerk's office, display on its website, make available for inspection and copying, and send through the mail as requested, each of the following:

(A) A brief description of the City, which will include, but not be limited to a block diagram giving its functional departments, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees and the identification and membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of the City, or which exercises control over its policies or procedures; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officers, the address where request for public records should be directed, and the fees relating thereto.

**22-3-4      REQUESTS TO INSPECT OR COPY.** All requests to inspect or copy records or documents prepared, maintained or under the control of the City shall be made in the following manner:

(A) All requests shall be in writing, shall state with reasonable particularity what records are to be inspected or copied, shall state whether the records are requested for a commercial

purpose, and shall be signed by the person making the request. The request may be, but is not required to be, submitted on a form provided by the City.

(B) The written request shall be submitted to the City Clerk or to the Mayor. If neither the City Clerk nor the Mayor is available, the request shall be submitted to any employee of the City acting under the direction of the City Clerk.

(C) The Officer receiving the request shall date stamp the request and indicate the date by which a response to the request must be made.

(D) Each request for other than commercial purposes shall be granted or denied in writing within **five (5) business days** after its receipt by the City, except as hereafter stated. The failure to grant or deny a request within **five (5) business days** shall operate as a denial, except as provided hereinbelow.

(E) The time limit set forth hereinabove may be extended for an additional **five (5) business days** by notice in writing to the person making the request of the **five (5) business days** extension. The notification shall state the reason(s) for the **five (5) business day's** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the City may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the City agree to extend the period for compliance, a failure by the City to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

- (1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.
- (2) **Fifteen Cents (\$0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.
- (3) **One Dollar (\$1.00)** for each certified copy requested.
- (4) **Ten Cents (\$0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at City Hall. If the person making the request asks the City to mail the documents, he or she shall provide the City with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents (\$2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the City shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the City shall furnish it in the format in which it is maintained by the City, or in paper format at the option of the person making the request.

**22-3-5 REQUEST FOR COMMERCIAL PURPOSES.** The City shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. The response shall (1) provide to the person making the request an estimate of the time required by the City to provide the records requested and an estimate of the fees to be charged, which the City may require the person to pay in full before copying the requested documents, (2) deny the request pursuant to **one (1)** or more of the exemptions set out in the Freedom of Information Act, **5 ILCS 140/1 et seq.**, (3) notify the person making the request that the request is unduly burdensome and extend an opportunity to the person making the request to attempt to reduce the request to manageable portions, or (4) provide the records requested.

Unless the records are exempt from disclosure, the City shall comply with a commercial request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

It is unlawful for a person to knowingly obtain a public record for a commercial purpose within disclosing that it is for a commercial purpose, and any person obtaining a public record for commercial purpose without disclosing that it is for a commercial purpose shall be fined in accordance with the City Code.

**22-3-6            FEES.** The City Clerk shall determine when the established fees are subject to waiver or reduction because the release of the requested information is in the public interest.

**22-3-7            PUBLIC FILE.** The City Clerk shall establish and maintain a central file, open to the public, of all denials of requests for records which shall be indexed according to the exemption utilized to deny a request for records, and to the extent possible, according to the types of records requested.

**22-3-8            GRANTING OR DENIAL OF REQUESTS.** A request for all records within a category shall be granted unless the request constitutes an undue burden upon the City. Prior to denying a request based upon the burdensome nature of the request, an opportunity to narrow the request to manageable proportions shall be provided. If the attempt to narrow the request fails, the request may be denied because compliance will unduly burden the operations of the City and the burden outweighs the public interest in the information. The denial shall be in writing, specifying the reasons why compliance will be unduly burdensome and the extent to which compliance will so burden the operations of the City. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided are properly denied under the Freedom of Information Act shall be deemed unduly burdensome under this Section.

**22-3-9            CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING.** If any record exempt from disclosure contains material which is not exempt, the information which is exempt shall be deleted and the remaining information shall be available for inspection and copying.

**22-3-10           NOTICE OF DENIAL OF REQUEST; APPEALS.**  
(A) If the City denies the request, the City shall notify the person making the request in writing of:

- (1) the decision to deny the request;
- (2) the reasons for the denial, including a detailed factual basis for the application of any exemption claim;
- (3) the names and titles or positions of each person responsible for the denial;
- (4) the right to review by the Public Access Counselor and the address and phone number for the Public Access Counselor; and
- (5) the right to judicial review.

If an exemption is claimed, then the denial must include the specific reasons for the denial, including a detailed factual basis and a citation to support a legal authority.

(B) If the City asserts an exemption under Subsection (1)(c) or (1)(f) of Section 7 of the Freedom of Information Act, it shall, within the time periods provided for Respondent to request, provide written notice to the person making the request and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:

- (1) a copy of the request for access to records;
- (2) the proposed response from the City;
- (3) a detailed summary of the City's basis for asserting its exemption.

If the Public Access Counselor determines that further inquiry is warranted, the procedures set forth in the Freedom of Information Act, as amended from time to time, regarding the review of denials shall be applicable. Times for response compliance by the City to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

## ARTICLE IV - FAIR HOUSING CODE

### **22-4-1        DECLARATION OF POLICY.**

(A) In furthering the policy of the State of Illinois as expressed in its Constitution and other laws; in order that the safety and general welfare, peace and health of all the inhabitants of the City may be ensured, it is hereby declared the policy of the City to assure equal opportunity to all residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical disability to live in decent, sanitary, healthful, standard living quarters.

(B) It is the policy of the City that no owner, lessee, sub-lessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease (or otherwise control) any housing accommodation and/or real property within the City, or any agent of these shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed, or disability in the conditions, terms, privileges of the sale, rental or lease of any housing accommodation and/or real property or in the furnishing of facilities and/or services in connection therewith.

(C) Relocation shall be carried out in a manner that will promote maximum choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

**22-4-2        DEFINITIONS.** Unless a different meaning clearly appears from the context, the following terms shall have the meaning as described in this Section and as used in this Code:

(A) **"Decent, Sanitary, Healthful Standard Living Quarters".** "Decent, sanitary, healthful standard living quarters" is housing which is in sound, clean, and weather tight condition in conformance with applicable local, state, and national codes.

(B) **"Discriminate".** The terms "discriminate" or "discrimination" mean any difference expressed in any way toward a person or persons in the terms of the sale, exchange, lease, rental or financing for housing accommodation and/or real property in regard to such sale, exchange, rental, lease or finance because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person.

(C) **"Financial Institution".** The term "financial institution" means any person, institution or business entity of any kind which loans money to persons and receives as security for said loans a secured interest of any kind in the real property of the borrower.

(D) **"Housing Accommodation".** The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, maintained, arranged or designed to be used or occupied as a home, residence or sleeping place of **one (1)** or more human beings, or any real estate so used, designed or intended for such use.

(E) **"Owner".** An "owner" means any person/persons who hold legal or equitable title to, or own any beneficial interest in any real property or who hold legal or equitable title to shares of, or hold any beneficial interest in any real estate cooperative which owns any real property and/or housing accommodations.

(F) **"Real Estate Broker".** The term "real estate broker" means any person, partnership, association, corporation and/or agent thereof, who for a fee or other valuable consideration offers, sells, purchases, exchanges or rents, or negotiates for the sale, purchase, exchange or rental of a housing accommodation and/or real property of another, or collects rental for the use of housing accommodation and/or real property of another.

(G) **"Real Property".** The term "real property" means any real estate, vacant land, building, structure or housing accommodations within the corporate limits of the City.

**22-4-3      PROHIBITED ACTS.** It shall be an unlawful for any owner of real estate, lessee, sub-lessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, to discriminate against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or disability with regard to the sale, exchange or rental, or any dealing concerning any housing accommodation and/or real property.

In addition to the foregoing, it shall also be unlawful for any real estate broker or employee thereof, owner or other person, or financial institution dealing with housing or real property of the City:

(A)            To discriminate against any person in the availability of or the price, terms, conditions, or privileges of any kind relating to the sale, rental, lease, or occupancy of any housing accommodation or real property in the City or in furnishing of any facilities or services in connection therewith.

(B)            To publish or circulate, or cause to be published or circulated, any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purchase, lease, rental or financing of real property, or to make any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or disability of any person.

(C)            To discriminate in connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation and/or real property.

(D)            To solicit for sale, lease, or listing for the sale or lease, of any housing accommodation and/or real property on the grounds of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability.

(E)            To distribute or cause to be distributed, written material or statements designed to induce any owner of any housing accommodation and/or real property to sell or lease his or her property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or disability of persons in the neighborhood.

(F)            To make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any housing accommodation and/or real property for the purpose of inducing or attempting to induce the sale or listing for sale of any housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability in the area will or may result in the lowering of property values in the block, neighborhood or area in which the property is located.

(G)            For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed or disability.

(H)            For an owner to refuse to sell, rent, or otherwise deal with any housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of the proposed buyer or tenant.

**22-4-4      PENALTY.** Any person convicted of violating any of the provisions of this Code shall be punished by a fine of not less than **One Hundred Dollars (\$100.00)** nor more than **One Thousand Five Hundred Dollars (\$1,500.00)**. Each day a violation continues shall constitute a separate violation. This Section shall in no way abrogate or impair the right of the City to specifically enforce, by any legal means, any of the provisions of this Code.

**(65 ILCS 5/11-11.1-1)**

## **ARTICLE V – INVESTMENT POLICY**

**22-5-1      INVESTMENT POLICY.** It is the policy of the City to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming to all State and local statutes governing the investment of public funds.

**22-5-2      SCOPE.** This policy includes all public funds of the City.

**22-5-3      PRUDENCE.** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio.

**22-5-4      OBJECTIVE.** The primary objective, in order of priority, shall be:

- (A) **Legality.** Conformance with federal, state and other legal requirements.
- (B) **Safety.** Preservation of capital and protection of investment principal.
- (C) **Liquidity.** Maintenance of sufficient liquidity to meet operating requirements.
- (D) **Yield.** Attainment of market rates of return.

The portfolio should be reviewed periodically as to its effectiveness in meeting the City’s needs for safety, liquidity, rate of return, diversification and its general performance.

**22-5-5      DELEGATION OF AUTHORITY.** Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who may establish written procedures for the operation of the investment program.

**22-5-6      ETHICS AND CONFLICTS OF INTEREST.** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

**22-5-7      AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS.** The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security brokers/dealers selected by creditworthiness.

**22-5-8      AUTHORIZED AND SUITABLE INVESTMENTS.** Investments may be made in any type of security allowed for in Illinois statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

**22-5-9      COLLATERALIZATION.** Collateralization may be required, at the discretion of the City, on all funds held in banks or savings and loans above the insured limits provided by the FDIC or FSLIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be a minimum of **one hundred two percent (102%)** of market value of principal and accrued interest.

**22-5-10      SAFEKEEPING AND CUSTODY.** All security transactions, including collateral for repurchase agreements, entered into by the City, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

**22-5-11      DIVERSIFICATION.** The City shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

**22-5-12      MAXIMUM MATURITIES.** To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than **two (2) years** from the date of purchase. Reserve funds may be invested in securities exceeding **two (2) years** if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

**22-5-13      INTERNAL CONTROL.** The Treasurer is responsible for establishing and maintaining an internal control structure designed to insure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

- (A) Control of collusion.
- (B) Separation of transaction authority from accounting.
- (C) Custodial safekeeping.
- (D) Written confirmation of telephone transactions for investments and wire transfers.

**22-5-14      PERFORMANCE STANDARDS.** The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio maintained by the Illinois Public Treasurer's Investment Pool (IPTIP).

**22-5-15      REPORTING.** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the City Council and available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the City Council. A statement of the market value of the portfolio shall be issued to the City Council quarterly.

**22-5-16      INVESTMENT POLICY ADOPTION AND MODIFICATION.** The investment policy has been adopted by ordinance. The policy shall be reviewed on an annual basis by the Treasurer, and any modifications made thereto shall be made by ordinance.

**(Ord. No. 1999-22; 11-08-99)**



## ARTICLE VI – ETHICS CODE

### **22-6-1            STATE OFFICIALS AND EMPLOYEES ETHICS ACT.**

(A)            The regulations of Sections 5-15 (**5 ILCS 430/5-15**) and Article 10 (**5 ILCS 430/10-10 through 10-40**) of the State Officials and Employees Ethics Act, **5 ILCS 430/1-1 et seq.**, (hereinafter referred to as the “Act” in this Section) are hereby adopted by reference and made applicable to the officers and employees of the City to the extent required by **5 ILCS 430/70-5**.

(B)            The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the City, is hereby prohibited.

(C)            The offering or making of gifts prohibited to be offered or made to an officer or employee of the City, is hereby prohibited.

(D)            The participation in political activities prohibited under the Act, by any officer or employee of the City, is hereby prohibited.

(E)            For the purposes of this Section, the terms “officer” and “employee” shall be defined as set forth in **5 ILCS 430/70-5(c)**.

(F)            The penalties for violations of this Section shall be the same as those penalties set forth in **5 ILCS 430/50-5** for similar violations of the Act.

(G)            This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of City officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of **5 ILCS 430/70-5(a)**.

(H)            Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the City.

(I)            If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court’s decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action by the Corporate Authorities of the City if the Act is found unconstitutional by the Illinois Supreme Court.

(J)            If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the City.

**(Ord. No. 10-11-2004-2)**

## ARTICLE VII – POLICY PROHIBITING SEXUAL HARASSMENT

**22-7-1      PROHIBITION ON SEXUAL HARASSMENT.** It is unlawful to harass a person because of that person's sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of this City to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

**22-7-2      DEFINITION OF SEXUAL HARASSMENT.** This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

- (A) Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:
- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
  - (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
- (B) Conduct which may constitute sexual harassment includes:
- (1) **Verbal.** Sexual innuendoes, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside their presence, of a sexual nature.
  - (2) **Non-verbal.** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
  - (3) **Visual.** Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
  - (4) **Physical.** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
  - (5) **Textual/Electronic.** "Sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking or threats via all forms of electronic communication (e-mail, text/picture/ video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).
- (C) The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a "reasonable person."

**22-7-3      PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT.**

- (A) An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible

by clearly communicating his/her position to the offending employee, and his/her immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

(B) Any employee may report conduct which is believed to be sexual harassment, including the following:

- (1) **Electronic/Direct Communication.** If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the city manager or administrator, or the chief executive officer of the Municipality. The employee experiencing what he or she believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the Municipality will not be presumed to have knowledge of the harassment.
- (3) **Resolution Outside Municipality.** The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the Municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within **three hundred (300) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within **three hundred (300) days**.
- (4) **Allegations Made Against an Elected Official by Another Elected Official.** In addition to the methods of reporting included above, an elected official may request an independent review of a complaint of sexual harassment by another elected official. The request shall be made to the Mayor and City Council. The City Council shall take prompt action to retain a qualified individual or entity for the independent review of the allegations of sexual harassment in violation of this policy. The outcome of the independent review shall be reported to the Mayor and City Council.

(C) Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

(D) All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

#### **22-7-4 PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS.**

(A) No municipal official, municipal agency, municipal employee or municipal agency or office shall take any retaliatory action against any municipal employee due to a municipal employee's:

- (1) Disclosure or threatened disclosure of any violation of this policy,
- (2) The provision of information related to or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
- (3) Assistance or participation in a proceeding to enforce the provisions of this policy.

(B) For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for a municipal employee's involvement in protected activity pursuant to this policy.

(C) No individual making a report will be retaliated against even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(D) Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (**5 ILCS 430/15-10**) provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation;
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee; or
- (3) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

(E) Pursuant to the Whistleblower Act (**740 ILCS 174/15(a)**), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (**740 ILCS 174/15(b)**).

(F) According to the Illinois Human Rights Act (**775 ILCS 5/6-101**), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

(G) An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – either due within **three hundred (300) days** of the alleged retaliation.

**22-7-5 CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT.** In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in **5 ILCS 430/5-65**, may be subject to a fine of up to **Seven Hundred Fifty Dollars (\$750.00)** per offense, applicable discipline or discharge by the Municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the Municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

**22-7-6                    CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT.** A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to **Seven Hundred Fifty Dollars (\$750.00)** against any person who intentionally makes a false, frivolous or bad faith allegation.

**22-7-7                    EMPLOYEE RECEIPT AND ACCEPTANCE.** Each employee of the City shall sign an "Employee Receipt and Acceptance" acknowledging receipt of the Policy Prohibiting Sexual Harassment, accepting responsibility to read and know the contents of said policy, agreeing to follow the terms of said policy and acknowledging that failure to follow the terms of the policy may result in disciplinary action including termination. A copy of said "employee receipt and acceptance" shall be maintained in the employee's personnel file.

**(Ord. No. 2020-11; 06-08-20)**

## ARTICLE VIII - EQUAL EMPLOYMENT POLICY

**22-8-1      ADOPTION OF CODES.** The City hereby declares to uphold, defend, enforce, and advocate for all laws related to Equal Employment Opportunity including, but not limited to, the following:

(A)      **Title VI of the Civil Rights Act of 1964** which prohibits discrimination in the participation in or benefits of programs or activities receiving federal financial assistance on the basis of race, color, or national origin.

(B)      **Title VII of the Civil Rights Act of 1964** which prohibits discrimination because of race, color, religion, sex or national origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges and conditions of employment.

(C)      **Title IX of the Education Amendments of 1972** which prohibits discrimination in federally assisted education programs.

(D)      **The Equal Pay Act of 1963** which covers all employees who are covered by the Fair Labor Standards Act. The Act forbids pay differentials on the basis of sex.

(E)      **The Age Discrimination Act of 1967** which prohibits discrimination because of age against anyone between the ages of **forty (40)** and **sixty-five (65)**.

(F)      **Federal Executive Order 11246** which requires every contract with federal financial assistance to contain a clause against discrimination because of race, color, religion, sex, or national origin.

(G)      **Section 504 of the Rehabilitation Act of 1973 and DOL Implementing Regulations at 29 CFR 32** which prohibits any discrimination based on disability.

(H)      **Section 188 of WIA and the U.S. DOL Regulations at 29 CFR Parts 31 and 32** which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Labor.

(I)      **Chapter 68, Article I, Section 17-19 of the Illinois Constitution** which prohibits discrimination based on race, color, creed, national ancestry, disability, and sex in the hiring and promotion practices of any employer.

(J)      **The Americans with Disabilities Act of 1990** which prohibits any discrimination against qualified individuals with disabilities on the basis of their disability.

(K)      **Illinois Human Rights Act (775 ILCS 5)** which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

**22-8-2      NON-DISCRIMINATORY PRACTICES.** The City will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

**22-8-3      CONTRACTING WITH NON-COMPLAINTS.** The City will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A)      The City will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

- (1) In the event of the contractor's noncompliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:
- (a) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
  - (b) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
  - (c) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.
  - (d) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.
  - (e) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.
  - (f) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain

- compliance with the Act and the Department's Rules and Regulations.
- (g) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

**22-8-4      OUTREACH TO ALL.** The City assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

**22-8-5      MINORITY HIRING.** Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the City as well as surrounding areas.

**22-8-6      ACCOMMODATIONS FOR DISABLED.** The City will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

**22-8-7      COMPLIANCE BY EMPLOYEES.** All City employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out City program activities.

**22-8-8      DESIGNATED ENFORCERS.** The City designates the Mayor and the City Council to carry out the EEO/AA plan.

**(Ord. No. 1996-D-8; 07-08-96)**



## **CHAPTER 23 – MANUFACTURED HOUSING CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERAL PROVISIONS</i></b>	
	<i>Section 23-1-1 - Definitions</i>	<i>23-1</i>
	<i>Section 23-1-2 - State Requirements Adopted by Reference</i>	<i>23-3</i>
	<i>Section 23-1-3 - Manufactured Housing Act Adopted</i>	<i>23-3</i>
	<i>Section 23-1-4 - Illinois Department of Public Health Adopted and Regulations</i>	<i>23-3</i>
	<i>Section 23-1-5 - National Safety Standards</i>	<i>23-3</i>
	<i>Section 23-1-6 - Skirting</i>	<i>23-3</i>
	<i>Section 23-1-7 - Fire Extinguishers</i>	<i>23-3</i>
	<i>Section 23-1-8 - Inspection</i>	<i>23-4</i>
	<i>Section 23-1-9 - Off-Street Parking</i>	<i>23-4</i>
	<i>Section 23-1-10 - Prohibited Residential Uses</i>	<i>23-4</i>
	<i>Section 23-1-11 - Carbon Monoxide Alarm Detectors</i>	<i>23-4</i>
	<i>Section 23-1-12 - Smoke and Fire Detectors</i>	<i>23-4</i>
<b><i>II</i></b>	<b><i>IMMOBILIZED MANUFACTURED HOMES</i></b>	
	<i>Section 23-2-1 - Immobilized Manufactured Homes</i>	<i>23-5</i>
	<i>Section 23-2-2 - Permit - Fee</i>	<i>23-5</i>
	<i>Section 23-2-3 - Lot Size</i>	<i>23-5</i>
	<i>Section 23-2-4 - Concrete Pads</i>	<i>23-5</i>
	<i>Section 23-2-5 - Limit of Units</i>	<i>23-5</i>
<b><i>III</i></b>	<b><i>MANUFACTURED HOME PARKS</i></b>	
	<i>Division I - Administration Requirements</i>	
	<i>Section 23-3-1 - Compliance with Statutes, Applicability of Article</i>	<i>23-6</i>
	<i>Section 23-3-2 - Permitting and Planning a Park</i>	<i>23-6</i>
	<i>Section 23-3-3 - Local Government Requirements</i>	<i>23-6</i>
	<i>Section 23-3-4 - Permits</i>	<i>23-6</i>
	<i>Section 23-3-5 - Inspection of Manufactured Home Park</i>	<i>23-6</i>
	<i>Section 23-3-6 - Violation Proceedings</i>	<i>23-6</i>
	<i>Section 23-3-7 - Initial Permit Required</i>	<i>23-7</i>
	<i>Section 23-3-8 - 23-3-9 Reserved</i>	
	<i>Division II - Design and Construction Requirements</i>	
	<i>Section 23-3-10 - Plan Document</i>	<i>23-7</i>
	<i>Section 23-3-11 - Application</i>	<i>23-7</i>
	<i>Section 23-3-12 - Location</i>	<i>23-8</i>
	<i>Section 23-3-13 - Roadways and Parking</i>	<i>23-8</i>
	<i>Section 23-3-14 - 23-3-16 Reserved</i>	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>MANUFACTURED HOME PARKS (CONTINUED)</b>	
	<i>Division III - Generally</i>	
	Section 23-3-17 - Lot Size	23-8
	Section 23-3-18 - Miscellaneous Restrictions	23-8
	Section 23-3-19 - 23-3-20 Reserved	
	<i>Division IV - Fees</i>	
	Section 23-3-21 - License Fee	23-9

## CHAPTER 23

### MANUFACTURED HOUSING CODE

#### ARTICLE I – GENERAL PROVISIONS

**23-1-1**        **DEFINITIONS.** The terms used in this Code shall have the following meanings:

**"AFFIDAVIT"** means an oath in writing, sworn before and attested by an individual who has authority to administer an oath.

**"APPLICANT"** means any person making application for a license or permit.

**"CORPORATE AUTHORITIES"** shall mean the Mayor and the City Council.

**"IMMOBILIZED MANUFACTURED HOME"**: As applied to a manufactured home, "immobilize" means to remove the wheels, tongue and hitch and to affix to a permanent foundation. The term implies that, once affixed to a permanent foundation, the destruction of said foundation would be necessary in order to move the dwelling to another location.

**"LICENSE"** means a license certificate issued by the City allowing a person to operate and maintain a manufactured home park under the provisions of this Code and the rules and regulations issued hereunder.

**"LICENSEE"** means any person having a license or permit under this Chapter.

**"MANUFACTURED HOME"** means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term shall only include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974"**. Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the manufactured home. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a manufactured home shall not exceed a ratio of 3 to 1. As with all residences, a manufactured home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a **"manufactured home"**, but shall be an **"immobilized manufactured home"**. A manufactured home should not be confused with a **"camping trailer"** or **"recreational vehicle"**. (See 210 ILCS Sec. 115/2.10)

**"MANUFACTURED HOME, DEPENDENT"** means a manufactured home which does not have a toilet and bath or shower facilities. (See 210 ILCS Sec. 115/2.3)

**"MANUFACTURED HOME, DOUBLE-WIDE"** consists of **two (2) mobile units** joined at the side into a single home, but kept on their separate chassis for repeated transportation to a site.

**"MANUFACTURED HOME, INDEPENDENT"** means a manufactured home which has self-contained toilet and bath or shower facilities. (See 210 ILCS Sec. 115/2.4)

**"MANUFACTURED HOME LOT"** means a parcel of land for the placement of a manufactured home and the exclusive use of its occupants.

**"MANUFACTURED HOME PAD"** means that part of an individual manufactured home space or lot beneath the manufactured home, including the concrete portion of the pad.

**"MANUFACTURED HOME PARK"** means a tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent manufactured homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home park if they are maintained and operated jointly. Neither an immobilized manufactured home nor a motorized recreational vehicle shall be construed as being a part of a manufactured home park. **(See 210 ILCS Sec. 115/2.5)**

**"MANUFACTURED HOME SALES AREA"** means a parcel of land used for the display, sale, and repair of new or used manufactured homes.

**"MANUFACTURED HOME SPACE"** means a portion of a manufactured home park designed for the use or occupancy of **one (1) manufactured home**.

**"MANUFACTURED HOUSING UNIT"** includes all forms of housing units listed in this Section and as regulated in this Code.

**"MOBILE HOME"** means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term **"mobile home"** shall only include homes constructed prior to **June 30, 1976**, not in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974"**.

**"MODULAR HOME"**: A modular home is a factory-fabricated single-family home built in **one (1)** or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed on a full perimeter foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Modular homes shall have a yellow seal in the shape of the State of Illinois on the electrical panel box of the home or on the inside of the kitchen sink cabinet. Local officials may require additional items other than the minimum state requirements such as the National Manufactured Home Construction and Safety Standards (HUD Code) or the International Building Code (IBC). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

**"OWNER" or "OPERATOR"** means the licensee.

**"PERMANENT FOUNDATION"**: A foundation which extends into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, poured wall or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation. In addition, piers may be used, extending into the ground below the frost line, and sufficient in number to properly support the structure, provided the support beams are affixed to the permanent perimeter foundation.

**"PERMANENT HABITATION"** means a period of **two (2) or more months**.

**"PERMIT"** means a certificate issued by the Building or Zoning Inspector, permitting the construction, alteration, or reduction in number of spaces of a manufactured home park under the provisions in this Code.

**"PERSON"** means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the State of Illinois, or any political subdivision or department thereof or any other entity.

**"REVOCATION"** means to declare invalid a permit or license issued to the applicant or licensee by this City for an indefinite period of time.

**"SITE"** means the lot on which the manufactured home is located for permanent habitation. **(See 210 ILCS Sec. 115/2.7)**

**"SPACE"** shall be synonymous with **"Manufactured Home Space"**.

**"SUSPENSION"** means to declare invalid a permit or license issued to the applicant or licensee by this City for a temporary period of time with an expectation of resumption.

**23-1-2 STATE REQUIREMENTS ADOPTED BY REFERENCE.** The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

**23-1-3 MANUFACTURED HOUSING ACT ADOPTED.** The **Illinois Manufactured Housing and Manufactured Home Act, as passed and approved by the Illinois General Assembly** is hereby adopted by the City, the applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the City. **(See 430 ILCS Sec. 115/1 et seq.)**

**23-1-4 ILLINOIS DEPARTMENT OF PUBLIC HEALTH ADOPTED AND REGULATIONS.** The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the City. The applicable provisions as they pertain to the Manufactured Home community shall be controlling within the corporate limits.

**23-1-5 NATIONAL SAFETY STANDARDS.** No manufactured home or immobilized manufactured home shall be located in the City unless the unit has the **National Manufactured Housing Construction and Safety Standards** metal seal affixed thereto.

**23-1-6 SKIRTING.** Skirting shall be used to conceal all underpinning, plumbing, and support piers whether on a permanent foundation or otherwise. All skirting shall be installed on all manufactured housing units within **sixty (60) days** of the placement of the unit.

**23-1-7 FIRE EXTINGUISHERS.** All manufactured housing units located in the City shall be equipped with a fire extinguishing apparatus capable of extinguishing all types of fires. Such

extinguishers shall be of sufficient size so that they will reasonably protect the manufactured housing units. All fire extinguishers shall be approved by the Fire Chief or his designated representative prior to installation of the manufactured home. **(See 425 ILCS Secs. 60/1-60/4)**

**23-1-8            INSPECTION.** All Manufactured Housing units located in the City shall be subject to reasonable inspection by an official or officials designated by the City Council.

**23-1-9            OFF-STREET PARKING.** Every owner of a manufactured housing unit shall provide for an off-street parking area of **four hundred (400) square feet.**

**23-1-10           PROHIBITED RESIDENTIAL USES.**  
(A)            **Dependent Manufactured Home.** It shall be unlawful to locate a dependent manufactured home in the City unless placed in a state-licensed travel trailer park.  
(B)            **Independent Travel Trailer.** It shall be unlawful to reside in an independent travel trailer in the Municipality unless it is located in a state-licensed travel trailer park.  
(C)            **Manufactured Home.** It shall be unlawful to locate a manufactured home or a manufactured home in a state-licensed travel trailer park without written permission of the City Council or the Zoning Board.

**23-1-11           CARBON MONOXIDE ALARM DETECTORS.** Each unit shall be equipped with a carbon monoxide alarm detector as prescribed by state statute. **(See 430 ILCS 135/1 et seq.)**

**23-1-12           SMOKE AND FIRE DETECTORS.** Each unit shall be equipped with smoke and fire detectors as prescribed by state statute.

## **ARTICLE II - IMMOBILIZED MANUFACTURED HOMES**

**23-2-1        IMMOBILIZED MANUFACTURED HOMES.** All immobilized manufactured homes located in the City shall be classified as real estate; therefore, it is mandatory for all persons owning, operating, renting, or leasing an existing manufactured home outside a manufactured home park to remove or cause to have removed the wheels or any other transportation device from the manufactured home. The owner or lessor shall permanently fix it to the ground in a manner that conforms to the definition of an immobilized manufactured home in **Section 23-1-1**. All existing manufactured homes, when replaced, shall comply with the immobilization provisions of this Code.

**23-2-2        PERMIT - FEE.** All persons seeking to locate or replace a manufactured home or an immobilized manufactured home outside a manufactured home park shall obtain a **Building or Zoning Permit** from the City Clerk or Building Inspector. No utility services shall be connected to the unit until the City has issued the appropriate permits. The fee to locate or relocate a manufactured home or immobilized manufactured home shall be **Twenty-Five Dollars (\$25.00)**. **(See Zoning Code for districts permitting these uses.)**

**23-2-3        LOT SIZE.** The minimum lot size for the location of an immobilized manufactured home unit shall be **six thousand (6,000) square feet**. All units shall be located in the City according to the requirements and restrictions of this Code. They shall not exceed **thirty percent (30%) coverage** of the lot or the requirements of the Zoning Code, if any.

**23-2-4        CONCRETE PADS.** All immobilized manufactured homes shall conform to the specifications for these units as provided in the definition in **Section 23-1-1**.

**23-2-5        LIMIT OF UNITS.** There shall be **only one (1)** immobilized manufactured home per lot in the City.

## ARTICLE III - MANUFACTURED HOME PARKS

### DIVISION I - ADMINISTRATION REQUIREMENTS

**23-3-1 COMPLIANCE WITH STATUTES, APPLICABILITY OF ARTICLE.** Every manufactured home park hereafter established in the City shall, at a minimum, conform to the requirements of:

(A) The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

(B) The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the City. The applicable provisions as they pertain to Manufactured Home community shall be controlling within the corporate limits.

(C) **This Code.**

(D) **Zoning Code.**

In case of conflict between any provisions of the above, the more stringent requirement shall prevail.

**23-3-2 PERMITTING AND PLANNING A PARK.** Any person seeking to establish, operate, alter, or expand a manufactured home park shall obtain a permit to construct or a license to operate a manufactured home park.

**"Construct or operate a manufactured home park"**, as used in this Code shall include, but not necessarily be limited to supplying or maintaining common water, sewer, or other utility supplies or services, or the collection of rents directly or indirectly from **two (2)** or more independent manufactured homes. **(All plans shall be submitted to the City Council or Plan Commission for approval prior to the granting of a permit.)**

**23-3-3 LOCAL GOVERNMENT REQUIREMENTS.** A permit does not relieve the applicant from complying with this Code or other ordinances applicable thereto. **(See Zoning Code, if any.)**

**23-3-4 PERMITS.** The Plan Commission or the City Council shall review each application and plan documents submitted. When the application and plan documents are found to be in compliance with the **"Manufactured Home Community Code"**, as approved by the **Illinois Department of Public Health**, the City Council or its designee may issue the proper permit to construct or alter a manufactured home park to the applicant. Permits shall be valid for **one (1) year from date of issue.**

**23-3-5 INSPECTION OF MANUFACTURED HOME PARK.** Upon completion of the proposed construction of a manufactured home park or the proposed alteration of a manufactured home park, the applicant shall notify the City or the designated official in order that an inspection of the complete facilities can be made.

**23-3-6 VIOLATION PROCEEDINGS.** Any license granted hereunder shall be subject to revocation or suspension by the Mayor. However, the Mayor or his representative shall first serve or cause to be served upon the licensee a written notice in which shall be specified the way or ways in which such licensee has failed to comply with the statutes, or any rules or regulations promulgated by the



City pertaining thereto. The notice shall require the licensee to remove or abate such nuisance, unsanitary or objectionable condition, specified in such notice within **five (5) days** or within a longer period of time as may be allowed by the City Council. If the licensee fails to comply with the terms and conditions of the notice within the time specified or such extended period of time, the Mayor or his representative may revoke or suspend such license.

**23-3-7            INITIAL PERMIT REQUIRED.** Each manufactured home that locates on a lot in a manufactured home park shall secure an initial Building or Zoning Permit from the City. All future locations on the same lot shall be exempt from the fee. **(See Zoning Code)**

**23-3-8 - 23-3-9            RESERVED.**

## **DIVISION II - DESIGN AND CONSTRUCTION REQUIREMENTS**

**23-3-10            PLAN DOCUMENT.** In order to obtain a permit to construct or an original license to operate a manufactured home park, the applicant shall file with the City a written application and plan documents and such plan documents shall be prepared by a registered engineer or architect licensed to practice in the State of Illinois, with registration seal affixed. **Two (2) copies** of the plan document shall accompany the application filed with the City Clerk to obtain a permit to construct or alter a manufactured home park or an original license to operate a manufactured home park, not previously licensed by the Department. These plans shall include, but not be limited to the design and construction criteria set forth herein. **[If there is a Zoning Administrator then the plans should be filed with that office.]**

**23-3-11            APPLICATION.**

(A) Every applicant shall file with the City Clerk a written application and plan documents for the proposed construction or alteration of a manufactured home park.

(B) The application shall be completed by the applicant and the engineer or architect and shall include:

- (1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the present or last occupation of the applicant at the time of the filing of the application. If the applicant is a corporation, a copy of the certificate of incorporation must be filed with the application.
- (2) The proposed method of lighting the structures and land upon which the manufactured home park is to be located.
- (3) The plot plans of the manufactured home park, building plans and specifications for existing buildings and facilities, and the plans and specifications for new buildings and facilities or the proposed alterations in existing facilities.
- (4) An affidavit of the applicant as to the truth of the matters contained in the application shall be attached.
- (5) Each application shall be accompanied by an application fee of **Three Hundred Dollars (\$300.00)** for a permit to construct, or an application fee of **One Hundred Fifty Dollars (\$150.00)** for a permit to alter to increase the size of the park.

**23-3-12      LOCATION.**

(A) Sites selected for manufactured home development shall be well-drained and free from topographical or geological hindrances and from other conditions unfavorable to a proper residential environment. The manufactured home development shall not be located near swamps, wetlands, marshes, or other breeding places of insects, rats, mice or other rodents. When a good, natural drainage is not available, storm water drainage shall be provided and such drainage shall not endanger any water supply or surface watercourse.

(B) The City Council may authorize a site survey to ascertain that the proposed location complies with the above requirements. **(See Flood Plain and Zoning Codes, if any.)**

**23-3-13      ROADWAYS AND PARKING.**

(A) All streets and driveways in every park shall be constructed in compliance with the Subdivision Code in **Chapter 34.**

(B) All streets in parks constructed shall have a minimum right-of-way of **fifty (50) feet** and a minimum road width of **thirty-two (32) feet** for the purpose of this Code, and shall be considered private streets to be maintained by the park owner or operator.

If a manufactured home park has more than **fifty (50) units**, a wider street may be required by the corporate authorities.

(C) Sidewalks and walkways shall be constructed abutting a street in a manufactured home park and shall be a minimum of **four (4) feet** in width; provided, however, there shall be no minimum width requirement for sidewalks for each individual lot. No portion of a manufactured home shall block, in any way, the pedestrian traffic on the walkways.

**23-3-14 - 23-3-16      RESERVED.**

**DIVISION III - GENERALLY**

**23-3-17      LOT SIZE.** The minimum lot size for a manufactured home pad shall be **six thousand (6,000) square feet**, with a minimum frontage of **fifty (50) feet**.

**23-3-18      MISCELLANEOUS RESTRICTIONS.**

(A) No manufactured home unit parked in a manufactured home park shall be immobilized.

(B) Not more than **one (1) manufactured home unit** shall be parked in **one (1)** space.

(C) No travel-trailer shall be permitted in any manufactured home park, unless a special area has been approved for that purpose by the City Council or the Zoning Board.

**23-3-19 - 23-3-20      RESERVED.**

#### **DIVISION IV - FEES**

**23-3-21**      **LICENSE FEE.** The annual license fee per manufactured home park shall be **One Hundred Dollars (\$100.00)**, and shall be due and payable **on or before May 1<sup>st</sup> of each year.** The City Clerk shall notify the owner or operator of the annual fee at least **thirty (30) days** prior to **May 1<sup>st</sup>.**

(Execute in Duplicate)

Application No. \_\_\_\_\_

**APPLICATION FOR BUILDING AND MANUFACTURED HOME OCCUPANCY PERMIT**

Office of the Mayor  
City Hall  
Macon, Illinois

Application No. \_\_\_\_\_

DATE: \_\_\_\_\_, 20\_\_

**(DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY)**

DATE: \_\_\_\_\_, 20\_\_

PERM. PARCEL \_\_\_\_\_

- ☐ Permit Issued  
☐ Permit Denied  
☐ Application Appealed

Fee Paid to City Clerk:

\$\_\_\_\_\_ DATE: \_\_\_\_\_, 20\_\_

IF DENIED, CAUSE OF DENIAL:

**INSTRUCTIONS TO APPLICANT:** All information required by the application must be completed and submitted herewith. Applicants are encouraged to visit the City Hall for any assistance needed in completing this form.

1. Name of Owner(s): \_\_\_\_\_  
(Attach additional sheets if necessary)  
Address: \_\_\_\_\_ PHONE: \_\_\_\_\_  
(ZIP CODE)
2. Applicant's Name: \_\_\_\_\_ PHONE: \_\_\_\_\_  
Address: \_\_\_\_\_  
(ZIP CODE)
3. Property interest of applicant: \_\_\_\_\_  
(Contract Purchaser, Etc.)
4. Address of proposed construction or mobile home: \_\_\_\_\_
5. Legal Description (Lot, Block, and Subdivision; attach metes and bounds description, if necessary).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Cost of Improvement: \$\_\_\_\_\_ Square feet of Improvement \_\_\_\_\_
6. Proposed construction (check one or more, as necessary):  
☐ New Building Type: \_\_\_\_\_ Brick/Frame Number of Rooms \_\_\_\_\_  
☐ Alterations or additions to existing buildings (explain): \_\_\_\_\_
7. Use of existing and proposed structures (if applicable):  
Existing Use: \_\_\_\_\_  
Proposed Use: \_\_\_\_\_
8. Two (2) copies of a sketch plat (drawn to approximate scale shall be attached, showing the following:
  - a) Dimensions and use of all buildings;
  - b) Dimensions of lot;
  - c) Distance of each building from lot lines;
  - d) Distance of principal building from principal buildings on adjacent lot(s);
  - e) Distance between accessory buildings and principal buildings;
  - f) Distance from lot line to center line of abutting street(s);
  - g) Location [with dimensions] of driveways and off-street parking spaces;
  - h) Location of all easements;
  - i) Location of all underground utilities, including septic tanks, tile fields, and wells.

9. Application is hereby made for an Occupancy Permit as required under the City Code for the erection, moving, or alteration and use of buildings and mobile homes. In making this application, the applicant represents all of the above statements and any attached maps and drawings to be a true description of the proposed new or altered uses and/or buildings. The applicant agrees that the permit applied for, if granted, is issued on the representations made herein and that any permit issued may be revoked without notice on any breach of representation or conditions. **(See Chapter 23)**

It is understood that any permit issued on this application will not grant right of privilege to erect any structure or to use any premises described for any purpose or in any manner prohibited by the City Code, or by other ordinances, codes, or regulations of the City.

APPLICANT: \_\_\_\_\_

### **CERTIFICATE OF OCCUPANCY**

The plans and specifications submitted with this Application are in conformity with the district requirements applicable to the subject property. Changes in plans or specifications shall not be made without written approval of the City Council.

Failure to comply with the above shall constitute a violation of the provisions of the **Revised Code of Ordinances of the City**.

DATE: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
BUILDING OFFICIAL

**CITY OF MACON**  
**APPENDIX "E"**  
**NOTICE**  
**ABANDONED MANUFACTURED HOME**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of Notice: \_\_\_\_\_

You are notified that the **City of Macon** has declared that a certain manufactured home (described manufactured home in terms of size, color, make, and model, if known) located at (give address or describe location) is an abandoned manufactured home within the meaning of the Abandoned Manufactured Home Act. Unless all delinquent manufactured home privilege taxes (including penalty and interest) are paid and electric and water service restored to this manufactured home within 30 days of the date of this notice, the City of Macon shall remove and dispose of the manufactured home, and it shall be disposed of or sold at public auction free and clear of any existing liens. If you have any questions regarding this notice, you should contact the City of Macon.

\_\_\_\_\_  
City of Macon

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

## **CHAPTER 24 – MOTOR VEHICLE CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>DEFINITIONS</i></b>	
	<i>Section 24-1-1 - Illinois Vehicle Code; Definitions Adopted</i>	<i>24-1</i>
<b><i>II</i></b>	<b><i>GENERAL REGULATIONS</i></b>	
	<i>Section 24-2-1 - Obedience to Police</i>	<i>24-1</i>
	<i>Section 24-2-2 - Scene of Fire</i>	<i>24-1</i>
	<i>Section 24-2-3 - Signs and Signals</i>	<i>24-1</i>
	<i>Section 24-2-4 - Unauthorized Signs</i>	<i>24-1</i>
	<i>Section 24-2-5 - Interference with Signs or Signals</i>	<i>24-2</i>
	<i>Section 24-2-6 - Advertising Signs</i>	<i>24-2</i>
	<i>Section 24-2-7 - Animals or Bicycles</i>	<i>24-2</i>
	<i>Section 24-2-8 - Lamps and Other Equipment on Bicycles</i>	<i>24-2</i>
<b><i>III</i></b>	<b><i>STOP AND THROUGH STREETS</i></b>	
	<i>Section 24-3-1 - Through Streets</i>	<i>24-3</i>
	<i>Section 24-3-2 - One-Way Streets or Alleys</i>	<i>24-3</i>
	<i>Section 24-3-3 - Stop Streets</i>	<i>24-3</i>
	<i>Section 24-3-4 - Yield Right-of-Way Streets</i>	<i>24-3</i>
	<i>Section 24-3-5 - Posting Signs</i>	<i>24-3</i>
<b><i>IV</i></b>	<b><i>DRIVING RULES</i></b>	
	<i>Section 24-4-1 - Illinois Vehicle Code; Rules of the Road Adopted</i>	<i>24-4</i>
	<i>Section 24-4-2 - Driving Rules</i>	<i>24-4</i>
	<i>Section 24-4-3 - Duty to Report Accident</i>	<i>24-5</i>
	<i>Section 24-4-4 - Transporting Liquor in Vehicles</i>	<i>24-5</i>
	<i>Section 24-4-5 - Excessive Noise – Stopped Vehicle</i>	<i>24-5</i>
	<i>Section 24-4-6 - Excessive Noise – Wheels</i>	<i>24-5</i>
	<i>Section 24-4-7 - Excessive Noise – Squealing Tires</i>	<i>24-5</i>
	<i>Section 24-4-8 - Reckless, Negligent or Careless Driving</i>	<i>24-5</i>
	<i>Section 24-4-9 - Excessive Noise While Driving</i>	<i>24-5</i>
<b><i>V</i></b>	<b><i>EQUIPMENT OF VEHICLES</i></b>	
	<i>Section 24-5-1 - Illinois Vehicle Code; Equipment of Vehicles Adopted</i>	<i>24-6</i>
	<i>Section 24-5-2 - Muffler</i>	<i>24-6</i>
	<i>Section 24-5-3 - Sound Amplification Systems</i>	<i>24-6</i>
	<i>Section 24-5-4 - Excessive Engine Braking Noise Prohibited</i>	<i>24-6</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VI</b>	<b>PARKING RULES</b>	
	Section 24-6-1 - Time Limit Parking	24-7
	Section 24-6-2 - Parking for Sale, Repair or Peddling Prohibited	24-7
	Section 24-6-3 - Private Property	24-7
	Section 24-6-4 - Stopping, Standing or Parking Prohibited in Specified Places	24-7
	Section 24-6-5 - Parking for the Handicapped	24-8
	Section 24-6-6 - Load Limits	24-8
	Section 24-6-7 - Towing Cars Away	24-8
	Section 24-6-8 - Parking Violations	24-9
	Section 24-6-9 - Prima Facie Proof	24-9
	Section 24-6-10 - Snow Routes	24-9
	Section 24-6-11 - Parking Tickets – State Statute	24-9
<b>VII</b>	<b>INOPERABLE AND ABANDONED VEHICLES</b>	
	Section 24-7-1 - Definitions	24-10
	Section 24-7-2 - Inoperable or Abandoned Motor Vehicles on Public Property	24-10
	Section 24-7-3 - Inoperable Motor Vehicles on Private Property	24-10
	Section 24-7-4 - Abandoned But Not Inoperable Motor Vehicles on Private Property	24-12
	Section 24-7-5 - Other Remedies	24-12
	Section 24-7-6 - Parking of Vehicles with Expired Registration Sticker	24-12
	Section 24-7-7 - Penalties and Remedies	24-12
<b>VIII</b>	<b>GOLF CART REGULATIONS</b>	
	Section 24-8-1 - Purpose	24-13
	Section 24-8-2 - Policy	24-13
	Section 24-8-3 - Definitions	24-13
	Section 24-8-4 - Operation on Streets	24-13
	Section 24-8-5 - License	24-14
	Section 24-8-6 - Required Equipment	24-14
	Section 24-8-7 - Lights	24-14
	Section 24-8-8 - Required Seating	24-14
	Section 24-8-9 - Trailers	24-14
	Section 24-8-10 - Modifications	24-15
	Section 24-8-11 - Age of Operator; License	24-15
	Section 24-8-12 - Speed Limit	24-15
	Section 24-8-13 - Vehicle Code Application	24-15
	Section 24-8-14 - Mandatory Insurance	24-15
	Section 24-8-15 - License Revocation	24-15
	Schedule "A" - Stop Intersections	MV-1
	Schedule "C" - Yield Intersections	MV-2
	Schedule "D" - Speed Zones	MV-3
	Schedule "E" - No Parking Zones	MV-3
	Schedule "F" - Truck Routes	MV-4
	Schedule "L" - Load Restrictions	MV-4



## **CHAPTER 24**

### **MOTOR VEHICLE CODE**

#### **ARTICLE I – DEFINITIONS**

**24-1-1** **ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 1**, entitled "**Title and Definitions**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City, the provisions thereof shall be controlling within the corporate limits of the City. **(65 ILCS 5/1-3-2)**

**[NOTE: Unless otherwise noted all references to Police Chief or policeman shall mean the Macon County Sheriff's office and it's deputies.]**

#### **ARTICLE II - GENERAL REGULATIONS**

**24-2-1** **OBEDIENCE TO POLICE.** Members of the Police Department, Special Police, and Auxiliary Police assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic. **(625 ILCS 5/11-203)**

**24-2-2** **SCENE OF FIRE.** The Fire Department officer in command or any fireman designated by him may exercise the powers and authority of a policeman in directing traffic at the scene of any fire or where the Fire Department has responded to an emergency call for so long as the Fire Department equipment is on the scene in the absence of or in assisting the Police Department.

**24-2-3** **SIGNS AND SIGNALS.** It shall be unlawful for the driver of any vehicle to disobey the instructions of any traffic sign or signal placed in view by authority of the corporate authorities or in accordance with the laws of the State of Illinois except upon direction of a police officer. All signs and signals established by direction of the governing body shall conform to the Illinois State Manual of Uniform Traffic Control Devices for Streets and Highways. **(625 ILCS 5/11-301)**

**24-2-4** **UNAUTHORIZED SIGNS.** No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking, light, reflector or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, nor shall any person place, maintain or display upon or in view of any street, any other sign which hides from view or interferes with the movement of traffic or effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. No tree, bush or foliage of any kind shall be so placed, maintained, allowed to remain, or be displayed upon either public or private property in such a manner as to hide from view or interfere with the movement of traffic or the effectiveness of any traffic-control device, sign or signal.

**24-2-5      INTERFERENCE WITH SIGNS OR SIGNALS.** It shall be unlawful for any person to deface, injure, move or interfere with any official traffic sign or signal.

**24-2-6      ADVERTISING SIGNS.** It shall be unlawful to maintain anywhere in the City any sign, signal, marking or device other than a traffic sign or signal authorized by the City Council or the Illinois Department of Transportation, which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal in view of any street or highway, and it shall be unlawful to place or maintain any sign which hides from view any lawful traffic-control device. It shall be unlawful to maintain or operate any flashing or rotating beacon of light in view of any street or highway. **(See Chapters 27 and 33) (Also See Chapter 40 - Zoning Code)**

**24-2-7      ANIMALS OR BICYCLES.** Any person riding a bicycle or an animal or driving any animal drawing a vehicle upon any street shall be subject to the provisions of this Code applicable to the driver of a vehicle, except those provisions which can have no application to one riding a bicycle or driving or riding an animal. **(625 ILCS 5/11-206)**

**24-2-8      LAMPS AND OTHER EQUIPMENT ON BICYCLES.**  
(A) Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least **five hundred (500) feet** to the front and with a red reflector on the rear of a type approved by the Department which shall be visible from all distances of **one hundred (100) feet to six hundred (600) feet** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A lamp emitting a red light visible from a distance of **five hundred (500) feet** to the rear may be used in addition to the red reflector.

(B) A bicycle shall not be equipped with, nor shall any person use any siren upon a bicycle.

(C) Every bicycle shall be equipped with a brake which will adequately control movement of and stop and hold such bicycle.

(D) No person shall sell a new bicycle or pedal for use on a bicycle that is not equipped with a reflex reflector or conforming to specifications prescribed by the State on each pedal, visible from the front and rear of the bicycle during darkness from a distance of **two hundred (200) feet**.

(E) No person shall sell or offer for sale a new bicycle that is not equipped with side reflectors. Such reflectors shall be visible from each side of the bicycle from a distance of **five hundred (500) feet** and shall be essentially colorless or red to the rear of the center of the bicycle and essentially colorless or amber to the front of the center of the bicycle provided. The requirements of this paragraph may be met by reflective materials which shall be at least **three-sixteenths (3/16) of an inch** wide on each side of each tire or rim to indicate as clearly as possible the continuous circular shape and size of the tires or rims of such bicycle and which reflective materials may be of the same color on both the front and rear tire or rim. Such reflectors shall conform to specifications prescribed by the State.

(F) No person shall sell or offer for sale a new bicycle that is not equipped with an essentially colorless front-facing reflector.

(G) Any person charged with a violation of this section shall upon conviction, be fined in accordance with Section 1-1-20 of the City Code. **(625 ILCS 5/11-1507)**

### **ARTICLE III - STOP AND THROUGH STREETS**

**24-3-1      THROUGH STREETS.** The streets and parts of streets of the City designated by ordinance as "through streets" are hereby declared to be through streets. The driver of a vehicle shall stop at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so close on a through street as to constitute an immediate hazard unless directed otherwise by the traffic officer. See **Schedule "A"** for applicable through and stop streets.

**24-3-2      ONE-WAY STREETS OR ALLEYS.** It shall be unlawful to operate any vehicle on any streets or alleys designated as one-way streets or alleys by ordinance in any direction other than that so designated. See **Schedule "B"** for the designated one-way streets and alleys. **(625 ILCS 5/11-208)**

**24-3-3      STOP STREETS.** The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. See **Schedule "A"** for designated stop intersections. **(625 ILCS 5/11-302)**

**24-3-4      YIELD RIGHT-OF-WAY STREETS.** The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. **(See Schedule "C")**

**24-3-5      POSTING SIGNS.** Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(625 ILCS 5/11-304)**

## ARTICLE IV - DRIVING RULES

**24-4-1**      **ILLINOIS VEHICLE CODE; RULES OF THE ROAD ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 11**, entitled "**Rules of the Road**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City except for the following changes, deletions and omissions:

(A)

**Omissions:**

- (1) Omit Sections 11-207, 11-208.1, 11-208.2, 11-209.1, 11-302, 11-303, 11-310(f), 11-313, 11-401 to and including 11-416, 11-500 to and including 11-502, 11-602, 11-603, 11-604, 11-606(b), 11-608, 11-1419, and 11-1422.

(B)

**Changes and Additions:**

- (1) Change 11-904(a) to read: "Preferential right-of-way at an intersection may be indicated by stop or yield signs as authorized by this Code."
- (2) Change 11-1416(a) to read: "Any person who shall willfully and unnecessarily attempt to delay, hinder or obstruct any other person in lawfully driving and traveling upon or along any highway within this State or who shall offer for barter or sale, merchandise on said highway so as to interfere with the effective movement of traffic shall, upon conviction, be guilty of a violation of this Code."

**24-4-2**

**DRIVING RULES.**

(A)

**Careless Driving.** It shall be unlawful to operate a vehicle in the City in a careless manner so as to interfere with the safe or lawful operation of any other vehicle or so as to interfere with or to injure, damage, or endanger persons or property engaged in the lawful use of the street.

(B)

**Drag Racing Unlawful.** No person shall be a participant in drag racing as defined in **Section 5/11-504 of the Illinois Compiled Statutes.**

(C)

**Fleeing or Attempting to Elude Police Officer.** Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a police officer directing such driver or operator to bring his vehicle to a stop, willfully fails to or refuses to obey such direction, increases his speed, extinguishes his lights or otherwise flees or attempts to elude the officer is guilty of a violation of this Chapter. The signal given by the police officer may be by hand, voice, siren, red or blue light. Provided, however, the officer giving such signal shall be in police uniform and if driving a vehicle, such vehicle shall be marked showing it to be an official police vehicle.

(D)

**Unlawful Possession of Highway Sign or Marker.** The Street Department with reference to traffic-control signals, signs or markers owned by the Municipality are authorized to indicate the ownership of such signs, signals or markers on the back of such devices in letters not less than **three-eighths (3/8) of an inch** or more than **three-fourths (3/4) of an inch** in height, by use of a metal stamp, etching or other permanent means and except for employees of the Municipality, police officers, contractors and their employees engaged in highway construction, contract or work on the highway approved by the City, it is a violation of this Chapter for any person to possess such sign, signal or marker so identified. **(625 ILCS 5/11-313)**

(E)

**Special Speed Limitations on Elevated Structures.** No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure when such structure is sign-posted.

Upon the trial of any person charged with the violation of this section, proof of the determination of the maximum speed by the City and the existence of such signs is conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. **(625 ILCS 5/11-608)**

(F)

**General Speed Restrictions.** The speed limits on the various streets shall be approved by the City Council, but shall not exceed **twenty miles per hour (20 MPH)** in a school zone

and not to exceed **twenty-five miles per hour (25 MPH)** on a residential street; otherwise, **thirty miles per hour (30 MPH)** on an arterial street unless otherwise posted. **Schedule "D"** shall list the applicable streets that have specific speed limits thereon. **(625 ILCS 5/11-604)**

(G) **Special Speed Limit While Passing Schools.** No person shall drive a motor vehicle at a speed in excess of **twenty miles per hour (20 MPH)** while passing a school zone or while traveling upon any public thoroughfare on or across which children pass going to and from school during school days when school children are present.

This section shall not be applicable unless appropriate signs are posted upon streets and maintained by the City or State wherein the school zone is located. **(625 ILCS 5/11-605)**

(H) **Failure to Reduce Speed.** A vehicle shall be driven upon the streets and alleys of this City at a speed which is reasonable and proper with regard to traffic conditions and the use of the street or alley. The fact that the vehicle does not exceed the applicable maximum speed limit does not relieve the driver of the duty to decrease speed when approaching and crossing an intersection or when special hazard exists with respect to pedestrian or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(I) **Traffic Lane Usage.** Whenever any roadway within the City has been divided into **two (2)** or more clearly marked lanes for traffic, a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(J) **U-Turns Prohibited.** No driver of a vehicle shall make a "U-turn" on any street or at any intersection of any streets in the City.

**24-4-3** **DUTY TO REPORT ACCIDENT.** The driver of a vehicle which is in any manner involved in an accident within the City shall, without unnecessary delay, notify the Police Department and shall make a report of such action. Failure to report an accident within the City within **twenty-four (24) hours** shall result in arrests of the person or persons involved. **(625 ILCS 5/11-415)**

**24-4-4** **TRANSPORTING LIQUOR IN VEHICLES.** No person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle in this City except in the original container and with the seal unbroken. **(625 ILCS 5/11-502)**

**24-4-5** **EXCESSIVE NOISE - STOPPED VEHICLE.** No operator of a motor vehicle shall, when the motor vehicle is stopped, unreasonably accelerate the engine thereof with the gears of the vehicle in neutral, thereby causing an unreasonably loud or excessive noise.

**24-4-6** **EXCESSIVE NOISE - WHEELS.** No operator of a motor vehicle shall when the motor vehicle is stopped, accelerate the engine with the gears of such vehicle in neutral and while so accelerating the engine, shift the gears of the vehicle into a forward or reverse movement, thereby causing an unreasonably loud noise with the drive wheels of the vehicle.

**24-4-7** **EXCESSIVE NOISE - SQUEALING TIRES.** No operator of a motor vehicle shall cause the wheels of such vehicle to spin violently, thereby causing an unreasonably loud or excessive noise. **(625 ILCS 5/11-505)**

**24-4-8** **RECKLESS, NEGLIGENT OR CARELESS DRIVING.** It shall be unlawful to operate any vehicle in the City in a careless, reckless, negligent or wanton manner, or carelessly so as to endanger life or property.

**24-4-9** **EXCESSIVE NOISE WHILE DRIVING.** No operator of a motor vehicle shall, when operating the vehicle, accelerate the vehicle or rapidly stop the vehicle causing an unreasonably loud noise.

## **ARTICLE V - EQUIPMENT OF VEHICLES**

**24-5-1        ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 12**, entitled "**Equipment of Vehicles**", as passed, approved, and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City. **(625 ILCS 5/12-605, 5/12-605.1; and 5/12-605.2)**

**24-5-2        MUFFLER.** No motor vehicle shall be operated on any street unless such vehicle is provided with a muffler in efficient actual working condition; and the use of a cut-out is prohibited. No muffler shall cause an unreasonably loud or excessive noise. **(625 ILCS 5/12-602)**

**24-5-3        SOUND AMPLIFICATION SYSTEMS.** No driver of any motor vehicle within this City shall operate or permit operation of any sound amplification system which can be heard outside the vehicle from **seventy-five (75) feet** or more when the vehicle is being operated upon a highway, unless such system is being operated to request assistance or warn of a hazardous situation. This Section shall not apply to authorized emergency vehicles. **(625 ILCS 5/12-611)**

**24-5-4        EXCESSIVE ENGINE BRAKING NOISE PROHIBITED.** It shall be unlawful for the operator of a commercial vehicle as defined in **625 ILCS 5/1-111.8** to operate or actuate any engine braking system within the City that emits excessive noise unless it is an emergency. The Superintendent is authorized and directed to post signs stating: "**EXCESSIVE ENGINE BRAKING NOISE PROHIBITED**" at appropriate locations. **(625 ILCS 5/12-602.1)**

## ARTICLE VI - PARKING RULES

**24-6-1      TIME LIMIT PARKING.** It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

**24-6-2      PARKING FOR SALE, REPAIR OR PEDDLING PROHIBITED.** No person shall park a vehicle upon any street for the purpose of:

- (A) displaying such vehicle for sale; or
- (B) washing, greasing or repairing such vehicle, except when emergency repairs are necessary; or
- (C) peddling merchandise.

**24-6-3      PRIVATE PROPERTY.** It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

**24-6-4      STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.**

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control devices, no person shall:

(1) **Stop, Stand or Park a Vehicle:**

- (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (b) On a sidewalk.
- (c) Within an intersection.
- (d) On a crosswalk.
- (e) Between a safety zone and the adjacent curb or within **thirty (30) feet** of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
- (f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
- (h) On any railroad tracks.
- (i) At any place where official signs prohibit stopping.
- (j) On any controlled-access highway.
- (k) In the area between roadways of a divided highway, including crossovers.
- (l) In any alley that is open and maintained.

(2) **Stand or Park a Vehicle** (whether occupied or not, except momentarily to pick up or discharge passengers):

- (a) In front of a public or private driveway.
- (b) Within **fifteen (15) feet** of a fire hydrant.
- (c) Within **twenty (20) feet** of a crosswalk at an intersection.
- (d) Within **thirty (30) feet** upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of the roadway.
- (e) Within **twenty (20) feet** of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within **seventy-five (75) feet** of such entrance (when properly sign-posted).

- (f) At any place where official signs prohibit standing or parking.
- (3) **Parking a Vehicle** (whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers):
  - (a) within **fifty (50) feet** of the nearest rail of a railroad crossing;
  - (b) at any place where official signs prohibit parking;
  - (c) in yellow zones.
- (B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.
- (C) Schedules "E", "F" and "G" shall list all applicable no-parking zones.
- (D) **Truck Parking Prohibited.** No second Division vehicle licensed for a "F" classification or higher shall be parked on any street, alley or any public parking lot not so designated for public parking of vehicles described herein in the City except temporary parking for loading and unloading purposes. Vehicle described in this paragraph shall include either the tractor or trailer of such unit. **(625 ILCS 5/3-815)**

#### **24-6-5 PARKING FOR THE HANDICAPPED.**

- (A) **Designated Parking.** Certain parking spaces within the confines of the City shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.
- (B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et seq.** furnished by the City.
- (C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. **(625 ILCS 5/11-1301.2)**
- (D) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency or a City Handicapped Registration Card will be ticketed and the vehicle will be removed in accordance with departmental policies and in accordance with **Section 5/11-1302, Chapter 625 of the Illinois Compiled Statutes.** The registered owner of the vehicle as ascertained by the registration plates of the vehicle will be presumed to be in control of the vehicle and will be fined **Two Hundred Dollars (\$200.00).** The same registered owner will be held liable for the cost of removal of the vehicle and must pay that cost, plus storage charges, if any, prior to the release of the vehicle.
- (E) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "H".**

**24-6-6 LOAD LIMITS.** This Chapter shall not include pickup trucks, trucks operated by the City maintenance and repairs on the street or the operation of a vehicle owned by the U.S. government or State of Illinois while on lawful business of these agencies. See **Schedule "L"** for load-limit restrictions.

**24-6-7 TOWING CARS AWAY.** The Police Department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car, boat, trailer, or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant or



obstructs or may obstruct the movement of any emergency vehicle; or any vehicle which has been parked in any public street or other public place for a period of **twenty-four (24) hours**.

Vehicles towed away shall be stored on any City property or in a public garage or parking lot and shall be restored to the owner or operator thereof after payment of the expense incurred by the City in removing and storing such vehicle(s).

**24-6-8      PARKING VIOLATIONS.** Any person accused of a violation of an ordinance prohibiting parking a vehicle in a designated area or restricting the length of time a vehicle may be there parked, may settle and compromise the claim against him or her for such illegal parking by paying to the City **Ten Dollars (\$10.00)** for each such offense and **Ten Dollars (\$10.00)** for the second offense within **six (6) months**. Such payment may be made at the City Hall and a receipt shall be issued for all money so received and such money shall be promptly turned over to the Treasurer to be credited to the General Fund. The members of the Police Department are hereby authorized to refrain from instituting a prosecution for the alleged offense involved for at least **five (5) days**.

Provided, this Section shall not apply to persons parking a vehicle so as to obstruct the entrance or exit of any place where Police and Fire Department apparatus or other emergency equipment is kept or housed or so as to block an emergency entrance in a hospital. Nor shall this section apply to any person charged with parking a vehicle so as to entirely obstruct traffic in any street or alley or parking in such a way as to reduce traffic on an arterial street to one-way traffic only; nor to any person who refuses to remove a vehicle illegally parked at the request of any member of the Police Department.

(A) **Removal - Time Limit.** Any vehicle illegally parked for a period in excess of **twenty-four (24) hours** may be removed by a towing service authorized by the Police Department of the municipality. In any emergency, any vehicle may be removed by any means when authorized by the Police Department of the municipality.

(B) **City Parking Lots.** No person shall park a motor vehicle on a City parking lot unattended for more than **five (5)** consecutive days.

(C) **Parking Violation Ticket.** The parking violation ticket shall be as follows:

**24-6-9      PRIMA FACIE PROOF.** The fact that a vehicle which is illegally parked or operated is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such violation.

**24-6-10      SNOW ROUTES.** It shall be unlawful to park a vehicle on the streets at any time within **eighteen (18) hours** after a snowfall of **three (3) inches** or more, unless the street has been cleared of snow.

**24-6-11      PARKING TICKETS - STATE STATUTE.** The City Council intends to utilize **Illinois Compiled Statutes, Chapter 625; Section 5/6-306.5** and the procedure set forth therein.

The appropriate authorities are hereby authorized to utilize the statute and the procedure set forth therein.

## ARTICLE VII – INOPERABLE AND ABANDONED VEHICLES

**24-7-1**            **DEFINITIONS.** As used in this Article, the following terms have the following meanings:

**"Abandoned Vehicle":** As defined in the Illinois Vehicle Code (**625 ILCS 5/1-101.5**), an "abandoned vehicle" is any vehicle in a state of disrepair, rendering the vehicle incapable of being driven in its condition or any motor vehicle that has not been moved or used for **seven (7) consecutive days** or more and is apparently deserted.

**"Building":** Any permanent, enclosed structure with a roof and four rigid walls constructed of steel, brick, wood, or similar materials (and excluding any temporary structure, such as a structure having plastic or canvas covering the sides and/or roof).

**"Inoperable Motor Vehicle":** As defined in the Illinois Municipal Code (**65 ILCS 5/11-40- 3**), an "inoperable motor vehicle" is any motor vehicle from which, for a period of at least **seven (7) days**, the engine, wheels, tires, or other parts have been removed, or on which the engine, wheels, or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations nor to any motor vehicle that is kept within a building when not in use, nor to any operable historic vehicles over **twenty-five (25) years** of age, nor to a motor vehicle on a premises lawfully engaged in the wrecking and junking of motor vehicles.

**"Motor Vehicle":** As defined in the Illinois Vehicle Code (**625 ILCS 5/1-146**), a "motor vehicle" means every vehicle which is self-propelled, except for motorized wheelchairs and vehicles moved solely by human power.

**"Person":** Any human being, firm, partnership, association, corporation, company, or organization of any kind.

**"Property":** Any real property, public or private, within the corporate limits within the City that is not a street or highway.

**"Street" or "Highway":** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**24-7-2**            **INOPERABLE OR ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY.** Inoperable or abandoned motor vehicles which are on public property, a street, or a highway, are hereby declared a nuisance. They shall be towed or otherwise dealt with by the Police Department in accordance with procedures set forth in the Illinois Motor Vehicle Code (**625 ILCS 4-201 et seq.**), which is incorporated by reference, and with all future amendments to that Code.

**24-7-3**            **INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY.**  
(A)                Inoperable motor vehicles on private property are hereby declared a nuisance.  
(B)                Whenever a police officer discovers an inoperable motor vehicle on private property, the officer shall determine the identity of the owner and occupier of that property and, if possible, the identity of the owner of the vehicle. The officer shall cause a notice (in substantially the following form) to be mailed (with delivery confirmation) or personally delivered to the vehicle owner; if the vehicle owner is different than the property owner or occupier, then notice shall be mailed or delivered to the property owner and/or occupier.

**NOTICE TO REMOVE OR REPAIR INOPERABLE MOTOR VEHICLE**

PLEASE TAKE NOTICE that the Police Department of the City of Macon, Illinois, has determined that there exists an inoperable motor vehicle, generally described as follows and later referred to as "the Vehicle":

Make: \_\_\_\_\_ Model: \_\_\_\_\_  
Model Year, if known: \_\_\_\_\_ Color: \_\_\_\_\_  
License No., if known: \_\_\_\_\_ State: \_\_\_\_\_  
Other identifying characteristics: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Vehicle is currently located on the following property:  
Address: \_\_\_\_\_

The Vehicle is in violation of Chapter 24, Article VII, of the Macon City Code, which prohibits inoperable motor vehicles on private property within the corporate limits of the City.

**You are hereby ordered to remove or repair such inoperable vehicle within seven (7) calendar days from the date of service of this Notice, if it has been hand-delivered, or within eleven (11) calendar days from the date of mailing of this notice, if it was mailed.**

Chapter 24, Article VII, of the City Code provides that any person violating its provisions is subject to a fine of not less than **\$250.00** nor more than **\$750.00** for each day that a violation continues. If the City must prosecute you for having an inoperable motor vehicle, it may seek fines beginning from the date of this Notice. If you fail to remove or repair the inoperable motor vehicle by the date stated in this notice, the City may remove the inoperable vehicle, or it may hire someone to do so.

Any person ordered to repair or remove an inoperable vehicle may have a hearing with the Chief of Police, the Mayor, or some other City representative designated by the Chief or Mayor. A request for a hearing must be made in writing and delivered to the City Clerk no later than **seven (7) days** after the date of service of this notice, if it was served personally, or **eleven (11) days** after the date of mailing of this notice, if it was mailed. If no hearing is requested, or if the hearing officer determines after the hearing that the vehicle is inoperable, the vehicle may be towed without further notice.

*Definitions: As used in this notice, "inoperable motor vehicle" means any motor vehicle from which, for a period of at least **seven (7) days**, the engine, wheels, tires, or other parts have been removed, or on which the engine, wheels, or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable motor vehicle" shall not include a motor vehicle that has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations nor to any motor vehicle that is kept within a building when not in use, nor to any operable historic vehicles over **twenty-five (25) years** of age, nor to a motor vehicle on the premises lawfully engaged in the wrecking and junking of motor vehicles. "Repair" means to take such action as is required to make an inoperable motor vehicle capable of being driven under its own power.*

This Notice is dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature

(C) Notice by mail pursuant to this Section shall be accomplished if the City receives confirmation of receipt from the U.S.P.S. or if the envelope containing the Notice is returned and marked as "unclaimed" or "refused."

(D) In the event that a violation of **Section 24-7-2** or **24-7-3** is not corrected within the time specified in the notice, or if there is a hearing conducted in accordance with the notice and the hearing officer determines that the vehicle is inoperable, then within **five (5) days** after the hearing, the Police Department may proceed to tow and dispose of the inoperable motor vehicle in accordance with the procedures set forth in the Illinois Motor Vehicle Code (**625 ILCS 5-201 et seq.**), which is incorporated by reference.

**24-7-4 ABANDONED BUT NOT INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY.** The abandonment of a vehicle (or any part of a vehicle) on private property, in view of the general public, is unlawful except on property of the owner of the abandoned vehicle. A law enforcement agency having jurisdiction shall authorize the removal of that abandoned vehicle (or vehicle part) from private property after a waiting period of at least **seven (7) days**; however, the abandoned vehicle may be removed immediately if the City or a law enforcement agency determines that it is a hazardous dilapidated vehicle as defined in Section 11-40-3.1 of the Illinois Municipal Code.

**24-7-5 OTHER REMEDIES.** In addition to any other remedies, the corporate authorities may at any time instruct the City Attorney to file a lawsuit in the Circuit Court of Macon County, seeking any or all remedies available in the Illinois Municipal Code regarding the abatement of nuisances. The corporate authorities may seek penalties in accordance with **Section 24-7-7** of this Chapter.

**24-7-6 PARKING OF VEHICLES WITH EXPIRED REGISTRATION STICKERS.** No person may stop, park, or leave standing upon a public street, highway, or roadway, or upon private property, a vehicle upon which is displayed an Illinois registration plate or plates or registration sticker after the termination of the registration period for which the registration plate or sticker was issued or after the expiration date set by Section 3-314 or 3-314.1 of the Illinois Vehicle Code.

**24-7-7 PENALTIES AND REMEDIES.**  
(A) Any person who violates, or who aids and abets in the violation of, **Section 24-7-2, 24-7-3** or **24-7-4** shall be fined not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**, shall pay the cost to the City of its attorney's fees, and shall be required by the Court to make a disposition on the abandoned, unclaimed, or inoperable vehicle. Each day a violation occurs shall constitute a separate offense.

(B) In addition to the remedies set forth in this Article and in Article II of Chapter 4 of the Illinois Motor Vehicle Code, the City may bring a common law nuisance action against a person who is responsible for a nuisance as defined in the City Code, and the City may seek all remedies available in law or equity in connection with such an action, and it shall be entitled to an award of its attorney's fees and costs.

(C) A person who violates **Section 24-7-6** of this Article shall be fined the sum of **Twenty-Five Dollars (\$25.00)** for each violation. Each day a violation occurs shall constitute a separate offense.

## ARTICLE VIII – NON-HIGHWAY VEHICLES

**24-8-1**        **PURPOSE.** This Article is enacted to regulate the operation of non-highway vehicles on the public streets in the City.

**24-8-2**        **POLICY.**

(A)            This Article is adopted in the interest of public safety and transportation efficiency.

(B)            All persons operating permitted non-highway vehicles must be observant of, and attentive to, the safety of themselves and others, including their passengers, other motorists, bicyclists and pedestrians.

(C)            All persons who operate or ride permitted non-highway vehicles on City streets do so at their own risk and peril.

(D)            The City disclaims any liability under any theory of liability for allowing permitted non-highway vehicles to be operated on City streets.

**24-8-3**        **DEFINITIONS.**

(A)            As used in this Article, the following definitions shall apply:

- (1)        **Golf Cart** means a vehicle designed and intended for the purposes of transporting one or more persons and/or their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.
- (2)        **All-terrain vehicle** means any motorized off-highway device designed to travel primarily off-highway, **fifty (50) inches** or less in width, having a manufacturer's dry weight of **one thousand five hundred (1,500) pounds** or less, traveling on **three (3)** or more non-highway tires designed with a seat or saddle for operator use and handle bars are for steering control except equipment such as lawn mower.
- (3)        **Off-highway motorcycle** means any motorized device designed to travel primarily off-highway on **two (2) wheels**, having a seat or saddle for the use of the operator, upon or by which any person, persons, or property may be transported or drawn.
- (4)        **Recreational off-highway vehicle** means any motorized off-highway device designed to travel primarily off-highway, **sixty-four (64) inches** or less in width, having a manufacturer's dry weight of **two thousand (2,000) pounds** or less, traveling on **four (4)** or more non-highway tires, designed with a non-straddle seat and a steering wheel for steering control, except equipment such as lawn mowers.
- (5)        **Permitted non-highway vehicle** means a golf cart, a recreational off-highway vehicle or an all-terrain vehicle.

**24-8-4**        **OPERATION ON STREETS.** It shall be unlawful to operate an off-highway motorcycle on City streets. It shall be lawful to operate a permitted non-highway vehicle on City streets which have a posted speed limit of **thirty-five (35) miles per hour** or less subject to the requirements or regulations of this Article. Permitted non-highway vehicles may not be operated on sidewalks or City Parks other than parking areas, nor may they travel on County Highway 32 or cross U.S. Route 51. Permitted non-highway vehicles may cross County Highway 32 at its intersections with Woodcock Street, Front Street, Miller Street and Shaw Street.

Permitted non-highway vehicles shall be allowed to cross a municipal street, county highway, or road district highway if the operator of the non-highway vehicle makes a direct crossing provided:

(A) The crossing is made at an angle of approximately **ninety (90) degrees** so the direction of the street, road, or highway, and at a place where no obstruction prevents a quick and safe crossing;

(B) The non-highway vehicle is brought to a complete stop before attempting a crossing; and

(C) The operator of the non-highway vehicle yields the right-of-way to all pedestrian and vehicular traffic which constitutes a hazard.

**24-8-5** **LICENSE.**

(A) No person shall operate a permitted non-highway vehicle on a City street unless the permitted non-highway vehicle has been issued a license by the City. A person desiring a license shall make application to the City Clerk or his or her designee on forms provided by the City.

(B) The license shall be valid for a period of **one (1) year** from the date of issuance. Prior to the issuance of the license, the applicant shall present the non-highway vehicle to the Macon County Deputy Sheriff assigned to patrol the City of Macon or other individual authorized by the City Council for an inspection to determine whether the non-highway vehicle may be operated on a City street and the applicant shall sign a release of liability.

(C) If the applicant and non-highway vehicle are qualified, a license shall be issued to the applicant.

**24-8-6** **REQUIRED EQUIPMENT.** A permitted non-highway vehicle to be operated on a City street shall have the following minimum equipment, in good working condition at all times:

- (A) Brakes;
- (B) Steering apparatus;
- (C) Tires;
- (D) Rear view mirror;
- (E) Red reflectorized warning devices in the front and rear;
- (F) Slow moving emblem on the rear;
- (G) Headlight that emits a white light visible from a distance from **five hundred (500) feet** to the front;
- (H) Red light visible from at least **one hundred (100) feet** from the rear;
- (I) Brake lights;
- (J) Turn signals; and
- (K) A seat for each passenger that was installed by the manufacturer.

**24-8-7** **LIGHTS.** A permitted non-highway vehicle operated on a City street shall have its head lights and tail lights lighted as required by **625 ILCS 5/12-201**.

**24-8-8** **REQUIRED SEATING.** A permitted non-highway vehicle may transport only the maximum number of passengers for which a specific permitted non-highway vehicle was designed. Every passenger shall sit in a seat that was installed by the manufacturer of the permitted non-highway vehicle and designated as such. It shall be unlawful for the operator of a permitted non-highway vehicle to transport passengers unless each passenger is in a manufacturer-designated seat. It shall be unlawful for the operator of a permitted non-highway vehicle to transport anyone who is sitting on the lap of a passenger or in any other location except in a manufacturer-designated seat.

**24-8-9** **TRAILERS.** All trailers or carts being pulled by a permitted non-highway vehicle must have tail lights and brake lights in good working condition. The tail lights shall be lighted as required by **625 ILS 5/12-201**. It shall be unlawful for any person or animal to be in a trailer or cart while being pulled by a permitted non-highway vehicle.

**24-8-10      MODIFICATIONS.** It shall be unlawful for the owner of a permitted non-highway vehicle to modify or alter a permitted non-highway vehicle from the original manufacturer's specifications that would result in the permitted non-highway vehicle being faster and larger than originally manufactured.

**24-8-11      AGE OF OPERATOR; LICENSE.** No person shall operate a permitted non-highway vehicle, unless the operator is at least **sixteen (16) years** old and has a valid driver's license issued in his or her name by the Illinois Secretary of State or by a foreign jurisdiction.

**24-8-12      SPEED LIMIT.** No person shall operate a permitted non-highway vehicle on a City street in excess of **twenty (20) miles per hour.**

**24-8-13      VEHICLE CODE APPLICATION.** The operator of a permitted non-highway vehicle on a City street shall obey all ordinances of the City, and the provision of the Illinois Vehicle Code, as amended from time to time.

**24-8-14      MANDATORY INSURANCE.** No person shall operate, and no owner shall permit another person to operate, a permitted non-highway vehicle on a City street unless:

(A) The permitted non-highway vehicle is covered by a liability insurance policy as required by §7-601 of the Illinois Vehicle Code (**625 ILCS 5/7-601**); and

(B) The operator of the permitted non-highway vehicle carries with him or her proof of liability insurance as required by §7-602 of the Illinois Vehicle Code (**625 ILCS 5/7-602**).

**24-8-15      LICENSE REVOCATION.**

(A) The license of an operator of a permitted non-highway vehicle issued pursuant to this Article may be revoked by the Macon County Sheriff's Deputy assigned to patrol the City of Macon or other individual authorized by the City Council, if:

- (1) There is any material misrepresentation made by the applicant on the application;
- (2) The required liability insurance is no longer in full force and effect;
- (3) There is evidence that the license holder can no longer safely operate the permitted non-highway vehicle;
- (4) The licensee knowingly allows a person who is either under age **sixteen (16) years** old or who does not possess a valid driver's license to operate a permitted non-highway vehicle on a City street;
- (5) The licensee receives **two (2)** or more citations within **thirty (30) days**; or
- (6) The license receives a third citation for a violation of this Article.

(B) The Macon County Sheriff's Deputy assigned to patrol the City of Macon or other individual authorized by the City Council, shall issue a notice of revocation of a license in writing and either hand deliver the notice to the license holder, or send the notice by certified mail to the license holder at the address on the application.

(C) The revocation of the license shall be effective immediately after personal service, or on the third day after the postmark of the certified mail receipt.

**(Ord. No. 20181008-01; 10-08-18)**

### CITATION FORM

NO. \_\_\_\_\_

DATE \_\_\_\_\_

TIME \_\_\_\_\_

LICENSE NO. \_\_\_\_\_

STATE \_\_\_\_\_

LICENSE EXPIRES \_\_\_\_\_

MAKE OF VEHICLE \_\_\_\_\_

METER NUMBER \_\_\_\_\_

OFFICER \_\_\_\_\_

#### YOU ARE CHARGED WITH THE VIOLATION MARKED BELOW:

- |     |  |             |
|-----|--|-------------|
| 1.  | Overparked, Two Hour Zone  | \$10.00 [ ] |
| 2.  | Double Parked  | \$10.00 [ ] |
| 3.  | Parked at Fire Plug  | \$10.00 [ ] |
| 4.  | Blocking Driveway or Alley   | \$10.00 [ ] |
| 5.  | Parked Where Official Signs Erected  | \$10.00 [ ] |
| 6.  | Improper Parking   | \$10.00 [ ] |
| 7.  | Yellow Line  | \$10.00 [ ] |
| 8.  | Each Additional Hour Violation   | \$10.00 [ ] |
| 9.  | Parking on Sidewalk  | \$10.00 [ ] |
| 10. | Consecutive Use of Free 15 Minute Parking Without<br>depositing coins in the meter | \$10.00 [ ] |

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_

STATE \_\_\_\_\_

ZIP CODE \_\_\_\_\_

You may settle and compromise a claim for illegal parking by paying the sum set forth above for the first particular violation and the same sum shall apply for the same particular offense for the second and each subsequent violation within 5 days after the time set out above. If not paid within this time limit, an **Enforcement Warrant** will be issued and an assessment of not less than **\$25.00** will be collected.

#### FOR YOUR CONVENIENCE

After detaching your Ticket Stub, place the fine in the envelope and deposit it in any of the **FINE-O-METER** collection boxes installed on the parking meter standards, or such payment may be made at the City Hall.



## **SCHEDULE "A"**

### **STOP INTERSECTIONS**

In accordance with the provisions of Sections 24-3-1 and 24-3-3 of this Chapter, the following streets are hereby designated as stop intersections, to-wit:

#### **I. ONE AND TWO-WAY STOPS.**

<b><u>THROUGH STREET</u></b>	<b><u>STOP STREET - DIRECTION</u></b>
Andrew	Merchant (North Bd.)
Cardinal Dr.	Robin Dr. (North Bd.)
Front St.	Bell St. (East Bd.)
Front St.	Cole St. (Both)
Front St.	Dunn St. (Both)
Front St.	Eckhart St. (Both)
Front St.	Frick St. (East Bd.)
Glenn St.	Front St. (Both)
Hight St.	Shaw St. (Both)
Hight St.	Towson St. (South Bd.)
Ridlen Road	Cardinal Dr. (South Bd.)
Ridlen Road	Robin Dr. (South Bd.)
Towson St.	Frick St. (West Bd.)
Wall St.	Bell St. (West Bd.)
Wall St.	Cole St. (Both)
Wall St.	Cook St. (West Bd.)
Wall St.	Dunn St. (East Bd.)
Wall St.	Eckhart St. (East Bd.)
Wall St.	Frick St. (East Bd.)
Wall St.	Glenn St. (East Bd.)
Wall St.	Hight St. (East Bd.)
Wall St.	Macon Dr. (West Bd.)
Wall St.	Prescott Ct. (East Bd.)
Wall St.	Sherman St. (West Bd.)
Wall St.	S. Woodcock St. (West Bd.)
Wiles St.	Bell St. (West Bd.)
Wiles St.	Cole St. (West Bd.)
Wiles St.	Dunn St. (West Bd.)
Wiles St.	Eckhart St. (Both)
Wiles St.	Glenn St. (West Bd.)
Wiles St.	Hight St. (West Bd.)
Woodcock St.	Ruby St. (East Bd.)

#### **II. FOUR-WAY STOPS.**

Eckhart St. at Towson St.

#### **III. TEMPORARY STOPS AND CLOSURE**

Towson St. between Eckhart and Frick between the hours of 7:30 A.M. and 8:15 A.M. and 2:30 P.M. and 3:15 P.M. or at other times when school buses are loading or unloading such as, but not limited to, when schools close early. School authorities are hereby authorized to place signs temporarily stopping traffic and closing Towson St. to all vehicles except buses at the above stated times. **(Ord. No. 11-11-2002-2)**

## **SCHEDULE "C"**

### **YIELD INTERSECTIONS**

In accordance with the provisions of Section 24-3-4, the following streets are hereby designated as yield right-of-way intersections; to-wit:

<b>THROUGH STREET</b>	<b>YIELD STREETS - DIRECTION</b>
Bell St.	Miller St. (Both)
Bell St.	Shaw St. (Both)
Bell St.	Towson St. (Both)
Cole St.	Miller St. (Both)
Cole St.	Shaw St. (Both)
Cole St.	Towson St. (Both)
Dunn St.	Miller St. (Both)
Dunn St.	Shaw St. (Both)
Dunn St.	Towson St. (Both)
Eckhart St.	Alley (North Bd.)
Eckhart St.	Miller St. (Both)
Eckhart St.	Shaw St. (Both)
Frick St.	Alley (South Bd.)
Frick St.	Miller St. (Both)
Frick St.	Shaw St. (Both)
Glenn St.	Alley (North Bd.)
Glenn St.	Miller St. (Both)
Glenn St.	Shaw St. (Both)
Glenn St.	Towson St. (Both)
Hight St.	Miller St. (Both)
Ruby St.	Miller St. (North Bd.)
Ruby St.	Shaw St. (Both)

## **SCHEDULE "D"**

### **SPEED ZONES**

In accordance with the provisions of **Section 24-4-2(F)** and **24-4-2(G)**, the following are hereby designated as speed limit streets, to wit:

<b>STREET – LIMIT</b>	<b>LOCATION</b>
Memorial Park – 15 MPH	Entire Street ( <b>#06-07-2010-2</b> )
Ridlen Road – 35 MPH	Entire length between East and West municipal boundaries
North Woodcock St. – 30 MPH South Woodcock St. – 30 MPH	From Gabriel to Andrews Entire Street ( <b>#1999-10</b> )

## **SCHEDULE "E"**

### **NO PARKING ZONES**

In accordance with the provisions of Section 24-6-4(C), the following streets are hereby designated as "No Parking" Zones, to-wit:

<b>STREET - SIDE</b>	<b>LOCATION</b>
Front St. (East)	From Cole St. to 140 feet south of Eckhart St.
Macon Dr. (Both)	Entire Length
N. Woodcock St. (Both)	From Gabriel St. to Andrews St. ( <b>#06-14-2004-3</b> )
S. Woodcock St. (West)	Entire Length ( <b>#10-14-2002-2</b> )

## **SCHEDULE "F"**

### **TRUCK ROUTES**

<b>STREET - LOCATION</b>		<b>LOCATION</b>
Front St.		Entire Length
Gabriel Road	From	Woodcock to US Highway 51
Glenn St.	From	Wiles St. to Wall St.
Wall St.	From	Its north connector U.S. 51 to its south connector U.S. 51
Wiles St.	From	Andrews St. to south corporate limits
Woodcock St.	From	Andrews St. to Gabriel Road

**(Ord. No. 4-12-10-1)**

## **SCHEDULE "L"**

### **LOAD RESTRICTIONS**

The following highways within the City or portions thereof are hereby classified as Class II Highways and shall be posted with a load of 80,000 pounds for the benefit of truck traffic pursuant to **Section 24-6-6**.

<b>STREET</b>		<b>LOCATION</b>
Gabriel Road	From	Woodcock east to Highway 51
Woodcock St.		Entire Length

**(Ord. No. 06-11-2007-1)**

## **CHAPTER 25 - NUISANCES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 25-1-1 - Specific Nuisances Enumerated</i>	<i>25-1</i>
	<i>Section 25-1-2 - Nuisances Detrimental to Health Generally</i>	<i>25-2</i>
	<i>Section 25-1-3 - Notice to Abate</i>	<i>25-2</i>
	<i>Section 25-1-4 - Hearing</i>	<i>25-3</i>
	<i>Section 25-1-5 - Appeal</i>	<i>25-3</i>
	<i>Section 25-1-6 - Abatement by City</i>	<i>25-3</i>
	<i>Section 25-1-7 - Failure to Comply with Notice</i>	<i>25-3</i>
<b><i>II</i></b>	<b><i>WEEDS</i></b>	
	<i>Section 25-2-1 - Statutory Authority</i>	<i>25-4</i>
	<i>Section 25-2-2 - Height</i>	<i>25-4</i>
	<i>Section 25-2-3 - Notice to Abate</i>	<i>25-4</i>
	<i>Section 25-2-4 - Service of Notice to Abate</i>	<i>25-4</i>
	<i>Section 25-2-5 - Abatement</i>	<i>25-4</i>
	<i>Section 25-2-6 - Lien</i>	<i>25-4</i>
	<i>Section 25-2-7 - Payment</i>	<i>25-4</i>
	<i>Section 25-2-8 - Foreclosure of Lien</i>	<i>25-4</i>
<b><i>III</i></b>	<b><i>GARBAGE AND DEBRIS</i></b>	
	<i>Section 25-3-1 - Accumulation Prohibited</i>	<i>25-5</i>
	<i>Section 25-3-2 - Notice to Person</i>	<i>25-5</i>
	<i>Section 25-3-3 - Service of Notice</i>	<i>25-5</i>
	<i>Section 25-3-4 - Abatement</i>	<i>25-5</i>
	<i>Section 25-3-5 - Lien</i>	<i>25-5</i>
	<i>Section 25-3-6 - Payment</i>	<i>25-5</i>
	<i>Section 25-3-7 - Foreclosure of Lien</i>	<i>25-5</i>
<b><i>IV</i></b>	<b><i>INOPERABLE MOTOR VEHICLES</i></b>	
	<i>Section 25-4-1 - Definitions</i>	<i>25-6</i>
	<i>Section 25-4-2 - Declaration of Nuisance</i>	<i>25-6</i>
	<i>Section 25-4-3 - Notice to Owner</i>	<i>25-6</i>
	<i>Section 25-4-4 - Exclusions</i>	<i>25-6</i>
<b><i>V</i></b>	<b><i>DANGEROUS AND UNSAFE PROPERTIES</i></b>	
	<i>Section 25-5-1 - Adoption by Reference</i>	<i>25-7</i>
<b><i>VI</i></b>	<b><i>PENALTIES AND SPECIAL ASSESSMENT</i></b>	
	<i>Section 25-6-1 - Special Assessment</i>	<i>25-7</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VII</b>	<b>ABANDONED MANUFACTURED AND MOBILE HOMES</b>	
	Section 25-7-1 - Legislative Intent and Policy	25-8
	Section 25-7-2 - Definitions	25-8
	Section 25-7-3 - Authorization	25-8
	Section 25-7-4 - Exemption from Liability	25-8
	Section 25-7-5 - Notice	25-8
	Section 25-7-6 - Notice by Publication	25-8
	Section 25-7-7 - Unknown Owner	25-8
	Section 25-7-8 - Form of Notice	25-8
	Section 25-7-9 - Disposal	25-9
	Section 25-7-10 - Auction	25-9
	Section 25-7-11 - Recovery of Financial Loss	25-9
	Section 25-7-12 - Transportation	25-9
	Section 25-7-13 - Transfer of Title	25-9
	Section 25-7-14 - Proceeds	25-9

## CHAPTER 25

### NUISANCES

#### ARTICLE I – GENERALLY

**25-1-1 SPECIFIC NUISANCES ENUMERATED.** It is hereby declared to be a nuisance and to be against the health, peace and comfort of the City, for any person, firm or corporation within the limits of the City to permit the following; but the enumeration of the following nuisances shall not be deemed to be exclusive:

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

(B) **Deposit of Offensive Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any water course, lake, pond, spring, well or common sewer, street or public highway.

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

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

(E) **Manufacturing Gunpowder.** To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefore, in any building within **three hundred (300) feet** of any valuable building erected at the time such business may be commenced.

(F) **Powder Magazines.** To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within **eight hundred (800) feet** of any occupied dwelling house.

(G) **Noxious Odors.** To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals, or of the public.

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

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

(J) **Business.** To establish, maintain, and carry on any offensive or unwholesome business or establishment within the limits of the City or within **one and one-half (1 ½) miles** of the City limits.

(K) **Filthy Premise Conditions.** To keep or suffer to be kept any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by any person, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

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

(M) **Litter on Streets.** It shall be unlawful for any person to deposit upon or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter or material objects of any size or description to fall upon the streets of the City from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(N) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, used lumber, derelict truck trailers, camping trailers, or boats, appliances, construction materials, demolition debris, ashes, garbage, refuse, plastic, brush, litter, weeds,

slush, lead, glass bottles or broken glass upon any residential home lot, piece or parcel of land or upon any public or private alley, street or public way within the City.

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

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

(Q) **Offensive Liquids.** To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive, or putrid, nor permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(R) **Dense or Offensive Smoke.** To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the City so as to cause annoyance or discomfort to the residents thereof.

(S) **Scrap Tires, Both Mounted and Dismounted.** To keep any scrap tires, either mounted or dismounted, in open view, or so as to allow such tires to accumulate stagnant water so as to provide a breeding ground for mosquitoes and other pests.

(T) **Motor Transport Engines.** To operate motor vehicle transport engines in the nighttime between the hours of **eight (8:00) o'clock P.M. and six (6:00) o'clock A.M.**, in any place in which a majority of the buildings, within a radius of **four hundred (400) feet** are used exclusively for residence purposes, excluding state and federal highways.

(U) **Accumulation of Debris.** To store, dump or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(V) **Discarded Machinery or Materials.** To store, keep or maintain outside of a closed building the following: (1) used appliances, used or dilapidated furniture, bathroom fixtures, tires, old iron or metal, motor vehicle parts and all other parts, tools, machinery, and equipment in inoperable condition, for longer than a two-week time period; or, (2) used lumber, bricks, blocks, or other building salvage or construction material, unless such material is intended for reuse and arranged in an orderly fashion.

(W) **Generally.** To commit any act which is a nuisance according to the common law of the land or made such by statute of the State. **(740 ILCS 55/221 – 55/222)**

Nothing in this Section shall be construed to prevent the corporate authorities of this City from declaring what shall be nuisances, and abating them within the City limits.

**25-1-2      NUISANCES DETRIMENTAL TO HEALTH GENERALLY.** No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained or operated in the City if such use, keeping or maintaining shall be dangerous or detrimental to health.

**25-1-3      NOTICE TO ABATE.** Whenever the Superintendent, Mayor or Police Chief finds that a nuisance exists, he shall direct the City Clerk to mail (certified) to the party responsible for the nuisance and to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A) A description of what constitutes the nuisance;
- (B) The location of the nuisance;
- (C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D) The date by which abatement must be completed;
- (E) The date by which a request for a hearing must be filed and a statement of the procedure for so filing;
- (F) A statement that the responsible party has a right to appeal the abatement order to the City Council.



(G) A statement indicating that if the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this City will abate the nuisance and assess the costs against the property and/or impose a fine.

**25-1-4      HEARING.** Any person ordered to abate a nuisance may have a hearing with the Police Chief or his designated representative ordering the abatement. A request for a hearing must be made in writing and delivered to the City Clerk within the time stated in the notice; otherwise, it will be presumed that a nuisance exists, and that such nuisance must be abated as ordered. The hearing shall not be a formal trial-type proceeding, but appropriate procedural safeguards shall be observed to ensure fairness. At the conclusion of the hearing, the Police Chief or his designated representative shall render his decision and the reasons therefor in writing. If he finds that a nuisance exists, he shall order it abated within an additional time which must be reasonable under the circumstances.

**25-1-5      APPEAL.** Any party aggrieved by the decision of the Police Chief may appeal to the City Council. Such appeal shall be taken by filing with the City Clerk within **five (5) days** of such decision a written statement indicating the basis for the appeal.

The appeal shall be heard by the City Council at the next regular or special meeting after such filing. Their findings shall be conclusive and if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

**25-1-6      ABATEMENT BY CITY.** If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this City may perform the required action to abate. Any City official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the City Clerk who shall pay such expenses on behalf of this City. **(65 ILCS 5/11-60-2)**

**25-1-7      FAILURE TO COMPLY WITH NOTICE.** If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The City shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

**(65 ILCS 5/11-60-2 and 720 ILCS 5/47-5; 5/47-10 and 5/47-15)**

**[See Section 1-1-20 for General Penalty]**

## ARTICLE II - WEEDS

**25-2-1**        **STATUTORY AUTHORITY.** The Authority for this Article is derived from **65 ILCS 5/11-20-7** as amended.

**25-2-2**        **HEIGHT.** The City may provide for the cutting of weeds or grass, the trimming of trees or bushes, and the removal of nuisance bushes and trees. It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants to grow to a height exceeding **six (6) inches** anywhere in the City. Any such plants or weeds exceeding such height are hereby declared to be a nuisance.

**25-2-3**        **NOTICE TO ABATE.** The City Administrator, Police Officer, City Attorney, City Clerk or any other person designated by the Mayor or City Council may issue a written Notice to Abate, calling for the cutting of weeds or grass, trimming of trees or bushes, and the removal of nuisance bushes and trees. Such weeds or grass shall be cut by the owner or occupant within **seven (7) days** after such notice has been duly served and if the owner shall fail to comply with said notice within **seven (7) days** the owner shall be deemed to have refused or to have neglected to cut, trim, or remove the offending vegetation.

**25-2-4**        **SERVICE OF NOTICE TO ABATE.** Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee or person or entity substantially in control of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided, that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

**25-2-5**        **ABATEMENT.** If the person so served does not abate the nuisance within **seven (7) days**, the City may levy a fine under the General Penalty Section of this Code of Ordinances between the amount of **Seventy-Five Dollars (\$75.00)** and **Seven Hundred Fifty Dollars (\$750.00)**.

**25-2-6**        **LIEN.** In addition to the fines levied in **Section 25-2-5** charges for cutting, trimming or removal shall immediately be a lien upon the premises. After the cutting, trimming or removal by the City, a Notice in accordance with **65 ILCS 5/11-20-1**, shall be personally served or sent certified mail to the person to whom was sent the tax bill of the general taxes on the property for the last preceding year.

**25-2-7**        **PAYMENT.** Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien. All lien and release filing fees shall be paid by the owner of the property.

**25-2-8**        **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs.

(Ord. No. 09-14-09-1)  
(65 ILCS 5/11-20-6 and 5/11-20-7)

[See Section 1-1-20 for General Penalty]

### **ARTICLE III - GARBAGE AND DEBRIS**

**25-3-1      ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

**25-3-2      NOTICE TO PERSON.** The Mayor, Chief of Police, or the Mayor's designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **five (5) days** after such notice has been duly served.

**25-3-3      SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing of the same to the owner, occupant, or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

**25-3-4      ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the City may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

**25-3-5      LIEN.** Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the City shall be recorded in the following manner:

- (A)                      A description of the real estate sufficient for identification thereof.
- (B)                      The amount of money representing the cost and expense incurred or payable for the service.
- (C)                      The date or dates when said cost and expense was incurred by the City and shall be filed within **sixty (60) days** after the cost and expense is incurred.

**25-3-6      PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien.

**25-3-7      FORECLOSURE OF LIEN.** Property subject to a lien for unpaid charges shall be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City, after lien is in effect for **sixty (60) days**. Suit to foreclose this lien shall be commenced within **two (2) years** after the date of filing notice of lien.

**(65 ILCS 5/11-20-13)**

**[See Section 1-1-20 for General Penalty]**

## **ARTICLE IV - INOPERABLE MOTOR VEHICLES**

**25-4-1      DEFINITIONS.** For the purpose of this Code, the following term(s) shall have the meanings ascribed to them as follows:

**"INOPERABLE MOTOR VEHICLES"** shall mean any motor vehicles which, for a period of at least **seven (7) days**, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

**25-4-2      DECLARATION OF NUISANCE.** All inoperable motor vehicles, whether on public or private property in view of the general public, are hereby declared to be a nuisance.

**25-4-3      NOTICE TO OWNER.** The Police Department shall notify the owner of the motor vehicle, informing him that he shall dispose of any inoperable vehicles under his control. If the owner fails to dispose of said inoperable vehicle(s) after **seven (7) days** from the issuance of the notice, the Police Department may authorize a towing service to remove and take possession of the inoperable vehicle or parts thereof.

**25-4-4      EXCLUSIONS.** Nothing in this Article shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over **twenty-five (25) years** of age, or to a motor vehicle on the premises of a licensed business engaged in the wrecking or junking of motor vehicles.

**(65 ILCS 5/11-40-3)**

**[See Section 1-1-20 for General Penalty]**

## **ARTICLE V - DANGEROUS AND UNSAFE PROPERTIES**

**25-5-1      ADOPTION BY REFERENCE.** The City may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the City and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those building. Therefor, the City does hereby adopt by reference the applicable provisions of **Chapter 65 of the Illinois Compiled Statutes, Sections 5/11-31-1 and 5/11-31-1.1** governing dangerous and unsafe buildings. **(Ord. No. 05-11-2009-1)**

**[See Section 1-1-20 for General Penalty]**

## **ARTICLE VI - PENALTIES AND SPECIAL ASSESSMENT**

**25-6-1      SPECIAL ASSESSMENT.** In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation under this Chapter, requiring the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or rodent and vermin abatement, (ii) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement; (iii) costs for services rendered by the municipality to correct the Code violation remain unpaid at the point in time that they would become a debt due and owing the municipality, as provided in **Chapter 65 of the Illinois Compiled Statutes, Section 5/11-31-1.1 et seq.**, and (iv) a lien has been filed of record by the municipality in the office of the Recorder of Deeds in the county in which the property is located, then those costs may be collected as a special assessment on the property pursuant to **65 ILCS 5/9-2-4.5**. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien.

**[See Section 1-1-20 for General Penalty]**

## **ARTICLE VII – ABANDONED MANUFACTURED AND MOBILE HOMES**

**25-7-1            LEGISLATIVE INTENT AND POLICY.** The City Council finds that abandoned manufactured and mobile homes are a nuisance because they blight and depress property values. **(210 ILCS 117/5)**

**25-7-2            DEFINITIONS.**  
***"Abandoned manufactured or mobile home"*** means a manufactured home or mobile home that has no owner currently residing in the manufactured or mobile home or authorized tenant of the owner currently residing in the manufactured or mobile home to the best knowledge of the City; has had its electricity, natural gas, sewer, and water payments declared delinquent by the utility companies that are providing such services; and for which the Manufactured Home Privilege Tax imposed under the Manufactured Home Local Services Tax Act, is delinquent for at least **three (3) months**. **(210 ILCS 117/5)**

***"Manufactured Home"***: See **Section 23-1-1** of this Code.

***"Mobile Home"***: See **Section 23-1-1** of this Code.

**25-7-3            AUTHORIZATION.** The City may remove and dispose of any abandoned manufactured or mobile home found within the City and made legally enter upon any land to do so. **(210 ILCS 117/15)**

**25-7-4            EXEMPTION FROM LIABILITY.** Any entity that removes, sells, or disposes of a manufactured or mobile home under the authority of this Article shall not be liable for any damages caused by the removal, sale, or disposal. **(210 ILCS 117/20)**

**25-7-5            NOTICE.** Before removing an abandoned manufactured or mobile home written notice as provided in this Article shall be sent to each owner and each lien holder who appears on the records of the Secretary of State, and to each owner of record of the land upon which the manufactured or mobile home is located. The notice shall be sent by certified mail, return receipt requested, to the last person who paid the manufactured or mobile home privilege tax on the manufactured or mobile home as shown on the records of the County Treasurer of the county where the manufactured or mobile home is located. **(210 ILCS 117/25)**

**25-7-6            NOTICE BY PUBLICATION.** If the owner, lien holder, or other legally entitled person does not sign for the notice sent to him or her by certified mail, that person shall be notified by publication in the manner provided below, in a newspaper of general circulation in the City or a newspaper of general circulation in the County if no newspaper exists in the City. The notice must be published once a week for **three (3) consecutive weeks**. **(210 ILCS 117/25)**

**25-7-7            UNKNOWN OWNER.** If the Secretary of State has no record of title for the manufactured or mobile home, and if after diligent search, the name and address of the owner, lien holder or other legally entitled person cannot be ascertained, then notice shall be published as provided in a newspaper of general circulation in the City once a week for **three (3) consecutive weeks**. **(210 ILCS 117/25)**

**25-7-8            FORM OF NOTICE.** The notice required under this Article shall be in substantially the form provided in Forms **Appendix "E"**. **(210 ILCS 117/25)**

**25-7-9            DISPOSAL.** If the owner or lien holders of a manufactured or mobile home fail to restore the electric and water service and to pay all taxes, interest, and penalties within the **thirty (30) day** period following the effective date of the notice, then the City shall obtain title to the manufactured or mobile home and may remove the manufactured or mobile home and dispose of it. **(210 ILCS 117/30)** If notice was mailed, the effective date of the notice shall be the date it was mailed, if notice was published, the effective date shall be the first date the notice appeared in the newspaper. **(210 ILCS 117/25)**

**25-7-10           AUCTION.** The City, in its discretion may sell the manufactured or mobile home at public auction. Notice of the time and place of the auction shall be posted where the auction shall take place in a conspicuous place at least **ten (10) days** before the auction. At least **ten (10) days** before the auction, the City shall also send notice of the auction by certified mail to each owner and lien holder who was originally notified by certified mail. This notice shall include a description of the manufactured or mobile home and shall inform the owner or lien holder, or both, that they can reclaim the manufactured or mobile home if they establish before the auction that they have a right to possession, submit written proof that electric and water service has been restored to the manufactured or mobile home, submit written proof that all taxes, including interest and penalties, have been paid, and that the City has been reimbursed for all incidental expenses, including the costs of providing notice. **(210 ILCS 117/30)**

**25-7-11           RECOVERY OF FINANCIAL LOSS.** If the City disposes or auctions a manufactured or mobile home at a financial loss, the City may recover all reasonable losses from the person having record title at the time these proceedings began. **(210 ILCS 117/35)**

**25-7-12           TRANSPORTATION.** Transportation of abandoned manufactured or mobile home over the public streets and highways of the State under this Article shall not require registration plates issued under the Illinois Vehicle Code or a permit certifying payment of the manufactured or mobile home tax under the Manufactured Home Local Services Tax Act for the current year. **(210 ILCS 117/40)**

**25-7-13           TRANSFER OF TITLE.** The City, in its discretion may transfer title and all responsibilities for an abandoned manufactured or mobile home to its agent for the sole purpose of removal by sale or disposal. If this option is utilized, any expenses incurred or profits realized from the legal sale or disposal shall be with the agent. **(210 ILCS 117/45)**

**25-7-14           PROCEEDS.** When a manufactured or mobile home is disposed of under this Article, whether by public auction or other disposition, the City may deduct all towing, storage, and processing charges. The remainder shall be paid in priority order to lien holders including providers of utility services. After payment of lien holders and utility providers any remaining amount may be deposited into the City treasury. **(210 ILCS 117/50)**

**(Ord. No. 03-08-2004-1)**

**CITY OF MACON**

**NUISANCE VIOLATION NOTICE**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that the Police Chief or his representatives has determined that the property owned by you (and/or occupied by you, as the case may be) located at \_\_\_\_\_ located within the Municipality contains an unlawful nuisance(s) as defined by **Section 25-1-1** of the Revised Code of Ordinances as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are required pursuant to **Section 25-1-3** to abate and remove any nuisance(s) within **five (5) days** from the date of this notice as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you wish to appeal this notice, then the appeal shall be made to the City Hall by: \_\_\_\_\_.

If the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this Municipality will abate the nuisance and assess the costs against the property and/or impose a fine as provided by the **Revised Code of Ordinances, Chapter 25; Article I and Chapter 1.**

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
POLICE CHIEF  
CITY OF MACON

**NOTE: The penalty for failure to abate said nuisance(s) may be as high as \$750.00 per violation plus the cost of the clean-up.**



**CITY OF MACON**

**NOTICE**

**UNLAWFUL WEED GROWTH**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that \_\_\_\_\_  
has determined that property owned by you (and/or occupied by you, as the case may be) at \_\_\_\_\_  
\_\_\_\_\_, located within the City Limits contains unlawful weed growth as defined  
by **Chapter 25, Article II**, of the Revised Code of Ordinances.

You are required to remove all growth within **five (5) days** from the date of this Notice.

If you refuse or neglect to remove such growth, the authorities of this Municipality may provide for  
the removal thereof. The cost of such growth removal shall be paid by you.

\_\_\_\_\_  
POLICE CHIEF OR CLERK  
CITY OF MACON

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**CITY OF MACON**

**N O T I C E**

**UNLAWFUL GARBAGE AND/OR DEBRIS**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that the \_\_\_\_\_  
\_\_\_\_\_ has determined that property owned by you (and/or occupied by  
you, as the case may be) located at \_\_\_\_\_, located within  
the City Limits contains garbage and/or debris as defined by **Chapter 25, Article III**, of the Revised Code  
of Ordinances.

You are required to remove all such material within **five (5) days** from the date of this Notice.

If you refuse or neglect to remove such garbage and/or debris, the corporate authorities of this  
Municipality may provide for the removal thereof. The cost of the garbage and/or debris removal shall be  
paid by you.

\_\_\_\_\_  
POLICE CHIEF OR CLERK  
CITY OF MACON

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**CITY OF MACON**

**NOTICE**

**INOPERABLE VEHICLE**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that the Police Department has determined that an "inoperable vehicle(s)" owned by you (and/or stored by you, as the case may be) located at \_\_\_\_\_, located within the Corporate Limits of this Municipality contains an inoperable vehicle(s), as defined by **Chapter 25, Article IV**, of the Revised Code of Ordinances.

You are required to abate and remove any and all inoperable vehicles within **seven (7) days** from the date of this Notice.

If you wish to appeal said notice, then the appeal shall be made to the Corporate Authorities within **five (5) days** of this Notice.

If you refuse or neglect to remove and dispose of the specified inoperable vehicle(s), the Health Officer or Police Chief of this Municipality may provide for the removal and abatement thereof. The cost of such removal and abatement shall be paid by you.

\_\_\_\_\_  
POLICE CHIEF  
CITY OF MACON

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**CITY OF MACON**  
**NOTICE**  
**ABANDONED VEHICLE VIOLATION**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that the \_\_\_\_\_  
has determined that the property owned by you (and/or occupied by you, as the case may be) located at \_\_\_\_\_, located within the Corporate Limits contains an unlawful abandoned vehicle(s), as defined by **Section 25-4-1** of the Revised Code of Ordinances.

You are required to abate and remove any abandoned vehicle(s) within **seven (7) days** from the date of this Notice.

If you wish to appeal said notice, then the appeal shall be made to the City Clerk within **seven (7) days** of this Notice.

If you refuse or neglect to remove and abate specified nuisance(s), the corporate authorities of this Municipality may provide for the removal and abatement thereof. The cost of such removal and abatement shall be paid by you.

\_\_\_\_\_  
CITY CLERK  
CITY OF MACON

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**CITY OF MACON**  
**LETTER OF NOTICE**  
**DANGEROUS AND UNSAFE BUILDING**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You, as owner(s) of the property lawfully described below, are hereby notified by the undersigned **City of Macon, Illinois** that said property has upon it a building which is:

- ☐ Dangerous and/or unsafe
- ☐ Uncompleted and/or abandoned

The lawful property shall be described as \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(legal description)

located at \_\_\_\_\_  
(address)

Unless such building is put into safe condition or demolished within **ninety (90) days** of the receipt of this notice, the City shall apply to the Circuit Court for an order authorizing such action to be taken by the **City** with respect to the above described building. Any costs incurred by the City to restore the building to a safe condition or to demolish the building shall be recovered from the owner(s) of the above described property pursuant to **Chapter 65, Paragraph 5/11-31-1, Illinois Compiled Statutes**.

\_\_\_\_\_  
Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
CITY CLERK  
CITY OF MACON

**(SEAL)**

**CITY OF MACON**  
**APPENDIX "E"**  
**NOTICE**  
**ABANDONED MOBILE HOME**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of Notice: \_\_\_\_\_

You are notified that the **City of Macon** has declared that a certain mobile home (described mobile home in terms of size, color, make, and model, if known) located at (give address or describe location) is an abandoned mobile home within the meaning of the Abandoned Mobile Home Act. Unless all delinquent mobile home privilege taxes (including penalty and interest) are paid and electric and water service restored to this mobile home within 30 days of the date of this notice, the City of Macon shall remove and dispose of the mobile home, and it shall be disposed of or sold at public auction free and clear of any existing liens. If you have any questions regarding this notice, you should contact the City of Macon.

\_\_\_\_\_  
City of Macon

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

## **CHAPTER 27 - OFFENSES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>DEFINITIONS</i></b>	
	<i>Section 27-1-1 - Meanings of Words and Phrases</i>	<i>27-1</i>
	<i>Section 27-1-2 - Criminal Code Adopted</i>	<i>27-1</i>
<b><i>II</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 27-2-1 - Disturbing Police Officer</i>	<i>27-1</i>
	<i>Section 27-2-2 - Impersonation of Officer</i>	<i>27-1</i>
	<i>Section 27-2-3 - Disturbing Lawful Assemblies</i>	<i>27-1</i>
	<i>Section 27-2-4 - Mob Action</i>	<i>27-2</i>
	<i>Section 27-2-5 - Looting by Individuals</i>	<i>27-2</i>
	<i>Section 27-2-6 - Disturbing the Peace</i>	<i>27-2</i>
	<i>Section 27-2-7 - Admission Fees; Fraudulently Avoiding Payment of</i>	<i>27-2</i>
	<i>Section 27-2-8 - Sale of Cigarettes or Tobacco to Minors</i>	<i>27-2</i>
	<i>Section 27-2-9 - Smokeless Tobacco</i>	<i>27-3</i>
	<i>Section 27-2-10 - Unlawful Conduct on a Public Way</i>	<i>27-3</i>
	<i>Section 27-2-11 - Aid in Escape</i>	<i>27-3</i>
	<i>Section 27-2-12 - Escapes</i>	<i>27-3</i>
	<i>Section 27-2-13 - False Pretenses</i>	<i>27-3</i>
	<i>Section 27-2-14 - Renting Premises for Unlawful Purposes</i>	<i>27-4</i>
	<i>Section 27-2-15 - Aid to an Offense</i>	<i>27-4</i>
	<i>Section 27-2-16 - Posting Bills</i>	<i>27-4</i>
	<i>Section 27-2-17 - Intoxication in Public</i>	<i>27-4</i>
	<i>Section 27-2-18 - Begging</i>	<i>27-4</i>
	<i>Section 27-2-19 - Concealed Weapons</i>	<i>27-4</i>
	<i>Section 27-2-20 - Discharge of Firearms or Bow and Arrow</i>	<i>27-4</i>
	<i>Section 27-2-21 - Games in Street</i>	<i>27-4</i>
	<i>Section 27-2-22 - Storage of Explosives</i>	<i>27-5</i>
	<i>Section 27-2-23 - Throwing Rocks</i>	<i>27-5</i>
	<i>Section 27-2-24 - Destruction of Public Property</i>	<i>27-5</i>
	<i>Section 27-2-25 - Fortune Telling</i>	<i>27-5</i>
	<i>Section 27-2-26 - Abandoned Refrigerators or Iceboxes</i>	<i>27-5</i>
	<i>Section 27-2-27 - Halloween Curfew</i>	<i>27-5</i>
	<i>Section 27-2-28 - Theft of Recyclables Unlawful</i>	<i>27-5</i>
	<i>Section 27-2-29 - Throwing Objects From Motor Vehicles</i>	<i>27-5</i>
	<i>Section 27-2-30 - Depositing of Snow and Ice Restricted</i>	<i>27-6</i>
	<i>Section 27-2-31 - Protective Covering or Fencing</i>	<i>27-6</i>
	<i>Section 27-2-32 - Curfew Hours for Minors</i>	<i>27-6</i>
	<i>Section 27-2-33 - Sanctity of Funeral and Memorial Services</i>	<i>27-7</i>
	<i>Section 27-2-34 - Use of Upholstered Furniture in Outdoor Locations Prohibited</i>	<i>27-8</i>
	<i>Section 27-2-35 - Noise</i>	<i>27-8</i>
	<i>Section 27-2-36 - False Report of Theft and Other Losses</i>	<i>27-9</i>
	<i>Section 27-2-37 - Harassing and Obscene Communications</i>	<i>27-9</i>
	<i>Section 27-2-38 - Cannabis Business Establishments Prohibited</i>	<i>27-10</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>OFFENSES AGAINST PROPERTY</b>	
	Section 27-3-1 - Petty Theft	27-13
	Section 27-3-2 - Criminal Damage to Property	27-13
	Section 27-3-3 - Injury to Utility Wires and Poles	27-13
	Section 27-3-4 - Damage or Destruction of Street Signs Prohibited	27-14
	Section 27-3-5 - Tampering With Public Notice	27-14
	Section 27-3-6 - Unlawful Dumping	27-14
<b>IV</b>	<b>PUBLIC HEALTH, SAFETY AND DECENCY</b>	
	Section 27-4-1 - Disorderly Conduct; Elements of the Offense	27-15
	Section 27-4-2 - Resisting or Obstructing a Peace Officer	27-15
	Section 27-4-3 - Refusing to Aid an Officer	27-16
	Section 27-4-4 - Assembling at Public Places and Businesses	27-16
<b>V</b>	<b>ANTI-LITTER</b>	
	Section 27-5-1 - Definitions	27-17
	Section 27-5-2 - Littering Prohibited	27-17
	Section 27-5-3 - Prevention of Scattering	27-18
	Section 27-5-4 - Receptacles - Upsetting or Tampering	27-18
	Section 27-5-5 - Sidewalks and Alleys Free From Litter	27-18
	Section 27-5-6 - Owner to Maintain Private Premises	27-18
	Section 27-5-7 - Littering from Vehicles	27-18
	Section 27-5-8 - Littering from Aircraft	27-18
	Section 27-5-9 - Litter in Parks	27-18
	Section 27-5-10 - Handbills	27-18
	Section 27-5-11 - Posting Notices Prohibited	27-19
	Section 27-5-12 - Construction Sites	27-19
	Section 27-5-13 - Loading and Unloading Docks	27-19
	Section 27-5-14 - Parking Lots	27-19
<b>VI</b>	<b>TRESPASS</b>	
	Section 27-6-1 - Trespasses Prohibited	27-20
	Section 27-6-2 - Specifically Enumerated Trespasses – Suppression	27-20
<b>VII</b>	<b>PARENTAL RESPONSIBILITY REGULATIONS</b>	
	Section 27-7-1 - Definitions	27-21
	Section 27-7-2 - Parents and Guardians Responsible for Acts	27-21
<b>VIII</b>	<b>TRUANCY AND CURFEW CODE</b>	
	Section 27-8-1 - Definitions	27-22
	Section 27-8-2 - Curfew Restrictions	27-23
	Section 27-8-3 - Truancy Restrictions	27-23
	Section 27-8-4 - Establishment Restrictions	27-24
	Section 27-8-5 - Enforcement Restrictions	27-24
	Section 27-8-6 - Penalty	27-24
	Section 27-8-7 - Civil Liability	27-25



<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IX</b>	<b>OPEN BURNING</b>	
	Section 27-9-1 - Definitions	27-26
	Section 27-9-2 - Burning Prohibited	27-26
	Section 27-9-3 - Restrictions on Burning of Landscape Waste	27-26
<b>X</b>	<b>SKATEBOARDS AND TOY VEHICLES</b>	
	Section 27-10-1 - Definitions	27-27
	Section 27-10-2 - Skateboarding on a Street	27-27
	Section 27-10-3 - Clinging to a Vehicle	27-27
	Section 27-10-4 - Yield Right-of-Way	27-27
	Section 27-10-5 - Skateboarding on Private Property	27-27
	Section 27-10-6 - Skateboarding on Public Property	27-27
	Section 27-10-7 - Skateboarding in the Business District	27-27
	Section 27-10-8 - Damaging City Property	27-27
	Section 27-10-9 - Skateboard Ramps	27-27
	Section 27-10-10 - Agreement for Impoundment	27-27
<b>XI</b>	<b>ADULT USES REGULATED</b>	
	Section 27-11-1 - Purpose and Additional Findings	27-28
	Section 27-11-2 - Definitions	27-28
	Section 27-11-3 - Prohibition	27-29
	Section 27-11-4 - Limitation	27-29
	Section 27-11-5 - Adult Entertainment Facility	27-29
<b>XII</b>	<b>OBSCENITY</b>	
	Section 27-12-1 - Obscenity	27-30
	Section 27-12-2 - Harmful Material	27-31
	Section 27-12-3 - Tie-In Sales of Obscene Publications to Distributors	27-32
<b>XIII</b>	<b>SMOKE FREE AIR CODE</b>	
	Section 27-13-1 - Background	27-33
	Section 27-13-2 - Purpose	27-33
	Section 27-13-3 - Definitions	27-33
	Section 27-13-4 - Prohibition in Enclosed Public Places	27-34
	Section 27-13-5 - Prohibition in Unenclosed Public Places and Outdoor Venues	27-35
	Section 27-13-6 - Prohibition in Places of Employment	27-35
	Section 27-13-7 - Prohibition in Open Air Dining Areas	27-35
	Section 27-13-8 - Prohibition at Public Entrances	27-35
	Section 27-13-9 - Designation of Other No-Smoking Areas	27-35
	Section 27-13-10 - No Retaliation	27-35
	Section 27-13-11 - Signs	27-35
	Section 27-13-12 - Exemptions	27-36
	Section 27-13-13 - Penalties	27-36

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>XIV</b>	<b>SYNTHETIC DRUGS</b>	
	Section 27-14-1 - Sale, Possession or Delivery of Synthetic Cocaine Prohibited	27-37
	Section 27-14-2 - Sale, Possession or Delivery of Synthetic Cannabis Prohibited	27-38
<b>XV</b>	<b>REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS</b>	
	Section 27-15-1 - Definitions	27-40
	Section 27-15-2 - Prohibited Acts	27-40
	Section 27-15-3 - Penalty	27-41
	Section 27-15-4 - Other Provisions	27-41
<b>XVI</b>	<b>DRUG PARAPHERNALIA</b>	
	Section 27-16-1 - Definitions	27-42
	Section 27-16-2 - Possession of Cannabis or Controlled Substance	27-42
	Section 27-16-3 - Possession of Drug Paraphernalia	27-42
	Section 27-16-4 - Exemptions	27-43
	Section 27-16-5 - Penalty	27-43

## **CHAPTER 27**

### **OFFENSES**

#### **ARTICLE I – DEFINITIONS**

**27-1-1            MEANINGS OF WORDS AND PHRASES.** For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-22**, as approved, adopted and amended are hereby adopted by the City, as fully as if set out herein. **(65 ILCS 5/1-3-2)**

**27-1-2            CRIMINAL CODE ADOPTED.** The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City; the provisions thereof shall be controlling within the corporate limits of the City; provided, however, the penalties as provided by this Code shall apply. **(65 ILCS 5/1-3-2 and 5/11-1-1)**

#### **ARTICLE II - GENERALLY**

**27-2-1            DISTURBING POLICE OFFICER.** No person shall, by violent conduct, disturb any police officer in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers in the discharge of his/her duties or permit such conduct in or upon any house or premises in the City owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer does not constitute a crime unless the language is directed at the officer and provokes a breach of the peace. **(65 ILCS 5/11-1-1)**

**27-2-2            IMPERSONATION OF OFFICER.** No person in the City shall falsely represent himself to be an officer of the City or shall, without being duly authorized by the City, exercise or attempt to exercise any of the duties, functions or powers of the City officer, or hinder, obstruct, resist or otherwise interfere with any City officer in the discharge of the duties of his office. **(65 ILCS 5/11-1-1)**

**27-2-3            DISTURBING THE PEACE.** No person shall disturb the good order of society, or the peace of any private family, or of any congregation with the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or immoral conduct. All outdoor sources of noise or music, including but not limited to, those associated with amusements, shall terminate on or before **1:00 A.M.** on Friday and Saturday nights, and shall terminate on or before **12:00 Midnight** on the remainder of the days of the week. All indoor sources of noise and music, including but not limited to, amusements which are at any time audible beyond any property line of the source of the noise or music, shall terminate on or before **1:00 A.M.** on Friday or Saturday night, and shall terminate on or before **12:00 Midnight** on the remainder of the days of the week. Notwithstanding the time limits previously set forth in this Article, any source of noise or music which disturbs the good order of society, or the peace of any private family, or of any congregation within the City, or disturbs the peace of a reasonable person of normal sensibilities, or is audible a minimum of **one hundred (100) feet** from any property line of the source of the noise, is subject to a nuisance violation under this Article, with the exception that a Notice to Abate may be delivered orally by a peace officer or City official with the abatement to be undertaken immediately. **(65 ILCS 5/11-5-2) (Ord. No. 11-12-2001-4)**

**27-2-4                    MOB ACTION.** A person commits mob action when he or she engages in any of the following:

- (A)                    the knowing or reckless use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law;
- (B)                    the knowing assembly of **two (2)** or more persons with the intent to commit or facilitate the commission of a felony or misdemeanor; or
- (C)                    the knowing assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

**(720 ILCS 5/25-1)**

**27-2-5                    LOOTING BY INDIVIDUALS.** A person commits looting when he or she knowingly without authority of law or the owner enters any home or dwelling or upon any premises of another, or enters any commercial, mercantile, business, or industrial building, plant, or establishment, in which normal security of property is not present by virtue of a hurricane, fire, or vis major of any kind or by virtue of a riot, mob, or other human agency, and obtains or exerts control over property of the owner.

**(720 ILCS 5/25-4)**

**27-2-6                    DISTURBING THE PEACE.** No person shall disturb the peace of any individual or private family, or of any lawful congregation within the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or unreasonable conduct. **(65 ILCS 5/11-5-2)**

**27-2-7                    ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF.** It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

**27-2-8                    SALE OF CIGARETTES OR TOBACCO TO MINORS.**

(A)                    No minor under **eighteen (18)** years of age shall buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, to any minor under **eighteen (18) years of age.**

(B)                    No minor under **sixteen (16) years of age** may sell any tobacco product at a retail establishment selling tobacco products. This subsection does not apply to a sales clerk in a family-owned business which can prove that the sales clerk is in fact a son or daughter of the owner.

(C)                    No minor under **eighteen (18) years of age** in the furtherance or facilitation of obtaining any tobacco product shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

(D)                    No minor under **eighteen (18) years of age** shall possess any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms.

(E)                    A person shall not distribute without charge samples of any tobacco product to any other person, regardless of age:

- (1)                    within a retail establishment selling tobacco products, unless the retailer has verified the purchaser's age with a government issued identification;
- (2)                    from a lunch wagon; or
- (3)                    on a public way as a promotion or advertisement of a tobacco manufacturer or tobacco product.

This subsection (E) does not apply to the distribution of a tobacco product sample in any adult-only facility.

(F) Tobacco products listed in this Section may be sold through a vending machine only if such tobacco products are not placed together with any non-tobacco product, other than matches, in the vending machine and the vending machine is in any of the following locations:

- (1) places to which minors under **eighteen (18) years of age** are not permitted access.
- (2) places where alcoholic beverages are sold and consumed on the premises and vending machine operation is under the direct supervision of the owner or manager.
- (3) places where the vending machine can only be operated by the owner or an employee over age **eighteen (18)** either directly or through a remote control device if the device is inaccessible to all customers.

(G) The sale or distribution by any person of a tobacco product in this Section, including but not limited to a single or loose cigarette, that is not contained within a sealed container, pack, or package as provided by the manufacturer, which container, pack, or package bears the health warning required by federal law, is prohibited. **(In part Ord. No. 08-11-2003-1)**  
**(720 ILCS 675/1)**

**27-2-9                    SMOKELESS TOBACCO.**

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Eighteen (18).**  
No person shall sell any smokeless tobacco product to any person under the age of **eighteen (18)**.

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **eighteen (18)**, without charge or at a nominal cost, any smokeless tobacco product.  
**(720 ILCS 680-1 et seq.)**

**27-2-10                    UNLAWFUL CONDUCT ON A PUBLIC WAY.**

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

**27-2-11                    AID IN ESCAPE.** It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(720 ILCS 5/31-7)**

**27-2-12                    ESCAPES.** It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(720 ILCS 5/31-6(C))**

**27-2-13                    FALSE PRETENSES.** It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

**27-2-14      RENTING PREMISES FOR UNLAWFUL PURPOSES.** It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

**27-2-15      AID TO AN OFFENSE.** It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

**27-2-16      POSTING BILLS.** It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper City and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

**27-2-17      INTOXICATION IN PUBLIC.** No person shall, in the City, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this City or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the City, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(65 ILCS 5/11-5-3)**

**27-2-18      BEGGING.** No person shall beg or solicit alms within the City without having obtained permission in writing from the Mayor. **(65 ILCS 5/11-5-4)**

**27-2-19      CONCEALED WEAPONS.** No person shall, within the City, carry or wear under his clothes, or concealed about his person, any pistol or hand gun, without being the holder of an Illinois Concealed Carry License. Additionally, no person, shall within the City, carry or wear under his clothes or conceal about his person any sling-shot, cross knuckles, knuckles of lead, brass or other metal, switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any Sheriff or Deputy Sheriff or Constable of this State, nor to any United States Marshal.

**27-2-20      DISCHARGE OF FIREARMS OR BOW AND ARROW.** It shall be unlawful to discharge any firearm, bow and arrow or air gun in the City or so that the bullet, arrow, missile or projectile therefrom enters the City without written permission from the Mayor, provided that this Section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to prevent any citizen from discharging a firearm when lawfully defending his person or property; nor to prevent the discharge of bow and arrow by students upon school grounds while under the direct and immediate supervision of teachers or other school supervisory personnel.

**27-2-21      GAMES IN STREET.** No person shall, upon any City street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

**27-2-22      STORAGE OF EXPLOSIVES.**

(A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the City, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.

(B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the City in any quantity exceeding **five (5) pounds. (65 ILCS 5/11-8-4)**

**27-2-23      THROWING ROCKS.** No person in the City shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

**27-2-24      DESTRUCTION OF PUBLIC PROPERTY.** No person in the City shall deface, destroy, or in any way, injure any public property, or any other apparatus of the City.

**27-2-25      FORTUNE TELLING.** No person in the City shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

**27-2-26      ABANDONED REFRIGERATORS OR ICEBOXES.** It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. **(430 ILCS 150/0.01 and 150/1)**

**27-2-27      HALLOWEEN CURFEW.** It shall be illegal for any person to engage in Halloween practice, commonly called **"Trick or Treat"**, by calling at the homes or dwelling places within the City, either masked or unmasked, except on a day designated by the City Council and no later than **8:00 P.M. (65 ILCS 5/11-1-5)**

**27-2-28      THEFT OF RECYCLABLES UNLAWFUL.** It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the City limits unless said person is acting as an agent for the City or acting as an agent for a waste hauler licensed by the City.

**27-2-29      THROWING OBJECTS FROM MOTOR VEHICLES.** Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions. The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the City Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

**27-2-30      DEPOSITING OF SNOW AND ICE RESTRICTED.** No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(65 ILCS 5/11-80-13)**

**27-2-31      PROTECTIVE COVERING OR FENCING.** Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(430 ILCS 165/1)**

**27-2-32      CURFEW HOURS FOR MINORS.**

**(A)      Definitions.** Whenever used in this Section.

**(1)      "Curfew hours"** means:

- (a)** 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
- (b)** 12:01 A.M. until 6:00 A.M. on Saturday; and
- (c)** 12:01 A.M. until 6:00 A.M. on Sunday.

**(2)      "Emergency"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

**(3)      "Establishment"** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

**(4)      "Guardian"** means:

- (a)** A person who, under court order, is the guardian of the person of a minor; or
- (b)** A public or private agency with whom a minor has been placed by a court.

**(5)      "Minor"** means any person under **eighteen (18) years** of age.

**(6)      "Operator"** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

**(7)      "Parent"** means a person who is:

- (a)** A natural parent, adoptive parent, or stepparent of another person; or
- (b)** At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.

**(8)      "Public Place"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

**(9)      "Remain"** means to:

- (a)** linger or stay; or
- (b)** fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.



- (10) **"Serious bodily injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B) **Offenses.**

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) **Defenses.**

- (1) It is a defense to prosecution under subsection (B) that the minor was:
  - (a) Accompanied by the minor's parent or guardian;
  - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (c) In a motor vehicle involved in interstate travel;
  - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - (e) Involved in an emergency;
  - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civil organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor;
  - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
  - (i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.
- (2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) **Enforcement.** Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (C) is present. **(65 ILCS 5/11-1-5)**

**27-2-33** **SANCTITY OF FUNERAL AND MEMORIAL SERVICES.** It shall be unlawful for a person to violate any of the following provisions of this Section:

(A) Engaging in any loud protest of singing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at

any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates. **(720 ILCS 5/26-6)**

**27-2-34      USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS**  
**PROHIBITED.**

(A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:

- (1) on unenclosed exterior porches or balconies;
- (2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

- (1) wood, metal, or plastic furniture;
- (2) outdoor patio furniture with weather-resistant cushions;
- (3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

**27-2-35      NOISE.**

(A) **Prohibited; Enumeration.** The creating of any unreasonably loud, disturbing and unnecessary noise within the City limits is prohibited. Noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is prohibited. The following, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

- (1) **Blowing Horns.** The sounding of any horn or signal device on any automobile, motorcycle or bus, while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (2) **Radios, Etc.** The playing of any radio, music player such as a boom box, tape cassette, disc player or television, audio system or musical instrument or live band in such a manner or with such volume, between the hours of **10:00 P.M. and 7:00 A.M.** Sunday through Thursday and **11:00 P.M. and 7:00 A.M.** Friday and Saturday in such a manner as to be plainly audible beyond the boundaries of the premises upon which such equipment is operated or used, shall be prima facie evidence of a violation of this Section.

**27-2-36**      **FALSE REPORT OF THEFT AND OTHER LOSSES.** It is unlawful for a person to knowingly make a false report of a theft, destruction, damage or conversion of any property to a law enforcement agency or other governmental agency with the intent to defraud an insurer. **(720 ILCS 5/26-1.1)**

**27-2-37**      **HARASSING AND OBSCENE COMMUNICATIONS.**

(A)      **Definitions.** As used in this Section:

- (1)      **Electronic communication** means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. "Electronic communication" includes transmissions through an electronic device including, but not limited to, a telephone, cellular phone, computer, or pager, which communication includes, but is not limited to, e-mail, instant message, text message, or voice mail.
- (2)      **Family or household member** includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between **two (2)** individuals in business or social contexts shall be deemed to constitute a dating relationship.
- (3)      **Harass or harassing** means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances, that would cause a reasonable person emotional distress and does cause emotional distress to another.

(B)      **Transmission of Obscene Messages.**

- (1)      A person commits transmission of obscene messages when he or she sends messages or uses language or terms which are obscene, lewd or immoral with the intent to offend by means of or while using a telephone or telegraph facilities, equipment or sires of any person, firm or corporation engaged in the transmission of news or messages between states or within the State of Illinois.
- (2)      The trier of fact may infer intent to offend from the use of language or terms which are obscene, lewd or immoral.

(C)      **Harassment by Telephone.**

- (1)      A person commits harassment by telephone when he or she uses telephone communication for any of the following purposes:
  - (a)      making any comment, request, suggestion or proposition which is obscene, lewd, lascivious, filthy or indecent with an intent to offend;
  - (b)      making a telephone call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the called number;
  - (c)      making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number;
  - (d)      making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number;
  - (e)      making a telephone call or knowingly inducing a person to make a telephone call for the purpose of harassing another person who is under **thirteen (13) years of age**, regardless of whether the person under **thirteen (13) years of age** consents

- to the harassment, if the defendant is at least **sixteen (16) years of age** at the time of the commission of the offense; or
- (f) knowingly permitting any telephone under one's control to be used for any of the purposes mentioned herein.
- (2) Every telephone directory published for distribution to members of the general public shall contain a notice setting forth a summary of the provisions of this Section. The notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by the word "WARNING". All telephone companies in this State shall cooperate with law enforcement agencies in using their facilities and personnel to detect and prevent violations of this Article.
- (720 ILCS 5/26.5)**

**(65 ILCS 5/11-1-1)**

**27-2-38**

(A)

**CANNABIS BUSINESS ESTABLISHMENTS PROHIBITED.**

**Definitions.** The following words and phrases shall, for the purposes of this Section have the meanings respectively ascribed to them by this Section, as follows:

- (1) **Adult-Use Cannabis Business Establishment.** A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.
- (2) **Adult-Use Cannabis Craft Grower.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.
- (3) **Adult-Use Cannabis Cultivation Center.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.
- (4) **Adult-Use Cannabis Dispensing Organization.** A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.
- (5) **Adult-Use Cannabis Infuser Organization or Infuser.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.
- (6) **Adult-Use Cannabis Processing Organization or Processor.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals

or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(7) **Adult-Use Cannabis Transporting Organization or Transporter.**

An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(8) **Person.** Any person, firm, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

(B) **Cannabis Business Establishment Prohibited.** The following Adult-Use Cannabis Business Establishments are prohibited in the City of Macon. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation within the City of Macon of any of the following:

- (1) Adult-Use Cannabis Craft Grower
- (2) Adult-Use Cannabis Cultivation Center
- (3) Adult-Use Cannabis Dispensing Organization
- (4) Adult-Use Cannabis Infuser Organization or Infuser
- (5) Adult-Use Cannabis Processing Organization or Processor
- (6) Adult-Use Cannabis Transporting Organization or Transporter

(C) **Public Nuisance Declared.** Operation of any prohibited Cannabis Business Establishment within the City in violation of the provisions of this Section is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

**(See Section 1-1-20 for Penalties)**

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### ARTICLE III - OFFENSES AGAINST PROPERTY

#### 27-3-1

**PETTY THEFT.** A person commits theft when he or she knowingly:

- (A) obtains or exerts unauthorized control over property of the owner; or
- (B) obtains by deception, control over property of the owner; or
- (C) obtains by threat, control over property of the owner; or
- (D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; or
- (E) obtains or exerts control over property in the custody of any law enforcement agency which any law enforcement officer or any individual acting in behalf of a law enforcement agency explicitly represents to the person as being stolen or represents to the person such circumstances as would reasonably induce the person to believe that the property was stolen; and
  - (1) intends to deprive the owner permanently of the use or benefit of the property; or
  - (2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or
  - (3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.
- (F) It shall be unlawful to commit a theft.

**(720 ILCS 5/16-1)**

#### 27-3-2

**CRIMINAL DAMAGE TO PROPERTY.** A person commits criminal damage to property when he or she:

- (A) knowingly damages any property of another;
- (B) recklessly by means of fire or explosive damages property of another;
- (C) knowingly start a fire on the land of another;
- (D) knowingly injure a domestic animal of another without his or her consent;
- (E) knowingly deposits on the land or in the building of another any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building;
- (F) knowingly damages any property, other than as described in paragraph (2) of subsection (a) of Section 20-1, with intent to defraud an insurer;
- (G) knowingly shoots a firearm at any portion of a railroad train;
- (H) knowingly, without proper authorization, cuts, injures, damages, defaces, destroys, or tampers with any fire hydrant or any public or private fire-fighting equipment or any apparatus appertaining to firefighting equipment; or
- (I) intentionally, without proper authorization, opens any fire hydrant.

When the charge of criminal damage to property exceeding a specified value is brought, the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding nor not exceeding the specified value.

#### 27-3-3

**INJURY TO UTILITY WIRES AND POLES.** It shall be unlawful to willfully,

maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric lightpost, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

**27-3-4            DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the City.

**27-3-5            TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(720 ILCS 5/32-9)**

**27-3-6            UNLAWFUL DUMPING.** The City operates a landscape disposal area located on the West Dunn Street easement for the placement of landscape waste by citizens of the City. Landscape waste means any vegetable or plant refuse, except garbage, household trash and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings. Garbage means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products and includes packaging and plastic bags. Household trash means any discarded matter, including but not limited to paper, articles of plastic, cardboard, diapers, tin cans, bottles, ashes, oil, oil filters, tires and similar other accumulations.

Landscape waste may be burned at the site only by City employees. It is unlawful for any person other than a City employee to burn landscape waste or to add landscape waste to that which is burning, smoldering or which could potentially ignite.

Violation of this Section shall be punishable by a fine up to **Seven Hundred Fifty Dollars (\$750.00)** and **Seven Hundred Fifty Dollars (\$750.00)** per day for each day unauthorized material remains on the site or any other remedy allowed under the Penalty Section **(1-1-20)** of this Code. **(Ord. No. 03-13-06-1)**



## **ARTICLE IV - PUBLIC HEALTH, SAFETY AND DECENCY**

**27-4-1      DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE.** A person commits disorderly conduct when he or she knowingly:

- (A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;
- (B) transmits or causes to be transmitted in any manner to the Fire Department of any city, town, village or fire protection district, a false alarm of fire, knowing at the time of the transmission that there is no reasonable ground for believing that such fire exists;
- (C) transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in a place where its explosion or release would endanger human life, knowing at the time of the transmission that there is no reasonable ground for believing that the bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in the place;
- (D) transmits or causes to be transmitted a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session;
- (E) transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of the transmission that there is no reasonable ground for believing that the offense will be committed, is being committed, or has been committed;
- (F) transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting the report is necessary for the safety and welfare of the public; or
- (G) calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency;
- (H) transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the Abused and Neglected Child Reporting Act;
- (I) transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, and ID/DD Community Care Act, or the MC/DD Act;
- (J) transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that the assistance is required;
- (K) transmits or causes to be transmitted a false report under Article II of Public Act 83-1432;
- (L) enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or
- (M) while acting as a collection agency as defined in the Collection Agency Act or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor.

**(720 ILCS 5/26-1)**

**27-4-2      RESISTING OR OBSTRUCTING A PEACE OFFICER.** A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(720 ILCS 5/31-1)**

**27-4-3      REFUSING TO AID AN OFFICER.** A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

- (A) apprehending a person whom the officer is authorized to apprehend; or
- (B) preventing the commission by another of any offense.

**(720 ILCS 5/31-8)**

**27-4-4      ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.**

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

- (1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.
- (2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:
  - (a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.
  - (b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.
  - (c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.
  - (d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two inches (2") or more in height and readable:

**"CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED MOTOR VEHICLES MAY BE LEFT ON THE PREMISES WITHOUT THE CONSENT OF THE OWNER."**

**(65 ILCS 5/11-5-2)**

## **ARTICLE V - ANTI-LITTER**

**27-5-1        DEFINITIONS.** For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

**"AIRCRAFT"** is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

**"AUTHORIZED PRIVATE RECEPTACLE"** is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

**"CONSTRUCTION SITES"** means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

**"HANDBILL"** is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A)                advertise for sale any merchandise, product, commodity or thing; or
- (B)                direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C)                direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

**"LITTER"** is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

**"LOADING AND UNLOADING DOCK"** means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

**"PRIVATE PREMISES"** means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

**"PUBLIC PLACE"** means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

**"PUBLIC RECEPTACLES"** means any receptacles provided by or authorized by the City.

**"VEHICLE"** is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

**27-5-2        LITTERING PROHIBITED.** No person shall deposit any litter within the City except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

**27-5-3        PREVENTION OF SCATTERING.** Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

**27-5-4        RECEPTACLES - UPSETTING OR TAMPERING.** No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

**27-5-5        SIDEWALKS AND ALLEYS FREE FROM LITTER.** Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

**27-5-6        OWNER TO MAINTAIN PRIVATE PREMISES.**  
(A)        The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.

(B)        The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

**27-5-7        LITTERING FROM VEHICLES.**  
(A)        No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.

(B)        No person shall drive or move any loaded or partly loaded truck or other vehicle within the City unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

**27-5-8        LITTERING FROM AIRCRAFT.** No person in an aircraft shall throw out, drop or deposit any litter within the City.

**27-5-9        LITTER IN PARKS.** No person shall deposit litter in any park within the City except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

**27-5-10       HANDBILLS.**  
(A)        **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.

(B)        **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to

prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.

(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

**27-5-11 POSTING NOTICES PROHIBITED.** No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

**27-5-12 CONSTRUCTION SITES.**  
(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.  
(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

**27-5-13 LOADING AND UNLOADING DOCKS.** The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

**27-5-14 PARKING LOTS.**  
(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.  
(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces**.  
(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.  
(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.  
(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

**(65 ILCS 5/11-1-1 and 415 ILCS 105/1 et seq.)**

## **ARTICLE VI - TRESPASS**

**27-6-1        TRESPASSES PROHIBITED.** It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

**27-6-2        SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION.** Without constituting any limitation upon the provisions of **Section 27-6-1** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-6-1**, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A)            An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B)            the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C)            a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D)            an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

**(65 ILCS 5/11-5-2)**

## ARTICLE VII - PARENTAL RESPONSIBILITY REGULATIONS

**27-7-1**        **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

**"ACTS OF VANDALISM AND SIMILAR OFFENSES"** shall include any of the following acts:

- (A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the City, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or
- (B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or
- (C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or
- (D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or
- (E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

**"LEGAL GUARDIAN"** shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act**.

**"MINOR"** shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

**"PARENT"** shall include the lawful father and mother of a minor child whether by birth or adoption.

**"PROPERTY"** shall include any real estate including improvements thereon and tangible personal property.

**27-7-2**        **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

- (A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and
- (B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the City, following said adjudication or non-judicial sanctions; and
- (C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

**(740 ILCS 115/1 et seq. and 740 ILCS 115/4)**

## ARTICLE VIII – TRUANCY AND CURFEW CODE

**27-8-1**        **DEFINITIONS.** As used in this Article unless the context requires otherwise the following words and phrases shall mean:

**"CITY CURFEW HOURS"** means the period of time specified in **Section 27-2-31** of the Chapter.

**"COURT"** means the 6<sup>th</sup> Judicial Circuit; Macon County, Illinois.

**"CUSTODIAN"** means:

- (A) a person who under court order is the custodian of the person of a minor or
- (B) a public or private agency with which the court has placed a minor or
- (C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.

**"EMERGENCY"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.

**"ESTABLISHMENT"** means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

**"GUARDIAN"** means:

- (A) parent or
- (B) a person who under court order is the guardian of the person of a minor; or
- (C) a public or private agency with which the court has placed a minor.

**"MINOR"** means a person under **eighteen (18) years** of age.

**"PARENT"** means a person who is a natural parent, adoptive parent, or step-parent of another person.

**"PUBLIC PLACE"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

**"RESPONSIBLE ADULT"** means a person at least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

**"SERIOUS BODILY INJURY"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

**"TRUANCY CURFEW HOURS"** means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

**"TRUANT OFFICER"** means any officer, appointee, employee or other agency of any school district or any federal, state or local government, entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute. **(105 ILCS 5/26-1 et seq.)**

**"TRUANCY REVIEW BOARD"** means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof recognized by the City and/or the court as an agency which provides service to improve education performance and/or attendance.



**27-8-2                    CURFEW RESTRICTIONS.**

(A)                    It is unlawful for any minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(B)                    It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(C)                    It is a defense to prosecution under **Section 27-8-2(A) and (B)** or **Section 27-8-4** (hereinafter) that the minor was:

- (1)                    accompanied by the minor's parent, guardian, custodian or responsible adult;
- (2)                    on an errand at the direction of the minor's parent, guardian, custodian or responsible adult; without any detour or stop;
- (3)                    in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
- (4)                    engaged in, going to or returning home from an employment activity without any detour or stop;
- (5)                    involved in an emergency;
- (6)                    on the sidewalk abutting the minor's residence;
- (7)                    engaged in, going to or returning home from official school, religious or other recreational activity supervised by adults, sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
- (8)                    exercising First Amendment rights protected by the United States Constitution; or
- (9)                    emancipated pursuant to law.

**27-8-3                    TRUANCY RESTRICTIONS.**

(A)                    It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(B)                    It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(C)                    It is a defense to prosecution under this Section or **Section 27-8-4** that the minor was:

- (1)                    accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
- (2)                    involved in an emergency;
- (3)                    going to or returning from a medical appointment without any detour or stop;
- (4)                    engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
- (5)                    in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6)                    a bona fide participant in an alternative education or home schooling program;
- (7)                    engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

**27-8-4**        **ESTABLISHMENT RESTRICTIONS.** It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of **Sections 27-8-2** or **27-8-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of **Sections 27-8-2** or **27-8-3** notified a law enforcement agency that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

**27-8-5**        **ENFORCEMENT RESTRICTIONS.** Every member of the Police Department while on duty is hereby authorized as follows:

(A)            For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B)            Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.

(C)            A citation issued hereunder this shall be in writing and shall:

- (1)        state the name of the person being cited and the person's address if known;
- (2)        set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;
- (3)        be signed by the issuing Police Officer, Truant Officer or complaining party. In each instance where a citation is issued to a minor for violation of this Code a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D)            A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E)            Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-8-3** of this Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

**27-8-6**        **PENALTY.**

(A)            Any person who violates any provision of this Article shall, upon conviction thereof, be fined as provided in **Section 1-1-20** of this Code. (**See also Section 1-1-20**)

(B)            In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal

care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-8-7** hereinafter.

**27-8-7** **CIVIL LIABILITY.** If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the penalties described within **Section 27-8-6** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the City in collecting.

**(65 ILCS 5/11-5-9)**

## ARTICLE IX - OPEN BURNING

**27-9-1**        **DEFINITIONS.** Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

**"AGRICULTURAL WASTE"** means any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.

**"GARBAGE OR HOUSEHOLD TRASH"** means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products; including plastic containers.

**"LANDSCAPE WASTE"** means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

**"OPEN BURNING"** means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

**27-9-2**        **BURNING PROHIBITED.** It shall be unlawful to cause or allow open burning of agricultural waste, household trash or garbage.

**27-9-3**        **RESTRICTIONS ON BURNING OF LANDSCAPE WASTE.** The open burning of landscape waste shall be permitted only on the following conditions:

(A)            Landscape waste shall be burned on the premises on which such waste is generated; and

(B)            Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and,

(C)            Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks; and,

(D)            Open burning of landscape waste may only take place during daylight hours with a person over **eighteen (18) years** of age in attendance during the entire period of burning; and,

(E)            No open burning of landscape waste shall be permitted on any streets or roadways; and,

(F)            No open burning shall occur during periods of time when the Fire Chief or the Chief of Police have determined that atmospheric conditions or local circumstances make such fires hazardous and dangerous.

(G)            All open burning shall occur between **8:00 A.M.** and **5:00 P.M.**; provided however, all fires shall be extinguished by sunset.

**(415 ILCS 5/1 et seq.)**

## **ARTICLE X – SKATEBOARDS AND TOY VEHICLES**

**27-10-1**      **DEFINITIONS.** As used in this Article, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (A)      **Business District.** The City business district.
- (B)      **Skateboard.** A device with wheels for riding upon, usually standing, including, without limitations, skateboards of all types.
- (C)      **Toy Vehicles.** Coasters, scooters, roller skates, or any other non-motorized device with wheels or rollers upon which a person may ride. This definition does not apply, so long as they are used for the purposes for which they are intended, to wagons, wheelchairs and strollers or other devices designed and used for the purpose of transporting children, infants, physically challenged, or incapacitated persons, or to bicycles, or to carts or other devices intended and used for transporting merchandise or materials.

**27-10-2**      **SKATEBOARDING ON A STREET.** No person shall operate a skateboard or toy vehicle on a public street if there is a sidewalk adjacent to such street. If no sidewalk exists, skateboards may be ridden on the street providing street riding shall be done as far to the right side of the road as possible, and in the same direction as traffic.

**27-10-3**      **CLINGING TO A VEHICLE.** No person operating a skateboard, toy vehicle, or other non-motorized device shall attach himself or herself to any vehicle upon a roadway.

**27-10-4**      **YIELD RIGHT-OF-WAY.** Any person operating a skateboard or other toy vehicle must yield right of way to any pedestrian or motor vehicle.

- 27-10-5**      **SKATEBOARDING ON PRIVATE PROPERTY.**
- (A)      No person shall operate a skateboard or toy vehicle on the premises of any business, residence, or other private property in violation of a sign complying with this Section.
  - (B)      Areas in which skateboarding or operation of a toy vehicle is prohibited must be indicated by one or more signs which are positioned to provide notice and which contain the words "No Skateboarding" or any other word or combination of words indicating that skateboarding or operation of a toy vehicle is prohibited. Letters on the sign must be clearly legible.

**27-10-6**      **SKATEBOARDING ON PUBLIC PROPERTY.** No person shall operate a skateboard or toy vehicle in, upon, or on the grounds of any public property.

**27-10-7**      **SKATEBOARDING IN THE BUSINESS DISTRICT.** No person shall operate a skateboard or toy vehicle within the City's business district.

**27-10-8**      **DAMAGING CITY PROPERTY.** No person shall operate a skateboard or toy vehicle on or against any municipal-owned table, bench, structure, tennis court, parking stop, retaining wall, fountain, statue, or other improvement which may suffer damage by such use.

**27-10-9**      **SKATEBOARD RAMPS.** No person shall use or place a ramp, jump, or any other device used to force a skateboard or toy vehicle off the pavement on the grounds of the municipal-owned parking lot, park or sidewalk.

**27-10-10**      **AGREEMENT FOR IMPOUNDMENT.** In place of any other penalty provided by law, any person violating this Article may, for a first offense, agree to have the skateboard or play vehicle impounded by the Police Department for **one (1) week**.

## ARTICLE XI – ADULT USES REGULATED

### 27-11-1

#### **PURPOSE AND ADDITIONAL FINDINGS.**

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

(B)

**Findings.** The City Council finds:

- (1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.
- (2) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.
- (3) Allowing public nudity creates unhealthy conditions.
- (4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.
- (5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.
- (11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.
- (12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (13) The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Article.

### 27-11-2

**DEFINITIONS.** As used in this Article:

(A)

**"Adult Oriented Business"** means an establishment as defined in the City Code.

(B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.

(C) **"Nude"** means the showing of:

- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
- (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
- (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.

(D) **"Person"** means any live human being aged **ten (10) years** of age or older.

(E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

**27-11-3      PROHIBITION.** It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

**27-11-4      LIMITATION.** This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

**27-11-5      ADULT ENTERTAINMENT FACILITY.** It is prohibited within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

(A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or

(B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(65 ILCS 5/11-5-1.5)**

## ARTICLE XII - OBSCENITY

### 27-12-1 OBSCENITY.

(A) Elements of the Offense. A person commits an obscenity offense when, with the knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

- (1) sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) presents or directs an obscene play, dance, or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) publishes, exhibits or otherwise makes available anything obscene; or
- (4) performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
- (5) creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(B) Obscene Defined. Any material or performance is obscene if:

- (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
- (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
- (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) Interpretation of Evidence. Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section, evidence shall be admissible to show:

- (1) the character of the audience for which the material was designed or to which it was directed;
- (2) what the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (3) the artistic, literary, scientific, educational or other merits of the material, or the absence thereof;
- (4) the degree, if any, of public acceptance of the material in this State;
- (5) appeal to prurient interest or absence thereof in advertising or other promotion of the material;
- (6) purpose of the author, creator, publisher or disseminator.

(D) Prima Facie Evidence. The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies, or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate. **(65 ILCS 5/11-5-1)**



**27-12-2**

**HARMFUL MATERIAL.**

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) **Definitions.**

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D) **Affirmative Defenses.**

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:
  - (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail, telephone, or similar means of communication and delivery of such

harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

**"NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor."**

(E) **Child Falsifying Age.** Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(65 ILCS 5/11-5-1)**

**27-12-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS.** Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. **(720 ILCS 5/11-22)**

## ARTICLE XIII – SMOKE FREE AIR CODE

**27-13-1 BACKGROUND.** Smoking creates the hazard of injury to the personal health of those in the environment of such smoke as well as the potential of damage to property that may result from the incendiary nature of such activity. It has been determined that breathing ambient smoke is a health hazard to both smokers and nonsmokers. Cigarette smoking also produces several substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide and formaldehyde. Secondhand smoke (68% of the total smoke produced by a cigarette) affects the health of the bystander, interfering with respiratory tract defenses, often causing nonsmokers to have allergic or irritative reactions, and is a known cause of lung cancer.

Because the hazards of smoking have a potentially harmful effect, material and direct, on the public health, safety, welfare, comfort, and property of residents of the City, it is necessary and desirable to establish regulations that prohibit smoking in all enclosed public places, in all enclosed places of employment, near entrances to all such public places and places of employment, in and near open air public dining areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues.

**27-13-2 PURPOSE.** This Article may be cited as the "Smoke Free Air Code," the purpose of which is to protect the public health, comfort and environment by prohibiting smoking in all enclosed public places and places of employment, within **twenty-five (25) feet** of all public entrances to such places, in open air public dining areas and within **twenty-five (25) feet** of such areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues in order to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke.

**27-13-3 DEFINITIONS.** For the purposes of this Article, the following terms shall have the following meanings:

**"Business"** means any sole proprietorship, partnership, joint venture, corporation, association or other business entity, whether formed for profit or nonprofit purposes. "Business" includes a "club" as defined in this Section.

**"Club"** means a private not-for-profit association, corporation or other entity consisting of persons who are bona fide paying members and which owns, leases or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.

**"Employee"** means any person who is employed or retained by a business, and shall include the owner or operator of a sole proprietorship or other similar business entity.

**"Employer"** means any business that employs one or more employees.

**"Enclosed Area"** means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.

**"Open Air Dining Area"** means a seating area open to the air that is accessory to a restaurant, hotel, cafeteria, private club or other public place engaged in purveying commercial food or beverage service where members of the public, members or guests are invited to sit and receive food and beverage service for a consideration.

**"Outdoor Event"** means a scheduled outdoor musical, dance, theatrical, dramatic, entertainment or performance event, or a scheduled outdoor community fair, parade, event or market, that is organized, licensed or permitted by the owner of an outdoor venue and to which the public is invited.

**"Outdoor Venue"** means an outdoor theater, amphitheater, plaza, street or other improved area that is used as a public venue or forum to which members of the general public are invited to listen, view or otherwise participate in an outdoor event that is organized, licensed or permitted by the owner of the venue.

**"Place of Employment"** means an area under the control of a public or private employer within the City that employees normally frequent during the course of employment, and includes, without

limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, private clubs, and the interior of a vehicle of public conveyance. "Place of Employment" also includes the home office portion of a private dwelling, but only if the home office is used by more than one employee or is frequented by business invitees.

"Place of Employment" does not include that part of a private dwelling used as a home office by a single employee only who resides in that dwelling.

**"Park"** means a public park or recreation area that is open to and used by the general public.

**"Public Entrance"** means the doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.

"Public entrance" also means a doorway or other entrance for pedestrian ingress and egress to a place of employment; (i) that is open to and intended for use by the general public or business invitee's ingress and egress to the place of employment; (ii) where employees are required or permitted to enter or exit the place of employment.

**"Public Place"** means an area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

- (A) vehicles of public conveyance;
- (B) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;
- (C) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, health care facilities such as hospitals, clinics and doctor's offices, museums, libraries, restaurants, polling places, government and City-owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments.
- (D) rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but without limitation, any enclosed area under the control of the City where there is in progress any public meeting.

"Public place" shall not include:

- (A) a private dwelling unit, unless said dwelling is also used as a day care facility for children or adults; provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units; or
- (B) hotel or motel rooms designated as smoking, provided that no more than **twenty percent (20%)** of the available rooms for rent in any single building shall be designated as smoking rooms.

**"School Grounds"** mean all public or private outdoor school grounds, but excluding any open areas specifically designated and permitted by the school administration for smoking by adults who are invited to use such area for smoking.

**"Smoke" or "Smoking"** means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

#### **27-13-4      PROHIBITION IN ENCLOSED PUBLIC PLACES.**

- (A) It is unlawful to smoke in any enclosed area of any public place.
- (B) It shall be unlawful for the owner, occupant or lessee, as the case may be, who is in control of a public place to knowingly permit smoking in any enclosed area in a public place.

**27-13-5      PROHIBITION IN UNENCLOSED PUBLIC PLACES AND OUTDOOR VENUES.**

- (A) It is unlawful to smoke in the following unenclosed public places:
- (1) The seating areas of all outdoor arenas, stadiums and amphitheaters.
  - (2) Public parks and recreation areas.
  - (3) School grounds.
  - (4) Public sidewalks within **fifteen (15) feet** of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
  - (5) Public sidewalks within **fifteen (15) feet** of an open air dining area, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
- (B) It is unlawful to smoke in or within **fifteen (15) feet** of an outdoor venue during the time that an outdoor event is taking place.

**27-13-6      PROHIBITION IN PLACES OF EMPLOYMENT.**

- (A) It is unlawful to smoke in any enclosed area of any place of employment.
- (B) It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment.

**27-13-7      PROHIBITION IN OPEN AIR DINING AREAS.**

- (A) It is unlawful to smoke in open air dining area.
- (B) It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of an open air dining area to knowingly permit smoking in the area available for open air dining.
- (C) it is unlawful to smoke within **fifteen (15) feet** of an open air dining area.

**27-13-8      PROHIBITION AT PUBLIC ENTRANCES.**

- (A) It is unlawful to smoke within **fifteen (15) feet** of a public entrance to a public place or to a place of employment.
- (B) It is unlawful for any person or persons to gather or congregate for the purpose of smoking within **fifteen (15) feet** of a public entrance.

**27-13-9      DESIGNATION OF OTHER NO-SMOKING AREAS.** Nothing in this Article shall be deemed to limit the owner, occupant or lessee of a public place or a place of employment to further prohibit smoking by designating outdoor areas not subject to the restrictions in this Article as a place where smoking is also prohibited, provided that the owner, occupant or lessee shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area.

**27-13-10      NO RETALIATION.** No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Article or exercises by rights afforded by this Article.

**27-13-11      SIGNS.**

- (A) Each owner, lessor, lessee, employer, or other person in control of a public place shall post conspicuous "No Smoking" signs in the enclosed area of any public place where smoking is prohibited. Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters, **four (4) inches** high with a **one-half (1/2) inch** face, or shall bear the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar

across it. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Article.

(B) Each owner, lessor, lessee, employer or other person in control of a public park or recreation area, or of a school round, shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the park, recreation area or school ground.

(C) Each owner, lessor, lessee, management company or other person in control of an outdoor venue shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the outdoor venue during outdoor events.

**27-13-12 EXEMPTIONS.** The prohibition on smoking set forth in Section 6-35 and 6-37 shall not apply to a public place or place of employment of a tobacco dealer that permits customers to sample tobacco products on the premises of the tobacco dealer, provided that smoke generated by smoking on the premises of the tobacco dealer does not infiltrate any other enclosed public place or place of employment. For purposes of this exemption, a tobacco dealer is a retailer whose principal business is the sale at retail of tobacco and tobacco-related products.

**27-13-13 PENALTIES.**

(A) Any person who smokes in an area where smoking is prohibited under the provisions of this Article shall be guilty of an offense punishable by:

- (1) A fine of not less than **Twenty-Five Dollars (\$25.00)** for a first violation.
- (2) A fine of not less than **Fifty Dollars (\$50.00)** for a second violation.
- (3) A fine of not less than **One Hundred Dollars (\$100.00)** and not more than **Five Hundred Dollars (\$500.00)** for a third and subsequent violation(s).

(B) Any person who owns, manages, operates or otherwise controls a public place, a place of employment or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Article, shall be guilty of an offense punishable by a fine of (i) not less than **One Hundred Dollars (\$100.00)** for the first violation, (ii) not less than **Two Hundred Fifty Dollars (\$250.00)** for the second violations, and (iii) not less than **Five Hundred Dollars (\$500.00)** for each additional violation thereafter, unless said additional violation has occurred within **one (1) year** after the first violation, in which case the minimum fine shall be not less than **One Thousand Dollars (\$1,000.00)**. The maximum amount of fine to be levied herein shall not exceed **Two Thousand Five Hundred Dollars (\$2,500.00)** for each violation.

(C) Each day that any violation of this Article shall continue shall constitute a separate offense.

## ARTICLE XIV - SYNTHETIC DRUGS

### **27-14-1 SALE, POSSESSION OR DELIVERY OF SYNTHETIC COCAINE PROHIBITED.**

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cocaine, "Bath Salts" or Substances Containing Cocaine** includes but not limited to the names, MDPK, Magic, Super Coke, PV, Ivory Wave, Ocean, Cloud Nine, Charge Plus, White lightning, Scarface, Hurricane, Charlie Red Dove and White Dove. It is an herbal and chemical product which mimics the effects of Cocaine, including but not limited to Methylenedioxypyrovalerone, (a psychoactive drug), or cathinone derivatives.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cocaine or substance containing cocaine, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
  - (a) the nature or attendant circumstances of his/her conduct described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
  - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
  - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **"Bath salts"** a substance that contains methylenedioxypyrovalerone (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI).
- (5) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cocaine or a substance containing cocaine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cocaine or a substance containing cocaine or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cocaine as an incident to lawful research, teaching or chemical analysis and not for sale.
- (6) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (7) **Possession.** Possession may be either actual or constructive.
  - (a) actual possession means exercising physical dominion.
  - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cocaine or substance containing cocaine or drug paraphernalia.

### **(B) Possession of Synthetic Cocaine or Substance Containing Cocaine or "Bath Salts" Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cocaine or a substance containing cocaine.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.

- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cocaine for research purposes shall be exempt from the provisions of this Section.

**27-14-2  
PROHIBITED.**

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cannabis** includes the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis, including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
  - (a) the nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
  - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
  - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.
- (5) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (6) **Possession.** Possession may be either actual or constructive.
  - (a) actual possession means exercising physical dominion.
  - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.
- (7) **Produce or Production.** Planting, cultivating, tending or harvesting.

(B) **Possession of Synthetic Cannabis Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cannabis.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred**



**Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.

- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cannabis for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

## ARTICLE XV - REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

### 27-15-1 DEFINITIONS. The following definitions apply to this Section:

(A) A **"Child Sex Offender"** includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

- (1) Sexual exploitation of a child (**720 ILCS 5/11-9.1**);
- (2) Predatory criminal sexual assault of a child (**720 ILCS 5/12-14.1**);
- (3) Indecent solicitation of a child (**720 ILCS 5/11-6**);
- (4) Public indecency committed on school property (**720 ILCS 5/11-9**);
- (5) Child luring (**720 ILCS 5/10-5(b)(10)**);
- (6) Aiding and abetting child abduction (**720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10)**);
- (7) Soliciting for a juvenile prostitute (**720 ILCS 5/11-15.1**);
- (8) Patronizing a juvenile prostitute (**720 ILCS 5/11-18.1**);
- (9) Exploitation of a child (**720 ILCS 5/11-19.2**);
- (10) Child pornography (**720 ILCS 5/11-20.1**);
- (11) Criminal sexual assault (**720 ILCS 5/12-13**);
- (12) Aggravated criminal sexual assault (**720 ILCS 5/12-14**);
- (13) Aggravated criminal sexual abuse (**720 ILCS 5/12-16**);
- (14) Kidnapping or aggravated kidnapping (**720 ILCS 5/10-1 or 5/10-2**);
- (15) Unlawful restraint or aggravated unlawful restraint (**720 ILCS 5/10-3 or 5/10-3.1**).

(B) **"School"** means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) **"Loiter"** shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) **"Park"** includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term "Park" shall also include any privately owned recreational area upon which the City has been authorized by its owner to patrol and enforce the ordinances contained in this Code. The term "Park" shall also include ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

### 27-15-2 PROHIBITED ACTS.

(A) It is unlawful for a child sex offender to reside within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **one thousand five hundred (1,500) feet** of any of the following, unless the person loitering is with a child under the age of

**eighteen (18) years** and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or

(2) The real property comprising any park.

(C) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to employ a sex offender within **one thousand five hundred (1,500) feet** of any festival or other event which is open to the public.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **one thousand five hundred (1,500) feet** of any of the following:

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or

(2) The real property comprising any park.

**27-15-3 PENALTY.** Any person found guilty of violating paragraphs (A) or (B) of **Section 27-15-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraphs (C) or (D) of **Section 27-15-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager or other entity violating paragraphs (C) or (D) of **Section 27-15-2** shall be presumed to have had knowledge of the employee's or tenant's status as a child sex offender, where the employee's or tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

**27-15-4 OTHER PROVISIONS.**

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property or school property and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

## ARTICLE XVI – DRUG PARAPHERNALIA

### 27-16-1 DEFINITIONS.

(A) "Cannabis" shall have the meaning ascribed it in Section 3 of the "Illinois Cannabis Control Act" as if that definition were incorporated herein.

(B) "Controlled Substance" shall have the meaning ascribed to it in Section 102 of the "Illinois Controlled Substance Act" as if that definition were incorporated herein.

(C) "Drug Paraphernalia" shall mean all equipment, products and materials of any kind which are peculiar to and/or marketed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body cannabis or a controlled substance in violation of the "Cannabis Control Act" or the "Illinois Controlled Substances Act." It includes but is not limited to:

- (1) Kits peculiar to and/or marketed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;
- (2) Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;
- (3) Testing equipment peculiar to and marketed for private home use in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
- (4) Diluents and adulterant peculiar to and marketed for cutting cannabis or a controlled substance by private persons;
- (5) Objects peculiar to and/or marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:
  - (a) water pipes;
  - (b) carburetion tubes and devices;
  - (c) smoking and carburetion masks;
  - (d) miniature cocaine spoons and cocaine vials;
  - (e) carburetor pipes;
  - (f) electric pipes;
  - (g) air-driven pipes;
  - (h) chillums;
  - (i) bongs;
  - (j) ice pipes or chillers;
- (6) Any item whose purpose, as announced or described by the seller is for use in violation of this act.

**27-16-2 POSSESSION OF CANNABIS OR CONTROLLED SUBSTANCE.** It shall be unlawful for any person to use, possess, distribute or deliver any cannabis or controlled substance as defined in this Article.

### 27-16-3 POSSESSION OF DRUG PARAPHERNALIA.

(A) A person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use, is guilty of a violation of this Article.

(B) In determining intent under paragraph (A) the trier of fact may take into consideration the proximity of the cannabis or a controlled substance on the drug paraphernalia.

**27-16-4      EXEMPTIONS.**

(A) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of cannabis or controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

(B) Items marketed for, or historically and customarily used in connection with, the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting or inhaling of tobacco or any other lawful substance.

Items exempt under this Article include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.

(C) Items listed in **Section 27-16-1** of this Article which are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Article.

In determining whether or not a particular item is exempt under this Section, the trier of fact should consider, in addition to all other logically relevant factors, the following:

- (1) The general, usual, customary, and historical use to which the item involved has been put;
- (2) Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;
- (3) Any written instruction accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;
- (4) Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;
- (5) Any national or local advertising concerning the design, purpose or use of the item involved and the entire context in which such advertising occurs;
- (6) The manner, place and circumstances in which the items was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;
- (7) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community such as a licensed distributor or dealer of tobacco products;
- (8) The existence and scope of legitimate uses for the object in the community.

**27-16-5      PENALTY.** Any person or entity violating this Article shall be subject to a fine of not more than **Seven Hundred Fifty Dollars (\$750.00)** plus court costs.

## **CHAPTER 28 – PARKS**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>REGULATIONS</i></b>	
	<i>Section 28-1-1 - Destruction of Park Property</i>	<i>28-1</i>
	<i>Section 28-1-2 - Littering – Water Pollution</i>	<i>28-1</i>
	<i>Section 28-1-3 - Fires in Parks</i>	<i>28-1</i>
	<i>Section 28-1-4 - Picnics</i>	<i>28-1</i>
	<i>Section 28-1-5 - Erection of Structures</i>	<i>28-1</i>
	<i>Section 28-1-6 - Signs</i>	<i>28-1</i>
	<i>Section 28-1-7 - Animals</i>	<i>28-1</i>
	<i>Section 28-1-8 - Motor Vehicles Prohibited</i>	<i>28-2</i>
	<i>Section 28-1-9 - Sales; Amusements for Gain</i>	<i>28-2</i>
	<i>Section 28-1-10 - Group Activities</i>	<i>28-2</i>
	<i>Section 28-1-11 - Hours</i>	<i>28-2</i>

## **CHAPTER 28**

### **PARKS**

#### **ARTICLE I – REGULATIONS**

**28-1-1        DESTRUCTION OF PARK PROPERTY.** Within the municipal parks, no person except park personnel on official business shall:

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

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

(C)                willfully mutilate, injure or destroy any buildings bridge, table, bench, fireplace, guidepost, notice, tablet, fence, monument, or other park property or appurtenances.

**28-1-2        LITTERING - WATER POLLUTION.**

(A)                No person shall deposit any trash within the municipal parks except in proper receptacles where these are provided.

Where receptacles are not provided, all trash shall be carried away from the parks by the person responsible for its presence and shall be properly disposed of elsewhere.

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

**28-1-3        FIRES IN PARKS.**

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

(B)                Every person who has lighted or used any fire in a municipal park shall extinguish such fire before leaving the park.

**28-1-4        PICNICS.** No person shall picnic in the municipal parks except in areas designated for that purpose. Park personnel are hereby authorized to regulate the activities in such areas when necessary to prevent congestion or to secure the maximum use, comfort, and convenience of all. Visitors shall comply with any directions given to achieve this end.

**28-1-5        ERECTION OF STRUCTURES.** No person shall build or place any tent, building, booth, stand, or other structure in or upon any municipal park or other recreational facility unless he has obtained permission to do so from the City.

**28-1-6        SIGNS.** No person shall place within any municipal park or affix to any object therein any sign or device designated to advertise any business, profession, exhibition, event or thing unless he has obtained permission to do so from the City.

**28-1-7        ANIMALS.** No person shall:

(A)                bring any dangerous animal into any municipal park; or

(B)                permit any dog to be in any park unless such dog is on a leash; or

(C) ride or lead any horse in any municipal park or recreational area except upon paths or other ways expressly provided and posted for that purpose.

**28-1-8            MOTOR VEHICLES PROHIBITED.** No person other than municipal personnel on official business shall drive or park any motor vehicle, including snowmobiles and all-terrain vehicles, in any municipal park except on a roadway or parking lot.

**28-1-9            SALES; AMUSEMENTS FOR GAIN.** Within the parks of this municipality, no person shall, without having first obtained permission from the City:

- (A) sell or offer for sale any goods or services; or
- (B) conduct any amusement for gain or for which a charge is made.

**28-1-10          GROUP ACTIVITIES.** Whenever any group or organization desires to use municipal park facilities for a particular purpose such as picnics, parties, exhibitions or performances, a representative of the group shall first apply for and obtain permission for such activity from the designated person appointed by the City.

**28-1-11          HOURS.** The City Council shall establish the hours of operation of the municipal parks. No one shall be in the park without the Mayor's permission after the established hours.



## **CHAPTER 29 – PROPERTY MAINTENANCE CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERAL PROVISIONS</i></b>	
	<i>Section 29-1-1 - Title: Purpose</i>	<i>29-1</i>
	<i>Section 29-1-2 - Scope</i>	<i>29-1</i>
	<i>Section 29-1-3 - Liberal Interpretation Required</i>	<i>29-1</i>
	<i>Section 29-1-4 - Effect on Existing Ordinances, Remedies</i>	<i>29-1</i>
<b><i>II</i></b>	<b><i>DEFINITIONS</i></b>	
	<i>Section 29-2-1 - General</i>	<i>29-2</i>
	<i>Section 29-2-2 - Applied Meanings of Words and Terms</i>	<i>29-2</i>
<b><i>III</i></b>	<b><i>ADMINISTRATION AND ENFORCEMENT</i></b>	
	<i>Section 29-3-1 - Duties and Powers of Code Official</i>	<i>29-6</i>
	<i>Section 29-3-2 - Right of Entry</i>	<i>29-6</i>
	<i>Section 29-3-3 - Notice to Owner or to Persons Responsible</i>	<i>29-6</i>
	<i>Section 29-3-4 - Form of Notice</i>	<i>29-6</i>
	<i>Section 29-3-5 - Service of Notice</i>	<i>29-6</i>
<b><i>IV</i></b>	<b><i>RIGHT TO APPEAL</i></b>	
	<i>Section 29-4-1 - Petition</i>	<i>29-7</i>
	<i>Section 29-4-2 - Appeals Board</i>	<i>29-7</i>
	<i>Section 29-4-3 - Vote</i>	<i>29-7</i>
	<i>Section 29-4-4 - Financial Interest</i>	<i>29-7</i>
	<i>Section 29-4-5 - Records</i>	<i>29-7</i>
	<i>Section 29-4-6 - Meetings, Quorum</i>	<i>29-7</i>
<b><i>V</i></b>	<b><i>PREMISES CONDITIONS</i></b>	
	<i>Section 29-5-1 - Scope of Regulations</i>	<i>29-8</i>
	<i>Section 29-5-2 - Responsibility of Owner</i>	<i>29-8</i>
	<i>Section 29-5-3 - Vacant Structures and Land</i>	<i>29-8</i>
	<i>Section 29-5-4 - Sanitation</i>	<i>29-8</i>
	<i>Section 29-5-5 - Grading and Drainage</i>	<i>29-8</i>
	<i>Section 29-5-6 - Insect and Rat Control</i>	<i>29-8</i>
	<i>Section 29-5-7 - Accessory Structures</i>	<i>29-8</i>
<b><i>VI</i></b>	<b><i>EXTERIOR OF STRUCTURES</i></b>	
	<i>Section 29-6-1 - Maintenance Required</i>	<i>29-9</i>
	<i>Section 29-6-2 - Structural Members</i>	<i>29-9</i>
	<i>Section 29-6-3 - Exterior Surfaces</i>	<i>29-9</i>
	<i>Section 29-6-4 - Window and Door Frames</i>	<i>29-9</i>
<b><i>VII</i></b>	<b><i>INTERIOR OF STRUCTURE</i></b>	
	<i>Section 29-7-1 - General</i>	<i>29-10</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VIII</b>	<b>LIGHT, VENTILATION AND SPACE REQUIREMENTS</b>	
	Section 29-8-1 - General	29-11
	Section 29-8-2 - Light	29-11
	Section 29-8-3 - Ventilation	29-11
	Section 29-8-4 - Dwelling Unit Limitations	29-11
	Section 29-8-5 - Space Requirements	29-12
<b>IX</b>	<b>PLUMBING FACILITIES AND FIXTURE REQUIREMENTS</b>	
	Section 29-9-1 - General	29-13
	Section 29-9-2 - Required Facilities	29-13
	Section 29-9-3 - Toilet Rooms	29-13
	Section 29-9-4 - Water System	29-13
	Section 29-9-5 - Sewage System	29-14
<b>X</b>	<b>MECHANICAL AND ELECTRICAL REQUIREMENTS</b>	
	Section 29-10-1 - General	29-15
	Section 29-10-2 - Heating Facilities; Residential Buildings	29-15
	Section 29-10-3 - Electrical Facilities	29-15
<b>XI</b>	<b>FIRE SAFETY REQUIREMENTS</b>	
	Section 29-11-1 - General	29-16
	Section 29-11-2 - Means of Egress	29-16
	Section 29-11-3 - Accumulation and Storage	29-16
	Section 29-11-4 - Fire Doors	29-16
	Section 29-11-5 - Smoke Detectors Required	29-16
<b>XII</b>	<b>RESPONSIBILITIES OF PERSONS</b>	
	Section 29-12-1 - General	29-17
	Section 29-12-2 - Sanitary Condition	29-17
	Section 29-12-3 - Extermination	29-17

## CHAPTER 29

### PROPERTY MAINTENANCE CODE

#### ARTICLE I – GENERAL PROVISIONS

##### **29-1-1      TITLE: PURPOSE.**

(A) These regulations shall be known as the "Property Maintenance Code" hereinafter referred to as the "Property Maintenance Code" or "This Code".

(B) This Code is to establish minimum acceptable standards, premises, and facilities in the City, which must be maintained in existing buildings, structures, premises, and facilities to protect health, safety, and general welfare.

**29-1-2      SCOPE.** This Code is to protect the public health, safety, and welfare in all City neighborhoods, by:

(A) Establishing minimum exterior maintenance standards for all nonresidential structures.

(B) Establishing minimum exterior maintenance standards for residential structures.

(C) Establishing minimum maintenance standards for basic equipment and facilities for light, ventilation, space, heating and sanitation of all residential dwelling units and structures.

(D) Fixing the responsibilities of owners, operators, and occupants of all structures.

(E) Providing for administration, enforcement, and penalties.

**29-1-3      LIBERAL INTERPRETATION REQUIRED.** This Code shall be construed liberally and justly to insure public health, safety, and welfare insofar as they are affected by the maintenance of structures and premises.

##### **29-1-4      EFFECT ON EXISTING ORDINANCES, REMEDIES.**

(A) This Code establishes minimum requirements for the initial and continued occupancy and use of all structures and premises and does not replace or modify requirements otherwise established by ordinance which may be additional or more stringent for the construction, repair, alteration, or use of structures, equipment, or facilities.

(B) The provisions in this Code shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than are provided herein.

(C) The provisions in this Code shall not be deemed to abolish or impair existing remedies of the City or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe, and unsanitary.

(D) This Code shall not effect violations of any other ordinances, codes, or regulations existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

## ARTICLE II - DEFINITIONS

### 29-2-1 GENERAL.

(A) **Scope.** Unless otherwise expressly stated, the following terms shall, for the purpose of this Code, have the meanings indicated in this Article.

(B) **Interchangeability.** Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

(C) **Terms Defined in Other Codes.** Where terms are noted in this Code and are defined in the Building, Plumbing and/or Mechanical Codes, they shall have the same meanings ascribed to them as in those Codes.

(D) **Terms Not Defined.** Where terms are not defined under the provisions of this Code or under the provisions of the Building, Plumbing and/or Mechanical Codes, they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply. **(See Chapter 1 of the Revised Code)**

### 29-2-2 APPLIED MEANINGS OF WORDS AND TERMS.

**"APPROVED".** Approved, as applied to a material, device, or method of construction shall mean approved by the Code Official under the provisions of this Code, or approved by other authority designated by law to give approval in the matter in question.

**"BASEMENT".** That portion of a building which is partly below and partly above grade, and having at least **one-half (1/2)** its height above grade. **(See "Cellar").**

**"BUILDING CODE".** The Building Code officially adopted by the legislative body of this jurisdiction, or such other code as may be officially designed by the legislative body of the jurisdiction for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures.

**"BUILDING OFFICIAL".** The official designated by the jurisdiction to enforce building, zoning or similar laws, or a duly authorized representative.

**"CELLAR".** That portion of a building which is partly or completely below grade and having at least **one-half (1/2)** its height below grade. **(See "Basement").**

**"CENTRAL HEATING".** The heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms and water closet compartments from a source outside of these rooms.

**"CODE OFFICIAL".** The official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

**"CONDEMN".** To adjudge unfit for use or occupancy.

**"CONDEMNATION".** The act of judicially condemning.

**"DWELLING UNIT".** **One (1)** or more rooms in a residential structure which are arranged, designed, used or intended for use by **one (1) family** plus not more than **four (4) lodgers** for living or sleeping purposes, and which include complete kitchen facilities permanently installed.

**"DWELLINGS":**

(A) **"ROOMING HOUSE"**. A building in which sleeping quarters (but not meals or cooking facilities) are provided by pre-arrangement for compensation on a weekly or longer basis for **three (3) or more persons**.

(B) **"ONE-FAMILY DWELLING"**. A dwelling unit designed for the occupancy by one family.

(C) **"TWO-FAMILY DWELLING"**. A building containing **two (2)** separate dwelling units with not more than **five (5) lodgers** or boarders per family.

(D) **"MULTI-FAMILY APARTMENT BUILDING"**. A building or portion thereof, designed or altered for occupancy by **three (3) or more families** living independently of each other.

(E) **"BOARDING HOUSE"**. A building other than a hotel or restaurant where meals are provided for compensation to **three (3)** or more persons but not more than **ten (10)**, who are not members of the keeper's family.

(F) **"DORMITORY"**. Any building containing **eleven (11)** or more rooming or dormitory units. A dormitory also provides a public restroom, a laundry room, foyer, storage space for out-of-season articles of the residents, public lounge and recreational space for the use of residents.

(G) **"DORMITORY ROOM"**. A habitable room used or intended to be used by **four (4) or more** individuals for sleeping or study purposes, excluding bathrooms, toilet rooms, laundries, pantries, foyers, communicating corridors, closets, storage space and stairwells.

(H) **"HOTEL"**. An establishment containing lodging accommodations designed for use by transients, travelers or temporary guests, with no provisions in such accommodations for cooking in any individual room or suite. Facilities provided may include maid service, laundering of linen used on the premises, telephone and secretarial or desk service.

**"ENFORCEMENT OFFICER"**. The official designated herein or otherwise charged with the responsibilities of administering this Code, or the officials authorized representative.

**"EXTERIOR PROPERTY AREAS"**. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

**"EXTERMINATION"**. The control and elimination of insects, rats, or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination.

**"FAMILY"**. **One (1)** or more persons related by blood, marriage or adoption (excluding servants), or a group of not more than **three (3)** (including servants and roomers) who need not be related by blood, marriage or adoption, living together and maintaining a common household, but not including sororities, fraternities or other similar organizations.

**"GARBAGE"**. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**"HABITABLE SPACE"**. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

**"HOTEL"**. See **"Dwellings"**.

**"INFESTATION"**. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

**"LET FOR OCCUPANCY OR LET"**. To permit possession or occupancy of a dwelling, dwelling unit, rooming unit, building or structure by a person who shall be legal owner or not be the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or licensee, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

**"LODGING OR ROOMING HOUSE"**. A building with more than **three (3)** guest spaces where lodging is provided for compensation pursuant to previous arrangement, but not open on a daily, overnight or per meal basis to transient guests.

**"LODGING OR ROOMING HOUSE UNIT"**. A habitable room used or intended to be used by up to **three (3) individuals** for sleeping purposes, excluding bathrooms, toilet rooms, laundries, pantries, foyers, communicating corridors, closets, storage space and stairwells.

**"MAINTENANCE"**. Conformance of a building and its facilities to the Code under which the building was constructed.

**"MOTEL"**. A group of attached or detached buildings containing individual sleeping or living units, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit, including auto courts, motels, motor lodges or other similar type uses.

**"MULTI-FAMILY (MULTIPLE) DWELLINGS"**. See **"Dwellings"**.

**"OCCUPANT"**. Any person over **one (1) year** of age (including owner or operator) living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit.

**"OPENING AREA"**. That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**"OPERATOR"**. Any person who has charge, care or control of a structure or premises which are let or offered for occupancy.

**"OWNER"**. Any person, agent, firm, or corporation having a legal or equitable interest in the property.

**"PERSON"** includes a corporation or co-partnership as well as an individual.

**"PLUMBING"**. The practice, materials, and fixtures used in the installation, maintenance, extension and alteration of all piping fixtures, appliances, and appurtenances within the scope of the Plumbing Code.

**"PLUMBING FIXTURE"**. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom; or discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises; or which requires both a water supply connection and a discharge to the drainage system of the premises.

**"PREMISES"**. A lot, plot or parcel of land including the buildings or structures therein.\*

**"PUBLIC NUISANCE"**. Includes the following:

(A) The physical condition, or use of any premises regarded as a public nuisance at common law; or

(B) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures; or

\*Whenever the words "multi-family dwelling", "residence building", "dwelling unit", "lodging or rooming house", "lodging or rooming house unit", or "premises" are used in this Code, they shall be construed as though they were followed by the words, "or any part thereof".

(C) Any premises which have unsanitary sewerage or plumbing facilities; or

(D) Any premises designated as unsafe for human habitation or use; or

(E) Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or insecure as to endanger life, limb or property; or

(F) Any premises from which the plumbing, heating and/or facilities required by this Code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided; or

(G) Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds; or

(H) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.

**"RENOVATION"**. A building and its facilities made to conform to present day minimum standards of sanitation, fire prevention and safety.

**"RESIDENCE BUILDING"**. A building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided; except when classified as an institution under the Building Code.

**"RUBBISH"**. Combustible and noncombustible waste materials, except garbage, and the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**"SANITARY"**. Rules and conditions of health; especially, of absence of dirt and agents of infection or tending to promote health and healthful conditions.

**"STRUCTURE"**. Anything constructed or erected which requires location on the ground or is attached to something having location on the ground, including a fence or free-standing wall. A sign, billboard or other advertising medium, detached or projecting, shall be construed to be a structure.

**"SUPPLIED"**. Installed, furnished or provided by the owner or operator.

**"VENTILATION"**. The process of supplying and removing air by natural or mechanical means to or from any space.

(A) Ventilation by power-driven devices.

(B) Ventilation by opening to outer air through windows, skylights, doors, louvers, or stacks without wind-driven devices.

**"WORKING DAYS"**. Those days during which the City Hall is open for business.

**"WORKMANLIKE"**. Whenever the words "workmanlike state of maintenance and repair" are used in this Code, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner.

**"YARD"**. An open unoccupied space on the same lot with a building extending along the entire length of street, or rear or interior lot line.

### **ARTICLE III - ADMINISTRATION AND ENFORCEMENT**

**29-3-1**        **DUTIES AND POWERS OF CODE OFFICIAL.** The Code Official shall enforce all provisions of this Code relative to the maintenance of structures and premises, except as may otherwise be specifically provided for by other regulations.

(A)            **Notices and Orders.** The Code Official shall issue all necessary written notices and orders to abate illegal or unsafe conditions to insure compliance with the Code requirements for the safety, health, and general welfare of the public.

(B)            **Coordination of Enforcement.** Inspection of premises, the issuance of written notices and orders, and enforcement thereof shall be the responsibility of the Code Officials so charged by the City. Whenever, in the opinion of a Code Official initiating an inspection under this Code, it is deemed necessary or desirable to have inspections by any other department, the Official shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency order which it determines must be ordered.

**29-3-2**        **RIGHT OF ENTRY.** If any owner, occupant, or other person in charge of a structure subject to the provisions of this Code refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to any part of the structure where inspection authorized by this Code is sought, the administrative authority may seek, in a court of competent jurisdiction, an order that such owner, occupant, or other person in charge cease and desist with such interference.

(A)            **Access of Owner or Operator.** Every occupant of a nonresidential structure or premises shall give the owner or operator thereof, or agent or employee, access to any part of such structure or its premises at reasonable times for the purpose of making inspections as are necessary to comply with the provisions of this Code.

(B)            **Credentials.** The Code Official or the Code Official's authorized representative shall disclose proper credentials of their respective office for the purpose of inspecting any and all buildings and premises in the performance of duties under this Code.

**29-3-3**        **NOTICE TO OWNER OR TO PERSONS RESPONSIBLE.** Whenever the Code Official determines that there has been a violation of this Code or has reasonable grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible in the manner described below.

**29-3-4**        **FORM OF NOTICE.** Such notice prescribed in **Section 29-3-3** shall:

(A)            Be in writing;  
(B)            Include a description of the real estate for identification;  
(C)            Include a statement of the reason or reasons why the notice is being issued; and  
(D)            Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code.

**29-3-5**        **SERVICE OF NOTICE.** Such service shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner personally; or by leaving the notice at the usual place of abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof; or known address with return receipt requested; or if the certified or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by such notice.



## **ARTICLE IV - RIGHT TO APPEAL**

**29-4-1      PETITION.** Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Code, or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Council; provided that such person shall file, in the office of the Board, a written petition requesting such hearing and containing a statement of the grounds therefore within **twenty (20) days** after the day the notice was served.

**29-4-2      APPEALS BOARD.** In order to protect existing structures in the jurisdiction by vigorous enforcement of the provisions of this Code, there shall be and is hereby created a Code Appeals Board, hereafter referred to as the Board, consisting of **five (5) members** who shall be appointed by the chief executive of the jurisdiction.

The Appeals Board for this Code shall be the City Council.

**29-4-3      VOTE.** The Board shall hear all appeals relative to the enforcement of this Code, and by a concurring vote of the majority of its members may reverse or affirm wholly or partly, or may modify, the decision appealed from, and shall make such order or determination as in its opinion ought to be made. Failure to secure such concurring votes shall be deemed a confirmation of the decision of the Code Official.

**29-4-4      FINANCIAL INTEREST.** A member of the Board shall not participate in any hearings or vote on any appeal in which that member has a direct or indirect financial interest, or is engaged as a contractor, or is engaged in the preparation of plans and specifications, or in which that member has any personal interest.

**29-4-5      RECORDS.** The secretary of the Board shall keep a record of each meeting so that the record shows clearly the basis for each decision made by the Board.

**29-4-6      MEETINGS, QUORUM.** All meetings of the Board shall be held at the call of the Chairman and at such times as the Board may determine, provided that the establishment of the meeting date, time, and location are consistent with the overall intent of this Section and are in accordance with the Illinois Open Meetings Act and other applicable state laws.

## **ARTICLE V - PREMISES CONDITIONS**

**29-5-1      SCOPE OF REGULATIONS.** The provisions of this Article shall govern the minimum conditions for maintenance of exterior property, premises, and structures. Premises shall comply with the conditions herein prescribed insofar as they are applicable.

**29-5-2      RESPONSIBILITY OF OWNER.** The owner of the premises shall maintain such structures and premises in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or use premises which do not comply with the requirements of this Article.

**29-5-3      VACANT STRUCTURES AND LAND.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

**29-5-4      SANITATION.** All exterior property areas and premises shall be maintained in a clean, safe, and sanitary condition free from any accumulation of rubbish or garbage.

**29-5-5      GRADING AND DRAINAGE.** All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

**29-5-6      INSECT AND RAT CONTROL.** An owner of a structure or property shall be responsible for the extermination of insects, rats, vermin, or other pests in all exterior areas of the premises, except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation exists in the shared or public parts of the premises of other than a single-family dwelling, extermination shall be the responsibility of the owner.

**29-5-7      ACCESSORY STRUCTURES.** All accessory structures, including detached garages, swimming pools, jacuzzis, fences, and walls, shall be maintained structurally sound and in compliance with the provisions of this Code.

## ARTICLE VI - EXTERIOR OF STRUCTURES

**29-6-1      MAINTENANCE REQUIRED.** The exterior of a structure shall be maintained structurally sound and sanitary so as not to pose a threat to the health and safety of the occupants and so as to protect the occupants from the environment.

**29-6-2      STRUCTURAL MEMBERS.** All supporting structural members of all structures shall be kept structurally sound, free of deterioration, and maintained capable of safely bearing the dead and live loads imposed upon them.

**29-6-3      EXTERIOR SURFACES.** Every foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in a manner which will comply with the following standards.

(A)      **Foundations, Exterior Walls and Roofs.** Every foundation, exterior wall and roof of every building shall be substantially weather-tight, and rodent proof; shall be kept in sound condition and good repair; shall be kept free of holes or breaks, and loose or rotting boards, timbers, bricks, stones and other structural material; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(B)      **Exterior Surfaces.** All exterior surfaces of any building shall be reasonably capable of withstanding the effects of the elements and decay. Any exterior surface which is deteriorated, decaying, disintegrating or which has lost its capability to reasonably withstand the effects of the elements shall be repaired.

(C)      **Windows and Exterior Doors.** Every window, storm window, exterior door, exterior storm door, basement or cellar door and hatchway shall be substantially weather-tight, wind-tight, water-tight, and rodent proof; shall be equipped with all appropriate hardware, shall be capable of being easily opened unless designed to be fixed.

(D)      **Decorative Features.** All cornices, entablatures, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair and proper anchorage and in a safe condition.

(E)      **Protective Railings.** Any handrails, guardrails or other types of protective railings required to be constructed or installed under any provision of the Municipal Code of the City or which have otherwise been constructed and installed shall be maintained in good repair.

(F)      **Chimneys.** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe, sound, and in good repair.

(G)      **Stairs and Porches.** Every stair, porch, balcony, ramp, and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected and shall be kept in sound conditions and in good repair.

(H)      **Roof Drainage.** Roof drainage shall be adequate to prevent rain water from causing dampness or deterioration in the walls or interior portion of the building. Roof water shall not be discharged in a manner that creates a nuisance to owners or occupants of adjacent premises, or that creates a public nuisance.

**29-6-4      WINDOW AND DOOR FRAMES.** Every window, door, and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible, and to substantially exclude wind from entering the dwelling or structure.

## ARTICLE VII - INTERIOR OF STRUCTURE

**29-7-1      GENERAL.** The interior of a structure and its equipment shall be maintained in good repair, structurally sound and in a sanitary condition so as not to pose a threat to the health, safety or welfare of the occupants or visitors, and to protect the occupants from the environment.

(A)      **Lead-Based Paint.** Lead-based paint with a lead content of more than **0.5 percent** shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

(B)      **Sanitation.** The interior of every structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish, refuse or garbage. Rubbish, garbage, and other refuse shall be properly kept inside temporary storage facilities until properly disposed.

(C)      **Storage.** Garbage or rubbish shall not be allowed to accumulate or be stored in public halls or stairways.

(D)      **Insect and Rat Harborage.** All structures shall be kept free from insect and rat infestation, and where insects or rats are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

## ARTICLE VIII - LIGHT, VENTILATION AND SPACE REQUIREMENTS

### 29-8-1 GENERAL.

(A) Scope. The provisions of this Article shall govern the minimum conditions and standards for the light, ventilation and space for the occupancy of a structure. All light, ventilation and space conditions shall comply with the requirements herein prescribed insofar as they are applicable.

(B) Responsibility. The owner of the structure shall provide and maintain such light and ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or use any premises which do not comply with the following requirements of this Article.

(C) Alternative Devices. In place of the means for natural light and ventilation herein prescribed, alternative arrangement of windows, louvers, or other methods and devices that will provide the equivalent minimum performance requirements shall be permitted when complying with the Building Code.

29-8-2 LIGHT. All spaces or rooms shall be provided sufficient light so as not to endanger health and safety.

(A) Habitable Spaces. Every habitable space shall have at least **one (1) window** of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable space shall be **eight percent (8%)** of the floor area of such room except in kitchens when artificial light is provided in accordance with the provisions of the Building Code.

In one-family dwellings units, rooms and spaces without openings to the outdoors may be ventilated through an adjoining room. In one-family dwelling units, the unobstructed opening to the adjoining room shall be at least **fourteen (14) square feet.**

(B) Common Halls and Stairways. Every common hall and stairway in every building, other than one and two-family dwellings, shall be adequately lighted at all times with an illumination of at least a **sixty (60) watt** standard incandescent light bulb or equivalent.

29-8-3 VENTILATION. All spaces or rooms shall be provided sufficient natural or mechanical ventilation so as not to endanger health and safety. Where mechanical ventilation is provided in lieu of the natural ventilation, such mechanical ventilating systems shall be maintained in operation during the occupancy of any structure or portion thereof.

When part of the air provided by a mechanical ventilation system is recirculated, the portion or volume of air recirculated shall not be recirculated to a different residential space or occupancy of dissimilar use from which it is withdrawn.

(A) Toilet Rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable spaces as required by Article II except that a window shall not be required in bathrooms or water closet compartments equipped with an approved mechanical ventilation system. One-family dwelling units built prior to 1978 are not required to comply with the regulation.

(B) Cooking Facilities. Unless approved through the Certificate of Occupancy (**see Zoning Code**), cooking shall not be permitted in any sleeping room or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a sleeping room or dormitory unit.

(C) Clothes Dryer Exhaust. Clothes dryer venting systems shall be independent of all other systems and shall be vented in accordance with the manufacturer's recommendations.

### 29-8-4 DWELLING UNIT LIMITATIONS.

(A) Separation of Units. Dwelling units shall be separate and apart from each other. Sleeping rooms shall not be used as the only means of access to other sleeping rooms or habitable spaces.

(B) **Privacy.** Hotel units, lodging units, and dormitory units shall be designed to provide privacy, and be separate from other adjoining spaces.

**29-8-5            SPACE REQUIREMENTS.**

(A) **Area for Sleeping Purposes.** Every room occupied for sleeping purposes shall have adequate floor space.

(B) **Water Closet Accessibility.** In all dwelling units other than a one-family dwelling every room used as a bedroom shall have access to at least one water closet without passing through another room used as a bedroom.

(C) **Prohibited Use.** Kitchens, nonhabitable spaces and public spaces shall not be used for sleeping purposes.

## ARTICLE IX - PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

### 29-9-1 GENERAL.

(A) Scope. The provisions of this Article shall govern the minimum plumbing facilities and fixtures to be provided. All plumbing facilities and fixtures shall comply with the requirements herein described insofar as they are applicable.

(B) Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or use any structure or portion thereof or premises which does not comply with the following requirements of this Article.

### 29-9-2 REQUIRED FACILITIES.

(A) Dwelling Units. Every dwelling unit shall include its own plumbing facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(B) Water Closet and Lavatory. Every dwelling unit shall contain within its walls, a room separate from habitable spaces, which affords privacy and a water closet supplied with cold running water. A lavatory shall be placed in the same room as the water closet or located in another room, in close proximity to the door leading directly into the room in which said water closet is located. The lavatory shall be supplied with hot and cold running water.

(C) Bathtub or Shower. Every dwelling unit shall contain a room which affords privacy to a person in said room and which is equipped with a bathtub or shower supplied with hot and cold running water.

(D) Kitchen Sink. Every dwelling unit shall contain a kitchen sink apart from the lavatory required and such sink shall be supplied with hot and cold running water.

(E) Rooming Houses. At least **one (1)** water closet, lavatory basin and bathtub or shower properly connected to an approved water and sewer system and in good working condition shall be supplied for each **four (4) rooms** within a rooming house, wherever said facilities are shared. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times.

(F) Hotels. Where private water closets, lavatories, and baths are not provided, **one (1)** water closet, **one (1)** lavatory and **one (1)** bathtub or shower accessible from a public hallway shall be provided on each floor for each **ten (10) occupants**. Each lavatory, bathtub or shower shall be supplied with hot and cold water at all times.

### 29-9-3 TOILET ROOMS.

(A) Privacy. Toilet rooms and bathrooms shall be designed and arranged to provide privacy.

(B) Direct Access. Toilet rooms and bathrooms shall not be used as a passageway to a hall or other space, or to the exterior.

(C) Same Story. Toilet rooms and bathrooms serving hotel units, lodging houses, or dormitory units, unless located within such respective units, or directly connected thereto, shall be provided on the same story with such units, and be accessible only from a common hall or passageway.

### 29-9-4 WATER SYSTEM.

(A) General. Every sink lavatory, bathtub or shower, drinking fountain, water closet or other facility shall be properly connected to either a public water system or to an approved private water system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.

(B) Water Heating Facilities. Where hot water is provided, water heating facilities shall be installed in an approved manner, properly maintained, and properly connected with hot water lines to the fixtures required to be supplied with the hot water.

**29-9-5**

**SEWAGE SYSTEM.**

(A) **General.** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other facility shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

(B) **Maintenance.** Every plumbing stack, waste and sewer line shall be so installed and maintained as to function properly and shall be kept free from obstructions, leaks and defects to prevent structural deterioration or health hazards. All repairs and installations shall be made in accordance with the provisions of the Building and Plumbing Code.



## ARTICLE X - MECHANICAL AND ELECTRICAL REQUIREMENTS

### 29-10-1 GENERAL.

(A) Scope. The provisions of this Article shall govern the minimum mechanical and electrical facilities and equipment to be provided. All mechanical and electrical facilities and equipment shall comply with the requirements herein prescribed insofar as they are applicable.

(B) Responsibility. The owner of the structure shall provide and maintain such mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or use any premises which does not comply with the following requirements of this Article.

**29-10-2 HEATING FACILITIES: RESIDENTIAL BUILDINGS.** Every owner of any structure who rents, leases, or lets **one (1) or more** dwelling units or guest rooms on terms, either express or implied, to furnish heat to the occupants thereof, shall supply sufficient heat during the period from **October 1** to **May 15** to maintain a room temperature of not less than **sixty-five (65) degrees F. (eighteen (18) degrees C.)**, in all habitable spaces, bathrooms, and toilet rooms during the hours between **6:30 A.M.** and **10:30 P.M.** of each day and maintain a temperature of not less than **sixty (60) degrees F. (sixteen degrees C.)** during other hours. The temperature shall be measured at a point **three (3) feet (nine hundred fourteen (914) millimeters)** above the floor and **three (3) feet (nine hundred fourteen (914) millimeters)** from the exterior walls.

### 29-10-3 ELECTRICAL FACILITIES.

(A) Facilities Required. Every building or part thereof used for human occupancy shall be adequately and safely provided with an electrical system in compliance with the requirements of this Section. The provisions of this Section shall be considered absolute minimum requirements.

(B) Lighting Fixtures. Every public hall, interior stairway, water closet compartment, bathroom and laundry room shall contain at least **one (1)** electrical lighting fixture.

(C) Service. When the electrical system requires modification to correct inadequate service, then service shall be corrected to a minimum of **one hundred (100) ampere, three (3) wire service.**

(D) Installation. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type.

## ARTICLE XI - FIRE SAFETY REQUIREMENTS

### 29-11-1 GENERAL.

(A) Scope. The provisions of this Article shall govern the minimum fire safety facilities and equipment to be provided.

All structures shall be constructed and maintained to prevent and avoid fire hazards, and in a manner conducive to fire safety. All fire safety facilities and equipment shall comply with the requirements herein prescribed insofar as they are applicable.

(B) Responsibility. The owner of the structure shall provide and maintain such fire safety facilities and equipment in compliance with these requirements and the Fire Prevention Code. A person shall not occupy as owner-occupant or let to another for occupancy or use any premises which does not comply with the following requirements of this Article.

### 29-11-2 MEANS OF EGRESS.

(A) General. A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to the exterior at a street, or to a yard, court, or passageway leading to a public open area at grade.

(B) Direct Exit. Every dwelling unit shall have access directly to the outside or to an exit access corridor that leads directly to the outside.

(C) Locked Doors. All doors located in the required means of egress shall be readily operable from the inner side without the use of keys. Exits from multiple-family dwelling units, hotel units, lodging houses, and dormitory units shall not lead through other such units, or through toilet room or rooms. "Dead-bolt" locks are allowable provided the key is in place at all times and structure is occupied.

(D) Fire Escapes. All required fire escapes shall be maintained in working condition and structurally sound.

(E) Dual Egress. Every residential building exceeding **one (1) story** in height above grade, not including basements, shall be provided with not less than **two (2)** approved independent exits from each floor above the first floor, fully accessible to each occupant on the floor or provide safety ladders for each bedroom above the first floor.

**29-11-3 ACCUMULATION AND STORAGE.** Waste, refuse, or other materials shall not be allowed to accumulate in stairways, passageways, doors, windows, fire escapes, or other means of egress.

**29-11-4 FIRE DOORS.** All required fire resistance rated doors or smoke barriers shall be maintained in good working order, including all hardware necessary for the proper operation thereof. The use of door stops, wedges and other unapproved hold-open devices is prohibited.

**29-11-5 SMOKE DETECTORS REQUIRED.** Smoke detectors shall be provided outside of each sleeping area in the immediate vicinity of the bedrooms and on each additional story of the dwelling, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels, a smoke detector need be installed only on the upper level, provided the lower level is less than **one (1) full story** below the upper level, except that if there is a door between levels then a detector is required on each level. In multiple dwelling units a smoke detector shall be installed in all common hallways or rooms. All detectors shall be connected to a sounding device or other detectors to provide, when actuated, an alarm which will be audible in all sleeping areas. All detectors shall be approved and listed and shall be installed in accordance with the manufacturer's instructions.

## ARTICLE XII - RESPONSIBILITIES OF PERSONS

**29-12-1      GENERAL.** The provisions of this Article shall govern the responsibilities of persons for the maintenance of structures, and the equipment and premises thereof. The owner has the ultimate legal responsibility to comply with this Section.

**29-12-2      SANITARY CONDITION.**

(A) **Cleanliness.** Every occupant of a structure or part thereof shall keep that part of the structure or premises thereof which that occupant occupies, controls, or uses in a clean and sanitary condition. Every owner of a dwelling containing **two (2) or more** dwelling units shall maintain, in a clean and sanitary condition, the shared or public areas of the dwelling and premises thereof.

(B) **Disposal of Rubbish.** Every occupant of a structure or part thereof shall dispose of all rubbish in a clean and sanitary manner.

(C) **Disposal of Garbage.** Every occupant of a structure or part thereof shall dispose of garbage in a clean and sanitary manner by placing it in garbage disposal facilities, or if such facilities are not available, by placing it in approved garbage storage containers.

**29-12-3      EXTERMINATION.**

(A) **Owner.** The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(B) **Multiple Occupancy.** Every owner, agent or operator of **two (2) or more** dwelling units or multiple occupancies, or nonresidential structures and rooming houses, shall be responsible for the extermination of any insects, rats or others in the public or shared areas of the structure and premises.

## **CHAPTER 30 - PUBLIC SAFETY**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>CIVIL EMERGENCY</i></b>	
	<i>Section 30-1-1 - Definitions</i>	<i>30-1</i>
	<i>Section 30-1-2 - Declaration of Emergency</i>	<i>30-1</i>
	<i>Section 30-1-3 - Curfew</i>	<i>30-1</i>
	<i>Section 30-1-4 - Authority of Mayor to Issue Orders</i>	<i>30-1</i>
	<i>Section 30-1-5 - Effectiveness</i>	<i>30-1</i>
	<i>Section 30-1-6 - Notification</i>	<i>30-2</i>
<b><i>II</i></b>	<b><i>EMERGENCY MANAGEMENT AGENCY (EMA)</i></b>	
	<i>Section 30-2-1 - Policy and Procedures</i>	<i>30-3</i>
	<i>Section 30-2-2 - Limitations</i>	<i>30-3</i>
	<i>Section 30-2-3 - Definitions</i>	<i>30-3</i>
	<i>Section 30-2-4 - Emergency Management Agency</i>	<i>30-4</i>
	<i>Section 30-2-5 - Emergency Management Powers of the Mayor</i>	<i>30-5</i>
	<i>Section 30-2-6 - Financing</i>	<i>30-6</i>
	<i>Section 30-2-7 - Local Disaster Emergencies</i>	<i>30-6</i>
	<i>Section 30-2-8 - Testing of Disaster Warning Devices</i>	<i>30-6</i>
	<i>Section 30-2-9 - Mutual Aid Arrangements Between Political Subdivisions</i>	<i>30-6</i>
	<i>Section 30-2-10 - Communications</i>	<i>30-7</i>
	<i>Section 30-2-11 - Immunity</i>	<i>30-7</i>
	<i>Section 30-2-12 - Professions, Trades and Occupations</i>	<i>30-7</i>
	<i>Section 30-2-13 - Appropriations and Levy of Tax</i>	<i>30-7</i>
	<i>Section 30-2-14 - Authority to Accept Services, Gifts, Grants or Loans</i>	<i>30-8</i>
	<i>Section 30-2-15 - Orders, Rules and Regulations</i>	<i>30-8</i>
	<i>Section 30-2-16 - Utilization of Existing Agency, Facilities and Personnel</i>	<i>30-8</i>
	<i>Section 30-2-17 - Severability</i>	<i>30-8</i>
	<i>Section 30-2-18 - No Private Liability</i>	<i>30-8</i>
	<i>Section 30-2-19 - Succession</i>	<i>30-9</i>
	<i>Section 30-2-20 - Compensation</i>	<i>30-9</i>
	<i>Section 30-2-21 - Personnel Oath</i>	<i>30-9</i>
	<i>Section 30-2-22 - Emergency Termination or Reduction of Electrical Service</i>	<i>30-9</i>
	<i>Section 30-2-23 - Penalty</i>	<i>30-9</i>

## CHAPTER 30

### PUBLIC SAFETY

#### ARTICLE I - CIVIL EMERGENCY

##### **30-1-1      DEFINITIONS.**

**"CIVIL EMERGENCY"** is hereby defined to be:

- (A) A "riot or unlawful assembly" characterized by the use of actual force or violence or any power to execute by **three (3)** or more persons acting together without authority of law; or
- (B) Any "natural disaster" or "man-made calamity", including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the City resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

**"CURFEW"** is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City excepting officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

**30-1-2      DECLARATION OF EMERGENCY.** Whenever an emergency as defined in **Section 30-1-1** exists, the Mayor shall declare the existence by means of a written declaration, setting forth the facts which constitute the emergency.

**30-1-3      CURFEW.** After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to such geographical areas of the City or to the City as a whole as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

**30-1-4      AUTHORITY OF MAYOR TO ISSUE ORDERS.** After the proclamation of a civil emergency, the Mayor may also, in the interest of public safety and welfare, make any or all of the following orders.

- (A) Order the closing of all retail liquor stores including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.
- (B) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.
- (C) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (D) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.
- (E) Issue such other orders as are imminently necessary for the protection of life and property.

**30-1-5      EFFECTIVENESS.** The proclamation herein authorized shall be effective for a period of **forty-eight (48) hours** unless sooner terminated by a proclamation of the Mayor indicating that the civil emergency no longer exists. The Mayor shall have the power to reproclaim the existence of a civil emergency at the end of each **forty-eight (48) hour** period during the time the civil emergency exists.

**30-1-6**      **NOTIFICATION.** Upon issuing the proclamation herein authorized, the Mayor shall notify the news media situated within the City and shall cause **three (3) copies** of the proclamation declaring the existence of the emergency to be posted at the following places within the City:

- (A)            The City Hall.
- (B)            The Post Office.
- (C)            The County Courthouse.

**(65 ILCS 5/11-1-6)**

## **ARTICLE II - EMERGENCY MANAGEMENT AGENCY (EMA)**

### **30-2-1      POLICY AND PROCEDURES.**

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

- (1) To create a municipal emergency management agency;
- (2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter **(65 ILCS 5/11-1-6)**.
- (3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency management operations.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary.

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

### **30-2-2      LIMITATIONS.** Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Mayor and the City Council to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

**30-2-3      DEFINITIONS.** As used in this Code, unless the context clearly indicates otherwise, the following words and terms shall have the definitions hereinafter ascribed:

(A) **Coordinator** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.

(B) **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.

(C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.

(D) **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.

(E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F) **Political Subdivision** means any county, city, village, or incorporated town.

#### **30-2-4 EMERGENCY MANAGEMENT AGENCY.**

(A) There is hereby created an emergency management agency and a coordinator of the emergency management agency, herein called the "coordinator", who shall be the head thereof. The coordinator shall be appointed by the Mayor with the advice and consent of the Council. He shall serve at the pleasure of the Mayor.

(B) The Emergency Management Agency shall obtain, with Council approval, such technical, clerical, stenographic and other administrative personnel, and may make such expenditures within their appropriation therefor as may be necessary to carry out the purpose of this Code.

(C) The coordinator, subject to the direction and control of the Mayor, shall be the executive head of the Municipal Emergency Service and Disaster Agency, and shall be responsible under the direction of the Mayor for carrying out the program for emergency management operations of this municipality. He shall coordinate the activities of all organizations for emergency management operations within this municipality and shall maintain liaison, and cooperate with, the civil defense and emergency management agencies and organization of the county, other counties and municipalities, and of the federal and state government.

In the event of the absence, resignation, death, or inability to serve by the coordinator, the Mayor or any persons designated by him, shall be and act as coordinator until a new appointment is made as provided in this Code.

(D) The Municipal Emergency Management Agency shall take an integral part in the development and revision of the local emergency operations plan.

(E) In the development of the emergency operations plan, the municipal emergency management agency shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F) The Municipal Emergency Management Agency shall:

- (1) Determine the requirements of the municipality for food, clothing and other necessities in the event of an emergency;
- (2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois Emergency Management Agency;
- (3) Biannually review and revise the local Emergency Operations Plan;



- (4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;
- (5) Establish a register of government and private response resources available for use in a disaster;
- (6) Prepare, for issuance by the Mayor, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.
- (7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;
- (8) Initiate and coordinate planning for:
  - (a) The establishment of an emergency operating center;
  - (b) The implementation of a 911 system.
- (9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

### **30-2-5**

### **EMERGENCY MANAGEMENT POWERS OF THE MAYOR.**

(A) The Mayor shall have the general direction and control of the emergency management agency, and shall be responsible for the carrying out of the provisions of this Code.

(B) In performing his duties under this Code, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency management operations defined in this Code.

(C) In performing his duties under this Code, the Mayor is further authorized:

- (1) To make, amend and rescind all lawful necessary orders, rules and regulations of the local disaster plan to carry out the provisions of this Code within the limits of the authority conferred upon him.
- (2) To cause to be prepared a comprehensive plan and program for the emergency management of this municipality which plan and program shall be integrated into and coordinated with disaster plans of the state and federal governments and other political subdivisions, and which plan and program may include:
  - (a) Prevention and minimization of injury and damage caused by disaster;
  - (b) Prompt and effective response to disaster;
  - (c) Emergency relief;
  - (d) Identification of areas particularly vulnerable to disasters;
  - (e) Recommendations for zoning, building and other land-use controls, safety measures for securing permanent structures and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
  - (f) Assistance to local officials in designing local emergency action plans;
  - (g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from flood, conflagration or other disaster;
  - (h) Organization of municipal manpower and chains of command;
  - (i) Coordination of local emergency management activities;
  - (j) Other necessary matters.
- (3) In accordance with such plan and program for the emergency management of this municipality, and out of funds appropriated for such purposes, to procure and preposition supplies, medicines, materials and equipment to institute training programs and public information programs, and to take all other preparatory steps, including the partial or

full mobilization of emergency management organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.

- (4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this municipality as may be necessary to ascertain the capabilities of the municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

(D) The Mayor is authorized to designate space in a municipal building, or elsewhere for the emergency management agency as its office.

### **30-2-6 FINANCING.**

(A) It is the intent of the City Council and declared to be the policy of the municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the City Council's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the municipality a disaster, he may make application for funds from the state disaster relief fund. If monies available from the fund are insufficient, and if the Mayor finds that other sources of money to cope with the disaster are not available or are insufficient, he shall issue a call for an immediate session of the City Council for the purpose of enacting ordinances as the City Council may deem necessary to transfer and expend monies appropriated for other purposes, or borrow monies from the United States Government or other public or private sources. If less than a quorum of the members of the City Council is capable of convening in session to enact such ordinances for the transfer, expenditure or loan of such monies, the Mayor is authorized to carry out those decisions until such time as a quorum of the City Council can convene.

(C) Nothing contained in this Section shall be construed to limit the Mayor's authority to apply for, administer and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response or recovery.

### **30-2-7 LOCAL DISASTER EMERGENCIES.**

(A) A local disaster emergency may be declared only by the Mayor or City Council. If declared by the Mayor, it shall not be continued for a period in excess of **seven (7) days** except by or with the consent of the City Council. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the municipal clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, as authorized by "**The Illinois Emergency Management Agency Act**", provided that, if the City Council meets at such time, he shall act subject to the directions and restrictions imposed by that body.

**30-2-8 TESTING OF DISASTER WARNING DEVICES.** The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

**30-2-9 MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS.** The coordinator for emergency management operations may, in collaboration with other public agencies

within his immediate vicinity, develop or cause to be developed mutual aid arrangements with other political subdivisions, municipal corporations or bodies politic within this state for reciprocal disaster response and recovery in case a disaster is too great to be dealt with unassisted. The mutual aid shall not, however, be effective unless and until approved by each of such political subdivisions, municipal corporations or bodies politic as are parties thereto, in the manner provided by law, and unless and until filed with and approved in writing by the state director. Such arrangements shall be consistent with the state and local emergency management operations plan and program, and in the event of such disaster as described in **Section 30-4-3** of this Code, it shall be the duty of each local and department for emergency management operations to render assistance in accordance with the provisions of such mutual aid arrangements.

**30-2-10      COMMUNICATIONS.** The local Emergency Management Agency shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate.

**30-2-11      IMMUNITY.** Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency management operations or disaster activities, while complying with or attempting to comply with this Code or any rule or regulations promulgated pursuant to this Code is liable for the death of or any injury to persons, or damage to property, as a result of such activity. This section does not, however, affect the right of any person to receive benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress.

**30-2-12      PROFESSIONS, TRADES AND OCCUPATIONS.** If such disaster as is described in **Section 30-2-3** occurs in this municipality and the services of persons who are competent to practice any profession, trade or occupation are required in this municipality to cope with the disaster situation and it appears that the number of persons licensed or registered in this municipality to practice such profession, trade or occupation may be insufficient for such purpose, then any persons who are licensed elsewhere to practice any such profession, trade or occupation may, if a member of another political subdivision rendering aid in this municipality pursuant to the order of the head of that political subdivision and upon the request of the municipality, or if otherwise requested so to do by the Mayor or the coordinator of this municipality, during the time the disaster condition continues, practice such profession, trade or occupation in this municipality without being licensed or registered in this municipality.

**30-2-13      APPROPRIATIONS AND LEVY OF TAX.** The City Council may make appropriations for emergency management operations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision. The City Council may also levy for emergency management operations a tax not to exceed **.05%** of the full, fair cash value as equalized or assessed by the Department of Revenue on all taxable property in the municipality for the current year. However, the amount collectible under such a levy shall in no event exceed **Twenty-Five Cents (\$0.25)** per capita. The annual tax shall be in addition to and in excess of the amount authorized to be levied for general corporate purposes.

**30-2-14**      **AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS.** Whenever the federal or state governments, or any agency or officer thereof, or whenever any person, firm or corporation shall offer to the municipality services, equipment, supplies, materials or funds by way of gift or grant for purposes of emergency management, the municipality, acting through the Mayor or through its City Council, may accept such offer and upon such acceptance the Mayor or the City Council may authorize any officer of the municipality to receive such services, equipment, supplies, materials or funds on behalf of the municipality.

**30-2-15**      **ORDERS, RULES AND REGULATIONS.**  
(A)            The Mayor shall file a copy of every rule, regulation or order and any amendment thereof made by him pursuant to the provisions of this Code in the office of the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-2-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Code and during the state of such disaster emergency, is abrogated, and said rule, regulation, order or amendment shall become effective immediately upon being filed with the Municipal Clerk, accompanied by a certificate stating the reason for the emergency.

(B)            The Emergency Management Agency established pursuant to this Code, and the coordinator thereof, shall execute and enforce such orders, rules and regulations as may be made by the Governor under authority of the Illinois Emergency Management Agency Act. The local Emergency Management Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency.

**30-2-16**      **UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL.** In carrying out the provisions of this Code, the Mayor and the coordinator of the emergency management agency are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed, upon request, to cooperate with and extend such services and facilities to the coordinator and the emergency management agency.

**30-2-17**      **SEVERABILITY.** If any provision of this Code or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect such other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Code are hereby declared to be severable.

**30-2-18**      **NO PRIVATE LIABILITY.**  
(A)            Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual or impending disaster, or a mock or practice disaster response activity together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for negligently causing loss of, or damage to, the property of such person.

(B)            Any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the municipality under the provisions of this Code, shall not be civilly liable for causing death of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C)            Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the municipality, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the

event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable therefore.

**30-2-19      SUCCESSION.** In the event of the death, absence from the municipality or other disability of the Mayor preventing him from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law, the coordinator of the emergency management agency shall succeed to the duties and responsibilities of the Mayor.

**30-2-20      COMPENSATION.** The City Council, by its annual appropriations ordinance, may provide for the payment of the salary of the coordinator and such other office staff and personnel as may be expressly provided for in the ordinance. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provisions of that agency.

**30-2-21      PERSONNEL OATH.** Each person, whether compensated or non-compensated, who is appointed to serve in any capacity in the municipal Emergency Service and Disaster Agency, shall, before entering upon his duties, take an oath, in writing, before the coordinator of the municipal Emergency Service and Disaster Agency before a person authorized to administer oaths in this municipality, which oath shall be filed with the coordinator of the Emergency Management Agency, and which oath shall be substantially as follows:

"I, \_\_\_\_\_ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the City, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

**30-2-22      EMERGENCY TERMINATION OR REDUCTION OF ELECTRICAL SERVICE.**  
(A) **Declaration of Emergency Condition.** When in the judgment of the Mayor or City Council, as provided herein in **Section 30-4-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or City Council shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

**30-2-23      PENALTY.** Any person convicted of violating this Code or any order thereunder shall be punished, upon conviction, by a fine as provided by **Section 1-1-20** of this Code.

**(20 ILCS 3305/1 et seq.)**

## **CHAPTER 33 - STREET REGULATIONS**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>DEPARTMENT ESTABLISHED</i></b>	
	<i>Section 33-1-1 - Department Established</i>	<i>33-1</i>
	<i>Section 33-1-2 - Committee on Streets</i>	<i>33-1</i>
<b><i>II</i></b>	<b><i>GENERAL REGULATIONS</i></b>	
	<i>Section 33-2-1 - Undermining</i>	<i>33-1</i>
	<i>Section 33-2-2 - Open Doors</i>	<i>33-1</i>
	<i>Section 33-2-3 - Repairing Sidewalks, Etc.</i>	<i>33-1</i>
	<i>Section 33-2-4 - Stairway – Railing</i>	<i>33-1</i>
	<i>Section 33-2-5 - Closing Street</i>	<i>33-1</i>
	<i>Section 33-2-6 - Signs Across Street</i>	<i>33-1</i>
	<i>Section 33-2-7 - Vehicles and Skateboards on Sidewalks</i>	<i>33-2</i>
	<i>Section 33-2-8 - Deposits on Sidewalks and Streets</i>	<i>33-2</i>
	<i>Section 33-2-9 - Obstructing Street</i>	<i>33-2</i>
	<i>Section 33-2-10 - Rainwater Drains</i>	<i>33-2</i>
	<i>Section 33-2-11 - Building Materials in Street</i>	<i>33-2</i>
	<i>Section 33-2-12 - Merchandise on Public Street</i>	<i>33-2</i>
	<i>Section 33-2-13 - Encroachments</i>	<i>33-3</i>
	<i>Section 33-2-14 - Posting Bills</i>	<i>33-3</i>
	<i>Section 33-2-15 - Signs on Poles</i>	<i>33-3</i>
	<i>Section 33-2-16 - Injury to New Pavements</i>	<i>33-3</i>
	<i>Section 33-2-17 - Barbed-Wire Fences</i>	<i>33-3</i>
	<i>Section 33-2-18 - Burning on Public Streets</i>	<i>33-3</i>
	<i>Section 33-2-19 - Grass Mowing</i>	<i>33-3</i>
<b><i>III</i></b>	<b><i>TREES AND SHRUBS</i></b>	
	<i>Section 33-3-1 - Planting</i>	<i>33-4</i>
	<i>Section 33-3-2 - Planting Trees in Right-of-Way</i>	<i>33-4</i>
	<i>Section 33-3-3 - Removal</i>	<i>33-4</i>
	<i>Section 33-3-4 - Injury</i>	<i>33-4</i>
	<i>Section 33-3-5 - Advertisements or Notices</i>	<i>33-4</i>
	<i>Section 33-3-6 - Dangerous Trees</i>	<i>33-4</i>
	<i>Section 33-3-7 - Wires</i>	<i>33-4</i>
	<i>Section 33-3-8 - Gas Pipes</i>	<i>33-4</i>
<b><i>IV</i></b>	<b><i>CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHT-OF-WAY</i></b>	
	<i>Section 33-4-1 - Purpose and Scope</i>	<i>33-5</i>
	<i>Section 33-4-2 - Definitions</i>	<i>33-6</i>
	<i>Section 33-4-3 - Annual Registration Required</i>	<i>33-9</i>
	<i>Section 33-4-4 - Permit Required; Applications and Fees</i>	<i>33-9</i>
	<i>Section 33-4-5 - Action on Permit Applications</i>	<i>33-10</i>
	<i>Section 33-4-6 - Effect of Permit</i>	<i>33-11</i>
	<i>Section 33-4-7 - Revised Permit Drawings</i>	<i>33-11</i>
	<i>Section 33-4-8 - Insurance</i>	<i>33-12</i>
	<i>Section 33-4-9 - Indemnification</i>	<i>33-13</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IV</b>	<b>CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHT-OF-WAY (CONT'D.)</b>	
	Section 33-4-10 - Security	33-13
	Section 33-4-11 - Permit Suspension and Revocation	33-14
	Section 33-4-12 - Change of Ownership or Owner's Identity or Legal Status	33-15
	Section 33-4-13 - General Construction Standards	33-16
	Section 33-4-14 - Traffic Control	33-16
	Section 33-4-15 - Location of Facilities	33-16
	Section 33-4-16 - Construction Methods and Materials	33-19
	Section 33-4-17 - Vegetation Control	33-23
	Section 33-4-18 - Removal, Relocation, or Modification of Utility Facilities	33-24
	Section 33-4-19 - Cleanup and Restoration	33-25
	Section 33-4-20 - Maintenance and Emergency Maintenance	33-25
	Section 33-4-21 - Variances	33-26
	Section 33-4-22 - Penalties	33-26
	Section 33-4-23 - Enforcement	33-26
<b>V</b>	<b>STREET IMPROVEMENTS</b>	
	Section 33-5-1 - Sidewalks	33-27
	Section 33-5-2 - Storm Sewers	33-27
<b>VI</b>	<b>CULVERTS</b>	
	Section 33-6-1 - Obstruction of Drain or Storm Sewer	33-28
	Section 33-6-2 - Permit for Culvert	33-28
	Section 33-6-3 - Application for Permit	33-28
	Section 33-6-4 - Termination of Permit	33-28
	Section 33-6-5 - Type of Culvert	33-28
	Section 33-6-6 - Cost of Installation	33-28
	Section 33-6-7 - Backfill Cost	33-28
	Section 33-6-8 - Replacement Cost	33-28
<b>VII</b>	<b>DRIVEWAYS</b>	
	Section 33-7-1 - Permits Required	33-29
	Section 33-7-2 - Fee	33-29
	Section 33-7-3 - Grade Surface	33-29
	Section 33-7-4 - Specifications	33-29
	Section 33-7-5 - Repair	33-29
<b>VIII</b>	<b>SNOW REMOVAL</b>	
	Section 33-8-1 - Definitions	33-30
	Section 33-8-2 - Depositing of Snow and Ice Restricted	33-30

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>IX</i></b>	<b><i>STRUCTURE NUMBERS</i></b>	
	<i>Section 33-9-1 - Base Streets; North and South</i>	<i>33-31</i>
	<i>Section 33-9-2 - Base Streets; East and West</i>	<i>33-31</i>
	<i>Section 33-9-3 - Numbering; North and South</i>	<i>33-31</i>
	<i>Section 33-9-4 - Numbering; East and West</i>	<i>33-31</i>
	<i>Section 33-9-5 - Numbering Increments</i>	<i>33-31</i>
	<i>Section 33-9-6 - Odd Configurations</i>	<i>33-31</i>
	<i>Section 33-9-7 - Assignment of Numbers</i>	<i>33-31</i>
	<i>Section 33-9-8 - Location of Numbers</i>	<i>33-32</i>
	<i>Section 33-9-9 - Failure to Comply</i>	<i>33-32</i>



## **CHAPTER 33**

### **STREET REGULATIONS**

#### **ARTICLE I – DEPARTMENT ESTABLISHED**

**33-1-1      DEPARTMENT ESTABLISHED.** There is hereby established a Department of the municipal government which shall be known as the **Street Department**. It shall embrace the Street Committee, the Superintendent, and the employees. The City Engineer shall serve as ex-officio officer.

**33-1-2      COMMITTEE ON STREETS.** The City Council Standing Committee on Streets shall exercise a general supervision over the affairs of the Street Department. It shall ascertain the needs and conditions thereof and shall, from time to time, report the same to the Mayor and City Council.

#### **ARTICLE II - GENERAL REGULATIONS**

**33-2-1      UNDERMINING.** No person shall undermine in any manner, any street or any other ground or real estate situated in the City or belonging to any private person.

**33-2-2      OPEN DOORS.** No person shall open or allow to remain open, any door, any gate, or the grating of any vault belonging to the premises occupied by him, on any street, alley or sidewalk in the City for any purpose, except the taking in and removing goods; and any person allowing such grating to remain open shall warn passersby of the danger.

**33-2-3      REPAIRING SIDEWALKS, ETC.** Whenever any sidewalk, pavement, or cellar door on the same becomes worn out or out of repair, or is torn up or broken and uneven, it shall be the duty of the Street Superintendent to immediately report such fact to the Mayor or Street and Alley Committee, and upon verbal or written order from either of them, to give notice to the party owning the adjoining property to repair such sidewalk or cellar door without delay.

**33-2-4      STAIRWAY - RAILING.** Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk, and in such case, the person making or causing to be made such passage shall erect a railing on the side of the stairs toward the street to prevent persons from falling into the street.

**33-2-5      CLOSING STREET.** Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor may order any street, alley, or public place temporarily closed to traffic and the placing of signs indicating that the street, alley or public place is closed by order of the Mayor. Whenever such signs are so placed, no person shall ride or drive upon or cross such street, alley or public place, or in any manner, destroy, deface, or remove any such sign.

**33-2-6      SIGNS ACROSS STREET.** No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk in the City, unless he has written approval of the City Council. **(65 ILCS 5/11-80-17)**

**33-2-7            VEHICLES AND SKATEBOARDS ON SIDEWALKS.** No person shall operate any skateboard or motor vehicle on or over any sidewalk, except in crossing the same to go into a yard or parking lot.

**33-2-8            DEPOSITS ON SIDEWALKS AND STREETS.** It shall be unlawful to deposit on any public sidewalk, any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than **four (4) feet**; and provided that no such article shall remain on such walk for more than **thirty (30) minutes**.

**33-2-9            OBSTRUCTING STREET.**

(A) It shall be unlawful to deposit any material on any street which may be harmful to the pavement thereof, or any waste material, or any grass clippings, or to cause a lawn mower to blow grass clippings onto a street or any other articles such as glass which may cause injury to any person, animal or property.

(B) No person shall place or cause to be placed or erected on any public ground, or in any public street, alley or sidewalk in the City, any debris, materials, or obstruction, except as may be permitted by this Code.

(C) It shall be the duty of the Police Department to exercise a vigilant supervision over such places and to notify any person found making such deposit or responsible for same to remove the offending matter at once. **(65 ILCS 5/11-80-3)**

**33-2-10           RAINWATER DRAINS.** It shall be unlawful to construct or permit the construction of any storm water drain or any drainage pipe in either a natural or man-made ditch without having first obtained a permit therefor. Applications for such permits shall be made to the City Clerk and shall be accompanied by a statement as to the purpose of such drainage pipe, the premises to be served and the specification of such pipe to be installed. Such application shall be referred to the Street Superintendent and no such permit shall be issued unless he shall have found that the City Code would be complied with by the installation of such storm water drain or drainage pipe and, that the installation of such storm water drain or drainage pipe would not interfere with, overload, obstruct or otherwise adversely affect the existing storm water drainage system within the City.

It shall be unlawful to construct or permit the construction of any storm water drain which discharges water onto any sidewalk in the City and it shall be unlawful to construct or permit the maintenance of any such drain which discharges into any public street or alley at a height greater than **eighteen (18) inches** above the ground or pavement.

**33-2-11           BUILDING MATERIALS IN STREET.** The Street Superintendent may move any obstruction on any street or sidewalk of the City, but before doing so, he shall notify the person responsible therefore to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to such length of time as may be necessary for the work. The obstruction shall not extend to more than **one-half (1/2)** of the width of the sidewalk, street, or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. At night, such person shall keep an illuminated warning light on such material. **(65 ILCS 5/11-80-3)**

**33-2-12           MERCHANDISE ON PUBLIC STREET.** It shall be unlawful for any person, firm or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale; or to write or make any signs or advertisements on any such pavements, unless permission is granted by the City Council. **(65 ILCS 5/11-80-3)**

**33-2-13      ENCROACHMENTS.** It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

**33-2-14      POSTING BILLS.** It shall be unlawful for any person to paste, paint, print or nail any handbill, sign, poster, advertisement or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door or gate without the consent, in writing, of the owner of such curbstone, flagstone, sidewalk, tree, lamppost, utility pole, hydrant, private wall, door or gate.

**33-2-15      SIGNS ON POLES.** No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds or injure or deface any such pole or post.

**33-2-16      INJURY TO NEW PAVEMENTS.** It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement.

**33-2-17      BARBED-WIRE FENCES.** It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within **three (3) feet** of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least **eight (8) feet** above the level of such public place.

**33-2-18      BURNING ON PUBLIC STREETS.** It shall be unlawful for any person to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City.

**33-2-19      GRASS MOWING.** Property owners and/or their tenants shall be jointly and separately responsible for mowing the grass or weeds between the property lines and the adjoining street surfaces. The height of the grass or weeds shall not exceed **six (6) inches**.

### **ARTICLE III - TREES AND SHRUBS**

**33-3-1      PLANTING.** It shall be unlawful to plant any tree or bush in any public street or parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Superintendent and shall be referred by him to the City Council. All trees and shrubs so planted shall be placed subject to the directions and approval of the City Council.

**33-3-2      PLANTING TREES IN RIGHT-OF-WAY.** It shall be unlawful to plant any bushes, trees, shrubs or other plants on the right-of-way of any public street, including the space on the right-of-way between the sidewalk and the adjacent street pavement.

**33-3-3      REMOVAL.** It shall be unlawful to remove or cut down any tree or shrub or portion thereof in any street, parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Superintendent and shall be referred by him to the City Council before permission shall be granted.

**33-3-4      INJURY.** It shall be unlawful to injure any tree or shrub planted in such public place.

**33-3-5      ADVERTISEMENTS OR NOTICES.** It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway, or other public place.

**33-3-6      DANGEROUS TREES.** Any tree or shrub which overhangs any sidewalk, street or other public place in the municipality at a height less than **eight (8) feet** or in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises or of the premises on which such tree or shrub grows so that the obstruction shall cease.

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

The Street Superintendent may, at the owner's expense, trim or remove any tree or shrub so that the obstruction or danger to traffic or passage shall be done away with.

**33-3-7      WIRES.** It shall be unlawful to attach any wires or rope to any tree or shrub in any public street, parkway or other public place without the permission of the City Council.

Any person or company given the right to maintain the poles and wires in the streets, alleys, or other public places in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Street Superintendent so that no injury shall be done either to the poles or wires or the shrubs and trees by their conduct.

**33-3-8      GAS PIPES.** Any person or company maintaining any gas pipe in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs.

## ARTICLE IV - CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

### 33-4-1 PURPOSE AND SCOPE.

(A) **Purpose.** The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.

(B) **Intent.** In enacting this Article, the City intends to exercise its authority over the rights-of-way in the City and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- (2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (3) prevent interference with the facilities and operations of the City's utilities and of other utilities lawfully located in rights-of-way or public property;
- (4) protect against environmental damage, including damage to trees, from the installation of utility facilities;
- (5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
- (6) preserve the character of the neighborhoods in which facilities are installed;
- (7) preserve open space, particularly the tree-lined parkways that characterize the City's residential neighborhoods;
- (8) prevent visual blight from the proliferation of facilities in the rights-of-way; and
- (9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

(C) **Facilities Subject to this Article.** This Article applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

(D) **Franchises, Licenses, or Similar Agreements.** The City, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the City rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the City enter into such an agreement. In such an agreement, the City may provide for terms and conditions inconsistent with this Article.

### (E) Effect of Franchises, Licenses, or Similar Agreements.

- (1) **Utilities Other Than Telecommunications Providers.** In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the City, 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 Article and the provisions of any franchise, license or similar agreement between the City 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.

(F) **Conflicts With Other Articles or Chapters.** This Article supersedes all Articles or Chapters or parts of Articles or Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(G) **Conflicts With State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

(H) **Sound Engineering Judgment.** The City shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety and welfare.

**33-4-2 DEFINITIONS.** As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code. § 520.30, unless the context clearly requires otherwise.

**"AASHTO":** American Association of State Highway and Transportation Officials.

**"ANSI":** American National Standards Institute.

**"Applicant":** A person applying for a permit under this Article.

**"ASTM":** American Society for Testing Materials.

**"Backfill":** The methods or materials for replacing excavated material in a trench or pit.

**"Bore" or "Boring":** To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

**"Cable Operator":** That term as defined in 47 U.S.C. 522(5).

**"Cable Service":** That term as defined in 47 U.S.C. 522(6).

**"Cable System":** That term as defined in 47 U.S.C. 522(7).

**"Carrier Pipe":** The pipe enclosing the liquid, gas or slurry to be transported.

**"Casing":** A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

**"City":** The City of Colchester.

**"Clear Zone":** 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.

**"Coating":** Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

**"Conductor":** Wire carrying electric current.

**"Conduit":** A casing or encasement for wires or cables.

**"Construction" or "Construct":** The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

**"Cover":** The depth of earth or backfill over buried utility pipe or conductor.

**"Crossing Facility":** A facility that crosses one or more right-of-way lines of a right-of-way.

**"Disrupt the Right-of-Way":** For the purposes of this Article, any work that obstructs the right-of-way or causes a material adverse affect on the use of the right-of-way for its intended use. Such work may include, without limitation, 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, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

**"Emergency":** Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

**"Encasement":** Provision of a protective casing.

**"Engineer":** The City Engineer or his or her designee.

**"Equipment":** Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

**"Excavation":** The making of a hole or cavity by removing material, or laying bare by digging.

**"Extra Heavy Pipe":** Pipe meeting ASTM standards for this pipe designation.

**"Facility":** All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article. For purposes of this Article, the term "facility" shall not include any facility owned or operated by the City.

**"Freestanding Facility":** A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

**"Frontage Road":** Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

**"Hazardous Materials":** Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the City Engineer or Superintendent of Public Works 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.

**"Highway Code":** The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

**"Highway":** A specific type of right-of-way used for vehicular traffic including rural or urban roads, alleys or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, sign, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

**"Holder":** A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

**"IDOT":** Illinois Department of Transportation.

**"ICC":** Illinois Commerce Commission.

**"Jacking":** Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

**"Jetting":** Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

**"Joint Use":** The use of pole lines, trenches or other facilities by two or more utilities.

**"J.U.L.I.E.":** The Joint Utility Locating Information for Excavators utility notification program.

**"Major Intersection":** The intersection of two or more major arterial highways.

**"Occupancy":** The presence of facilities on, over or under right-of-way.

**"Parallel Facility":** A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

**"Parkway":** Any portion of the right-of-way not improved by street or sidewalk.

**"Pavement Cut":** The removal of an area of pavement for access to facility or for the construction of a facility.

**"Permittee":** That entity to which a permit has been issued pursuant to **Sections 33-4-4 and 33-4-5** of this Article.

**"Practicable":** That which is performable, feasible or possible, rather than that which is simply convenient.

**"Pressure":** The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

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

**"Prompt":** That which is done within a period of time specified by the City. If no time period is specified, the period shall be **thirty (30) days**.

**"Public Entity":** A legal entity that constitutes or is part of the government, whether at local, state or federal level.

**"Restoration":** The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

**"Right-of-Way" or "Rights-of-Way":** Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. "Right-of-way" or "rights-of-way" shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

**"Roadway":** That part of the highway that includes the pavement and shoulders.

**"Sale of Telecommunications at Retail":** 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.

**"Security Fund":** That amount of security required pursuant to **Section 33-4-10**.

**"Shoulder":** 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.

**"Sound Engineering Judgment":** A decision(s) consistent with generally accepted engineering principles, practices and experience.

**"Superintendent of Public Works":** The Superintendent of Public Works or his or her designee, hereinafter referred to as "Superintendent".

**"Telecommunications":** This term includes, 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 service 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 City 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.

**"Telecommunications Provider":** Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

**"Telecommunications Retailer":** Means and includes every person engaged in making sales of telecommunication at retail as defined herein.

**"Trench":** A relatively narrow open excavation for the installation of an underground facility.

**"Utility":** The individual or entity owning or operating any facility as defined in this Article.

**"Vent":** A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

**"Video Service":** That term as defined in Section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

**"Water Lines":** Pipelines carrying raw or potable water.

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



**33-4-3      ANNUAL REGISTRATION REQUIRED.** Every utility that occupies right-of-way within the City shall register on **January 1** of each year with the Superintendent, providing the utility'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 in connection with emergencies involving the utility's facilities in the right-of-way and a **twenty-four (24) hour** telephone number for each such person, and evidence of insurance as required in **Section 33-4-8** of this Article, in the form of a certificate of insurance.

**33-4-4      PERMIT REQUIRED; APPLICATIONS AND FEES.**  
(A) **Permit Required.** No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any City right-of-way which:

- (1) changes the location of the facility;
- (2) adds a new facility;
- (3) disrupts the right-of-way (as defined in this Article), or
- (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right-of-way, without first filing an application with the Superintendent and obtaining a permit from the City therefor, except as otherwise provided in this Article.

No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

(B) **Permit Application.** All applications for permits pursuant to this Article shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that 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 or its duly authorized representative and shall contain, at a minimum, the following:

- (1) The utility's name and address and telephone and telecopy numbers;
- (2) The applicant's name and address, if different than the utility, its telephone, telecopy number, e-mail address, and its interest in the work;
- (3) The names, addresses and 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 has placed on file with the City:
  - (a) A written traffic control plan demonstrating the protective measures and devices that will be employed 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
  - (b) 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 applicant. The intended response shall include notification to the City 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 City finds that additional information or assurances are needed;

- (6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- (7) Evidence of insurance as required in **Section 33-4-8** of this Article;
- (8) Evidence of posting of the security fund as required in **Section 33-4-10** of this Article;
- (9) Any request for a variance from one or more provisions of this Article (**See Section 33-4-21**); and
- (10) Such additional information as may be reasonably required by the City.

(D) **Supplemental Application Requirements for Specific Types of Utilities.**

In addition to the requirements of paragraph (C) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

- (1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;
- (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;
- (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; 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 in writing to the City within **thirty (30) 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 Article shall be accompanied by a base fee in the amount of \$100.00. Additional application review costs will vary with the complexity of the project and will be determined on a case by case basis and shall be paid prior to issuance of final permit. 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.

**33-4-5 ACTION ON PERMIT APPLICATIONS.**

(A) **City Review of Permit Applications.** Completed permit applications, containing all required documentation, shall be examined by the Superintendent within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Superintendent shall reject such application in writing, stating the reasons therefor. If the Superintendent is satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, 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, that the construction proposed under the application shall be in full compliance with the requirements of this Article.

(B) **Additional City Review of Applications of Telecommunications Retailers.**

- (1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the City that it intends to commence work governed by this Article for facilities for the provision of

telecommunications services. Such 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 City not less than **ten (10) days** prior to the commencement of work requiring no excavation and not less than **thirty (30) days** prior to the commencement of work requiring excavation. The Superintendent shall specify the portion of the right-of-way upon which the facility may be placed, used or constructed.

- (2) In the event that the Superintendent fails to provide such specification of location to the telecommunications retailer within either (a) **ten (10) days** after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (b) **twenty-five (25) 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 Article.
- (3) Upon the provision of such specification by the City, where a permit is required for work pursuant to **Section 33-4-4** of this Article the telecommunications retailer shall submit to the City 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 paragraph (A) of this Section.

(C) **Additional City Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007.** Applications by a utility 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 City, unless otherwise acted upon by the City, provided the holder has complied with applicable City codes, ordinances, and regulations.

### **33-4-6      EFFECT OF PERMIT.**

(A) **Authority Granted; No Property Right or Other Interest Created.** A permit from the City authorizes a permittee to undertake only certain activities in accordance with this Article on City rights-of-way, 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 rights-of-way.

(B) **Duration.** No permit issued under this Article shall be valid for a period longer than **six (6) months** unless construction is actually begun within that period and is thereafter diligently pursued to completion.

(C) **Pre-Construction Meeting Required.** No construction shall begin pursuant to a permit issued under this Article 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 City with such City representatives in attendance as the City 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, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

(D) **Compliance With All Laws Required.** The issuance of a permit by the City does not excuse the permittee from complying with other requirements of the City and applicable statutes, laws, ordinances, rules, and regulations.

**33-4-7      REVISED PERMIT DRAWINGS.** In the event that the actual locations of any facilities deviate 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 City within **ninety (90) days** after the completion of the permitted work. The revised

drawings or plans shall specifically identify where 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 Article, it shall be treated as a request for variance in accordance with **Section 33-4-21** of this Article. If the City denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

### **33-4-8            INSURANCE.**

(A)            **Required Coverages and Limits.** Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents, and employees as additional insureds 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 as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:
  - (a) **Five Million Dollars (\$5,000,000.00)** for bodily injury or death to each person;
  - (b) **Five Million Dollars (\$5,000,000.00)** for property damage resulting from any one accident; and
  - (c) **Five Million Dollars (\$5,000,000.00)** for all other types of liability;
- (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of **One Million Dollars (\$1,000,000.00)** for personal injury and property damage for each accident;
- (3) Worker's compensation with statutory limits; and
- (4) Employer's liability insurance with limits of not less than **One Million Dollars (\$1,000,000.00)** per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

(B)            **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.

(C)            **Copies Required.** The utility shall provide copies of any of the policies required by this Section to the City within **ten (10) days** following receipt of a written request therefor from the City.

(D)            **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) days** after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Administrator of such intent to cancel or not to renew."

Within **ten (10) days** after receipt by the City of said notice, and in no event later than **ten (10) days** prior to said cancellation, the utility shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

(E)            **Self-Insurance.** A utility may self-insure all or a portion of the insurance coverage and limit requirements required by paragraph (A) of this Section. A utility 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 paragraph (A), or the requirements of paragraphs (B), (C) and (D) of this Section. A utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its

financial ability to self-insure the insurance coverage and limit requirements required under paragraph (A) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(F) **Effect of Insurance and Self-Insurance on Utility's Liability.** The legal liability of the utility to the City and any person for any of the matters that are the 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.

(G) **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 rates "A-" or better and of a class size "X" or higher by A.M. Best Company.

**33-4-9** **INDEMNIFICATION.** By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the City, its officials, officers, employees, agents or representatives.

**33-4-10** **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 a security for:

- (1) The faithful performance by the permittee of all the requirements of this Article;
- (2) Any expenditure, damage, or loss incurred by the City occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the City issued pursuant to this Article; and
- (3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the City may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the City must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the City from the permittee pursuant to this Article or any other applicable law.

(B) **Form.** The permittee shall provide the Security Fund to the City in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. Any surety bond or letter of credit provided pursuant to this paragraph shall, at a minimum:

- (1) Provide that it will not be canceled without prior notice to the City and the permittee;

- (2) Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and
- (3) Shall provide a location convenient to the City 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 right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Superintendent, and may also include reasonable, directly related costs that the City 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 in the City, with each phase consisting of construction of facilities in one location or 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 sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this paragraph (C) for any single phase.

(D) **Withdrawals.** The City, upon **fourteen (14) days'** advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this paragraph, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the **fourteen (14) 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 that are due and unpaid;
- (3) Fails to reimburse the City for any damages, claims, costs or expenses which the City 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 Article that the City determines can be remedied by an expenditure of an amount in the Security Fund.

(E) **Replenishment.** Within **fourteen (14) days** after receipt of written notice from the City that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in paragraph (C) of this Section.

(F) **Interest.** The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the City, upon written request for said withdrawal to the City, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in paragraph (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 City for failure by the permittee to comply with any provisions of this Article 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 City to the extent necessary to cover any reasonable costs, loss or damage incurred by the City as a result of said 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 City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by this Article 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 City may have. Notwithstanding the foregoing, the City shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

### **33-4-11 PERMIT SUSPENSION AND REVOCATION.**

(A) **City Right to Revoke Permit.** The City may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:

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

- (2) Noncompliance with this Article;
- (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- (4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(B) **Notice of Revocation or Suspension.** The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this **Section 33-4-11.**

(C) **Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension.** Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:

- (1) Immediately provide the City with evidence that no cause exists for the revocation or suspension;
- (2) Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within **five (5) working 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 rights-of-way and restore the rights-of-way to the satisfaction of the City providing written proof of such removal to the City within **ten (10) days** after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this paragraph.

(D) **Stop Work Order.** In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within paragraph (A) of this Section.

(E) **Failure or Refusal of the Permittee to Comply.** If the permittee fails to comply with the provisions of paragraph (C) of this Section, the City or its designee may, at the option of the City:

- (1) correct the deficiencies;
- (2) upon not less than **twenty (20) days** notice to the permittee, remove the subject facilities or equipment; or
- (3) after not less than **thirty (30) days** notice to the permittee of failure to cure the noncompliance, deem them abandoned and property of the City. The permittee shall be liable in all events to the City for all costs of removal.

### **33-4-12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.**

(A) **Notification of Change.** A utility shall notify the City no less than **thirty (30) days** prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.

(B) **Amended Permit.** A new owner shall request that 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 if the new owner uses the facility or allows it to remain on the City's right-of-way.

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

**33-4-13      GENERAL CONSTRUCTION STANDARDS.**

(A)      **Standards and Principles.** All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment 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 Article, the Superintendent shall determine, in the exercise of sound engineering judgment, 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.

**33-4-14      TRAFFIC CONTROL.**

(A)      **Minimum Requirements.** The City's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

(B)      **Warning Signs, Protective Devices, and Flaggers.** The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(C)      **Interference with Traffic.** All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(D)      **Notice When Access is Blocked.** At least **forty-eight (48) hours** prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to **Section 33-4-20** of this Article, the utility shall provide such notice as is practicable under the circumstances.

(E)      **Compliance.** The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the City.

**33-4-15      LOCATION OF FACILITIES.**

(A)      **General Requirements.** In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this paragraph.

- (1)      **No Interference with City Facilities.** No utility facilities shall be placed in any location if the Superintendent determines that the proposed location will require the relocation or displacement of any of the City's utility facilities or will otherwise interfere with the operation or maintenance of any of the City's utility facilities.
- (2)      **Minimum Interference and Impact.** The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.
- (3)      **No Interference with Travel.** No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.



- (4) **No Limitations on Visibility.** No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-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 right-of-way lines of a highway only if:
  - (a) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
  - (b) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of **two (2) feet (0.6m)** behind the face of the curb, where available;
  - (c) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of **four (4) feet (1.2m)** outside the outer shoulder line of the roadway and are not within the clear zone;
  - (d) No pole is located in the ditch line of a highway; and
  - (e) Any ground-mounted appurtenance is located within **one (1) foot (0.3m)** of the right-of-way line or as near as possible to the right-of-way line.
- (2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:
  - (a) The facility is located as near the right-of-way line as practicable and not more than **eight (8) feet (2.4m)** from and parallel to the right-of-way line;
  - (b) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
  - (c) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than **five (5) feet (1.5m)** from the right-of-way line and any above-grounded appurtenance shall be located within **one (1) foot (0.3m)** of the right-of-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 City highways 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, 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 practicable.
- (4) **Overhead Power or Communication Facility.** An overhead power or communication facility may cross a highway only if:
  - (a) 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);

- (b) Poles are located within **one (1) foot (0.3m)** of the right-of-way line of the highway and outside of the clear zone; and
- (c) 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:
  - (a) The design materials and construction methods will provide maximum maintenance-free service life; and
  - (b) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- (6) **Markers.** The City may require the utility to provide a marker at each right-of-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, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

(D) **Facilities to be Located Within Particular Rights-of-Way.** The City may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

(E) **Freestanding Facilities.**

- (1) The City may restrict the location and size of any freestanding facility located within a right-of-way.
- (2) The City may require any freestanding facility located within a right-of-way to be screened from view.

(F) **Facilities Installed Above Ground.** Above ground facilities may be installed only if:

- (1) No other existing facilities in the area are located underground;
- (2) New underground installation is not technically feasible; 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 has demonstrated that 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 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:
  - (a) 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;
  - (b) The type, length, value, and relative importance of the highway structure in the transportation system;

- (c) The alternative routings available to the utility and their comparative practicability;
- (d) The proposed method of attachment;
- (e) The ability of the structure to bear the increased load of the proposed facility;
- (f) The degree of interference with bridge maintenance and painting;
- (g) The effect on the visual quality of the structure; and
- (h) The public benefit expected from the utility service as compared to the risk involved.

(H)

**Appearance Standards.**

- (1) The City may prohibit the installation of facilities in particular locations in order to preserve visual quality.
- (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

**33-4-16**

(A)

**Methods.**

**CONSTRUCTION METHODS AND MATERIALS.**

**Standards and Requirements for Particular Types of Construction**

(1) **Boring or Jacking.**

- (a) **Pits and Shoring.** Boring and jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Superintendent from the edge of the pavement. Pits for boring or jacking shall be excavated no more than **forty-eight (48) hours** in advance of boring or jacking operations and backfilled within **forty-eight (48) hours** after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. 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 during the boring or jacking operation.
- (b) **Wet Boring or Jetting.** Wet boring or jetting shall not be permitted under the roadway.
- (c) **Borings With Diameters Greater than Six (6) Inches.** Borings over **six (6) inches (0.15m)** in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than **one (1) inch (25mm)**.
- (d) **Borings with Diameters Six (6) Inches or Less.** Borings of **six (6) inches** or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
- (e) **Tree Preservation.** Any facility located within the drip line of any tree designed by the City to be preserved shall be bored under or around the root system.

(2) **Trenching.** Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 IDOT's "Standard Specifications for Road and Bridge Construction".

- (a) **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.

- (b) **Open Trench and Excavated Material.** Open trench and wind rowed 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 right-of-way width does not allow for wind rowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.

- (c) **Drip Line of Trees.** The utility shall not trench within the drip line of any tree designated by the City to be preserved.

(3) **Backfilling.**

- (a) 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.

- (b) For a period of **three (3) years** from the date construction of a facility is completed, the utility 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, 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.

(4) **Pavement Cuts.** Pavement cuts for facility installation or repair shall be discouraged but may be permitted only upon location specific approval by the Superintendent and only if that portion of the roadway is closed to traffic.

- (a) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Superintendent.

- (b) 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 City.

- (c) All saw cuts shall be full depth.

- (d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last **seven (7) years**, or resurfaced in the last **three (3) 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.

(5) **Encasement.**

- (a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.

- (b) The venting, if any, of any encasement shall extend within **one (1) foot (0.3m)** of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
  - (c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.
  - (d) In the case of gas pipelines of **60 psig** or less, encasement may be eliminated.
  - (e) In the case of gas pipelines or petroleum products pipelines with installations of more than **60 psig**, encasement may be eliminated only if:
    - (i) extra heavy pipe is used that precludes future maintenance or repair and
    - (ii) cathodic protection of the pipe is provided;
  - (f) 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 right-of-way.
- (6) **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 (0.8m)
Communication, Cable or Video Service Lines	18 to 24 inches (0.6m, as Determined by City)
Gas or Petroleum Products	30 inches (0.8m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, Or Drainage Line	Sufficient Cover to Provide Freeze Protection

(B)

**Standards and Requirements for Particular Types of Facilities.**

- (1) **Electric Power or Communication Lines.**
  - (a) **Code Compliance.** Electric power or communications facilities within City rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 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.
  - (b) **Overhead Facilities.** Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities 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.

(c) **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 compress 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.
- (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 15** of the current year, also known as snowdrops, shall be buried by **May 31** of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities 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:

- (a) The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;
- (b) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
- (c) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
- (d) tunneling with vented encasement, but only if installation is not possible by other means.

(3) **Gas Transmission, Distribution and Service.** Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City approved manner 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 rights-of-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 rights-of-way shall meet or exceed the

recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois".

- (6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** 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, 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.

(C) **Materials.**

- (1) **General Standards.** The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standard 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 Right-of-Way.** No material shall be stored on the right-of-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 right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.
- (3) **Hazardous Materials.** The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

(D) **Operational Restrictions.**

- (1) Construction operations on rights-of-way may, at the discretion of the City, 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 right-of-way or other property.
- (2) These restrictions may be waived by the Superintendent when emergency work is required to restore vital utility services.
- (3) Unless otherwise permitted by the City, the hours of construction are from **6:00 A.M. to 6:00 P.M.**

(E) **Location of Existing Facilities.** Any utility proposing to construct facilities in the City shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit record available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the City or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within **forty-eight (48) hours**, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

**33-4-17** **VEGETATION CONTROL.**

(A) **Electric Utilities - Compliance with State Laws and Regulations.** An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.

(B) **Other Utilities - Tree Trimming Permit Required.** Tree trimming that is done by any other utility with facilities in the right-of-way and that 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 Article.

(1) **Application for Tree Trimming Permit.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming 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 City 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 City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

(C) **Specimen Trees or Trees of Special Significance.** The City may require that 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 shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City 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 rights-of-way unless the utility demonstrates to the satisfaction of the Superintendent that such spraying is the only practicable method of vegetation control.

### **33-4-18 REMOVAL, RELOCATION, OR MODIFICATION OF UTILITY FACILITIES.**

(A) **Notice.** Within **ninety (90) days** following written notice from the City, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

(B) **Removal of Unauthorized Facilities.** Within **thirty (30) days** following written notice from the City, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal 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 Article; 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 City retains the right and privilege to cut or move any facilities located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the Municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

(D) **Abandonment of Facilities.** Upon abandonment of a facility within the rights-of-way of the City, the utility shall notify the City within **ninety (90) days**. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the Superintendent determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

**33-4-19 CLEANUP AND RESTORATION.** The utility shall remove all excess material and restore all turf and terrain and other property within **ten (10) days** after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the City. 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, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Superintendent for good cause shown.

**33-4-20 MAINTENANCE AND EMERGENCY MAINTENANCE.**

(A) **General.** Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.

(B) **Emergency Maintenance Procedures.** Emergencies may justify noncompliance with normal procedures for securing a permit:

- (1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flags. If a hazard does not exist on the traveled 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 shall, as soon as possible, notify the Superintendent or his or her duly authorized agent 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 City police shall be notified immediately.
- (3) In an emergency, the utility 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 must file in writing with the City a description of the repairs undertaken in the right-of-way within **forty-eight (48) hours** after an emergency repair.

**33-4-21      VARIANCES.**

(A) **Request for Variance.** A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Superintendent of Public Works as a part of the permit application. The request shall identify each provision of this Article 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 Article 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 requesting the variance has demonstrated that:

- (1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-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 with 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 requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.

(E) **Right to Appeal.** Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Superintendent under the provisions of this Article shall have the right to appeal to the City Council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the City Clerk within **thirty (30) days** after the date of such order, requirement, decision or determination. The City Council shall commence its consideration of the appeal at the Council's next regularly scheduled meeting occurring at least **seven (7) days** after the filing of the appeal. The City Council shall timely decide the appeal.

**33-4-22      PENALTIES.** Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's 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 City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it. **(See Section 1-1-20 for additional penalties.)**

**33-4-23      ENFORCEMENT.** Nothing in this Article shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Article.

## ARTICLE V - STREET IMPROVEMENTS

### 33-5-1 SIDEWALKS.

(A) Grade. No sidewalk shall be built above or below the established grade of the City and in all cases where no grade is established, any person building a sidewalk shall build the same according to the instructions of the Street Superintendent and the City Council. No one shall build a sidewalk unless it consists of new construction. No one shall remove or destroy a sidewalk without replacing the same with a new sidewalk.

(B) Permit. It shall be unlawful for any person to build, lay or construct any sidewalk along any property in the City or along any of the streets, alleys, or public highways thereon, without first filing an application for a permit with the City Clerk and approved by the City Council.

(C) Subdivisions. This Section is not applicable to new subdivisions. **(65 ILCS 5/11-80-13)**

### 33-5-2 STORM SEWERS.

(A) Description of Storm Water Sewers. Storm water sewers shall be any pipe or sewer used for the carrying of surface drains, ground waters, roof leaders, or storm waters, rain waters, or other waters other than sanitary sewage.

(B) Supervision. The Superintendent of the Street Department shall supervise all connections made to the public storm sewer system or excavations for the purposes of installing or repairing the same.

(C) Permits. Before any connection is made to the public storm water sewers, a permit shall be applied for and approved by the Superintendent or his designated representative.

(D) Requirements: Use of Storm Water Sewers. Where a storm water sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the surface drains, ground waters, roof leaders, or storm waters shall be discharged into the storm water sewer unless otherwise authorized by the City. Under no conditions shall sanitary sewage or wastes or any substance other than surface waters, ground waters, roof waters or storm waters be permitted to flow into or be connected to the storm water sewer; and no sanitary sewer shall be connected to the storm water sewer system.

**(65 ILCS 5/11-80-7)**

## ARTICLE VI - CULVERTS

**33-6-1      OBSTRUCTION OF DRAIN OR STORM SEWER.** It shall be unlawful to obstruct any drain or storm sewer in any public street or property.

**33-6-2      PERMIT FOR CULVERT.** It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the Street Superintendent.

**33-6-3      APPLICATION FOR PERMIT.** Any person desiring a permit to install or replace any culvert shall file an application therefor with the Street Superintendent upon a form to be provided for that purpose. The application and the permit issued pursuant thereto shall be on the same form which shall be substantially as outlined in **Appendix 'B'** attached hereto.

**33-6-4      TERMINATION OF PERMIT.** All such permits shall terminate upon the expiration of **one (1) year** following the date of issue.

**33-6-5      TYPE OF CULVERT.** Culverts shall be installed where driveways or walkways cross open ditches. The material used for the construction of the culverts shall be reinforced concrete, corrugated steel culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, corrugated aluminum alloy culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, asbestos cement storm drain pipe (**Class IV**), or of such other material as determined by the Street Department, depending upon the conditions existing. The culverts shall be of such size, installed at the grade and constructed with couplings as determined by the Street Superintendent. The person desiring the culvert shall purchase a culvert as provided herein and shall have it delivered on the site. The City shall install the culvert.

**33-6-6      COST OF INSTALLATION.** Any person installing or replacing a culvert shall, at his own expense, construct and install drainage inlet boxes in such form and manner as the Street Superintendent determines necessary, depending on the existing conditions.

**33-6-7      BACKFILL COST.** Any person installing or replacing a culvert shall, at his own expense, provide and place such backfill material as the Street Superintendent determines necessary to complete the project.

**33-6-8      REPLACEMENT COST.** The expense of replacing any culvert shall be borne by the person making application for the permit to install the same.

**(65 ILCS 5/11-80-7)**

## **ARTICLE VII - DRIVEWAYS**

**33-7-1      PERMITS REQUIRED.** No person shall construct a driveway for vehicles or animals across any sidewalk in the City without having first obtained a permit therefor.

Applications for such permits shall be made to the Street Superintendent and shall be accompanied by the fee required.

No permit for construction of a driveway for commercial use, or for the habitual use of other than the owner or occupant of the premises served shall be issued except upon the order of the Street Superintendent.

**33-7-2      FEE.** The fee for all such construction shall be **One Dollar (\$1.00).**

**33-7-3      GRADE SURFACE.** No driveway shall be so constructed or graded as to leave a step, sharp depression or other obstruction in the sidewalk. The grade shall be as nearly as possible the same as that of the adjoining sidewalk. It shall be unlawful to have the surface finish of any driveway where the same crosses the sidewalk constructed of such materials as to render it slippery and hazardous to pedestrians, or to have the grade of such portion vary from the grade of the sidewalk or be other than level.

**33-7-4      SPECIFICATIONS.** Driveways across sidewalks shall be constructed in compliance with the specifications required by the Street Superintendent.

**33-7-5      REPAIR.** It shall be the duty of the person maintaining the driveway to keep the same in good repair where it crosses the sidewalk and free from obstruction and openings.

**(65 ILCS 5/11-80-2)**

## **ARTICLE VIII - SNOW REMOVAL**

**33-8-1      DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this Article.

**"BUSINESS DAY"** is any day not a Sunday or a National Holiday.

**"BUSINESS DISTRICT"** shall include all those areas zoned for business, commercial and industrial purposes in the Zoning Code and accompanying map as amended or other applicable regulations.

**"BUSINESS HOURS"** are the hours between **8:00 A.M.** and **5:00 P.M.** on any business day.

**"ROADWAY"** means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

**"SIDEWALK"** means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

**"STREET" OR "HIGHWAY"** means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**33-8-2      DEPOSITING OF SNOW AND ICE RESTRICTED.** No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(65 ILCS 5/11-80-13)**

## ARTICLE IX - STRUCTURE NUMBERS

**33-9-1      BASE STREETS: NORTH AND SOUTH.** For the purpose of numbering the buildings, stores and residences of the City, East and West Dunn Streets, and East and West Dunn Streets extended, shall constitute the base of all streets or parts of streets running North and South therefrom and Front Street and Front Street extended shall constitute the base of all streets or parts of streets running East and West therefrom.

**33-9-2      BASE STREETS: EAST AND WEST.** All streets or parts of streets extending North or Northerly from East and West Dunn Streets shall be designated respectively by the prefix "North" to the names of streets or parts of streets and all of the parts of such streets extending South or Southerly from said East and West Dunn Streets shall be designated respectively by the prefix "South" to the names of such streets or parts of streets; all streets or parts of streets extending East or Easterly from said Front Street and Front Street extended shall be designated respectively by the prefix "East" to the names of such streets or parts of streets and all streets or parts of streets extending West or Westerly from said Front Street and Front Street extended shall be designated respectively by the prefix "West" to the names of such streets or parts of streets.

**33-9-3      NUMBERING: NORTH AND SOUTH.** All buildings and lots situated on streets running North and South shall be numbered by commencing at said East or West Dunn Street with number **one hundred (100)** and increasing toward the North and South at the rate of **one hundred (100)** numbers to each and every block or square, the even numbers to be placed on the East side and the odd numbers to be placed on the West side of said streets.

**33-9-4      NUMBERING: EAST AND WEST.** All buildings and lots situated on streets running East and West shall be numbered by commencing at said Front Street with number **one hundred (100)** and increasing towards the East and West at the rate of **one hundred (100)** numbers to each and every block or square, the even numbers to be placed on the North side and the odd numbers on the South side of said streets.

**33-9-5      NUMBERING INCREMENTS.** All streets of the City shall be numbered as will best suit the original plat of the City and its several subdivisions and additions as the same are now recorded in the Recorder's Office in the County of Macon. There shall be **one (1) number** for every **ten (10) feet** in each block or square, except where such block or square is over **four hundred (400) feet** in length and in such case there shall be **one (1) number** for every **one-fortieth (1/40)** part of the length of the said block or square, provided, however, that no building or lot need have more than **one (1) number** for each street upon which it abuts.

**33-9-6      ODD CONFIGURATIONS.** All streets that do not touch or cross either of the streets shall be numbered in the same manner.

**33-9-7      ASSIGNMENT OF NUMBERS.** The Building Inspector is hereby authorized to assign to each and every building, and lot, its proper number in accordance with the preceding sections, and to deliver to each occupant or owner thereof, free of charge, a certificate designating the number or numbers so assigned.

**33-9-8            LOCATION OF NUMBERS.** Each building shall bear on or above the main entrance thereto the number thereof in figures of not less than **three (3) inches** in height and be so marked as to be easily read.

**33-9-9            FAILURE TO COMPLY.** Any owner or occupant of any building now erected in the City, who, after having received a certificate as hereinbefore provided, shall, for **thirty (30) days**, neglect or refuse to number such building owned and occupied by him in conformity herewith, or who shall number the same without having first obtained the proper number thereof, shall be subject to a penalty of **Five Dollars (\$5.00)** for every **thirty (30) days** thereafter that he shall neglect or refuse to number said building, or shall maintain thereon a number without first having obtained the proper numbers.

**(Ord. No. 1973-D-1; 03-12-73)**



**CITY OF MACON**  
**EXCAVATION PERMIT**

NAME \_\_\_\_\_

FIRM NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/VILLAGE \_\_\_\_\_ STATE \_\_\_\_\_ PHONE \_\_\_\_\_

LOCATION OF PROPOSED EXCAVATION \_\_\_\_\_

\_\_\_\_\_

NATURE OF EXCAVATION \_\_\_\_\_

\_\_\_\_\_

BONDING COMPANY:

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/VILLAGE \_\_\_\_\_ STATE \_\_\_\_\_ PHONE \_\_\_\_\_

AMOUNT OF BOND \$ \_\_\_\_\_

PREVIOUS EXPERIENCE (LIST CITIES AND/OR VILLAGES)

	<u>CITY/VILLAGE</u>	<u>CITY/VILLAGE OFFICIAL</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

I have read the municipal law with regard to excavations and my firm or company intends to fully comply with the Street Regulations Code provisions.

\_\_\_\_\_  
(Applicant's Signature)

**CITY OF MACON**

**APPLICATION FOR CULVERT/DRIVEWAY PERMIT**

I, \_\_\_\_\_, do hereby request permission and authority to construct a culvert/driveway on the right-of-way of the City in accordance with the information provided on this application and the accompanying sketch. (Applicant must prepare a sketch showing location, length and pertinent details.)

ADDRESS: \_\_\_\_\_

Pipe material will be: \_\_\_\_\_

Wall thickness or gauge will be: \_\_\_\_\_

Type of joint will be: \_\_\_\_\_

DATED: \_\_\_\_\_, 20\_\_ SIGNED: \_\_\_\_\_  
(APPLICANT)

**CULVERT/DRIVEWAY PERMIT**

**APPLICATION**

Approved ( )

Disapproved ( )

If disapproved, state reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATED: \_\_\_\_\_, 20\_\_ SIGNED: \_\_\_\_\_

**CERTIFICATION**

The undersigned has inspected the construction and installation set forth above and finds that the same (is) (is not) in accordance with the permit.

DATED: \_\_\_\_\_, 20\_\_ SIGNED: \_\_\_\_\_

## **CHAPTER 34 - SUBDIVISION CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERAL PROVISIONS</i></b>	
	<i>Section 34-1-1 - Title</i>	<i>34-1</i>
	<i>Section 34-1-2 - Purpose</i>	<i>34-1</i>
	<i>Section 34-1-3 - Jurisdiction</i>	<i>34-1</i>
	<i>Section 34-1-4 - Instances When Plats Will Not Be Required</i>	<i>34-1</i>
	<i>Section 34-1-5 - Interpretation</i>	<i>34-2</i>
	<i>Section 34-1-6 - Disclaimer of Liability</i>	<i>34-2</i>
	<i>Section 34-1-7 - Review and Expiration</i>	<i>34-2</i>
<b><i>II</i></b>	<b><i>DEFINITIONS</i></b>	
	<i>Section 34-2-1 - Interpretation of Terms</i>	<i>34-3</i>
	<i>Section 34-2-2 - Selected Definitions</i>	<i>34-3</i>
<b><i>III</i></b>	<b><i>PLATS AND PLANS</i></b>	
	<i>Division I – Preliminary Plats</i>	
	<i>Section 34-3-1 - General Procedure</i>	<i>34-10</i>
	<i>Section 34-3-2 - Filing Procedure</i>	<i>34-10</i>
	<i>Section 34-3-3 - Information Required</i>	<i>34-10</i>
	<i>Section 34-3-4 - Zoning Board of Appeals Action</i>	<i>34-11</i>
	<i>Section 34-3-5 - Review by City Council; Time Constraints</i>	<i>34-11</i>
	<i>Section 34-3-6 - Rights and Privileges of Subdivider</i>	<i>34-12</i>
	<i>Section 34-3-7 - Reserved</i>	
	<i>Division II – Improvement Plans</i>	
	<i>Section 34-3-8 - Submission of Plans</i>	<i>34-12</i>
	<i>Section 34-3-9 - Information Required</i>	<i>34-12</i>
	<i>Section 34-3-10 - Inspections Required</i>	<i>34-13</i>
	<i>Section 34-3-11 - Filing "As-Built" Records</i>	<i>34-13</i>
	<i>Section 34-3-12 - Reserved</i>	
	<i>Division III – Assurance for Completion of Required Improvements</i>	
	<i>Section 34-3-13 - Approval of Final Plat - Improvements</i>	<i>34-13</i>
	<i>Section 34-3-14 - Forms of Assurance</i>	<i>34-13</i>
	<i>Section 34-3-15 - Amount of Bond or Deposit</i>	<i>34-14</i>
	<i>Section 34-3-16 - Eligible Sureties</i>	<i>34-14</i>
	<i>Section 34-3-17 - Term of Assurance, Extension</i>	<i>34-14</i>
	<i>Section 34-3-18 - Release of Bond/Escrow Deposit</i>	<i>34-14</i>
	<i>Section 34-3-19 - Failure to Complete Improvements</i>	<i>34-14</i>
	<i>Section 34-3-20 - 34-3-21 Reserved</i>	
	<i>Division IV – Final Plats</i>	
	<i>Section 34-3-22 - City Council Approval</i>	<i>34-15</i>
	<i>Section 34-3-23 - Filing, Time Limits</i>	<i>34-15</i>
	<i>Section 34-3-24 - Information Required</i>	<i>34-15</i>
	<i>Section 34-3-25 - Certificates Required</i>	<i>34-16</i>
	<i>Section 34-3-26 - Administrative Review, Advisory Report</i>	<i>34-18</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>PLATS AND PLANS (CONTINUED)</b>	
	<i>Division IV – Final Plats (Continued)</i>	
	Section 34-3-27 - Action by City Council	34-18
	Section 34-3-28 - Changes in Approved Final Plats	34-18
	Section 34-3-29 - 34-3-34 Reserved	
	<i>Division V – Maintenance of Improvements</i>	
	Section 34-3-35 - Subdivider's Responsibilities	34-18
	Section 34-3-36 - Maintenance Bond	34-18
	<i>Division VI – Vacation of Plats</i>	
	Section 34-3-37 - Vacation of Plats	34-19
<b>IV</b>	<b>ADMINISTRATIVE PROCEDURES</b>	
	Section 34-4-1 - Enforcement Officer, Duties	34-20
	Section 34-4-2 - Subdivision Variances	34-20
	Section 34-4-3 - Review by Zoning Board of Appeals	34-20
	Section 34-4-4 - Action by City Council, Variance Standards	34-20
	Section 34-4-5 - Amendments	34-21
	Section 34-4-6 - Schedule of Fees	34-21
	Section 34-4-7 - Fees: Time of Payment	34-21
<b>V</b>	<b>DESIGN AND IMPROVEMENT STANDARDS</b>	
	<i>Division I – Generally</i>	
	Section 34-5-1 - Applicability of Article	34-22
	Section 34-5-2 - Suitability for Development Generally	34-22
	Section 34-5-3 - Reserved	
	<i>Division II – Lot Requirements</i>	
	Section 34-5-4 - Conformity with Zoning	34-22
	Section 34-5-5 - Access and Relationship to Street	34-22
	Section 34-5-6 - Reference Monuments	34-22
	<i>Division III – Street Design Standards</i>	
	Section 34-5-7 - Plan Integration	34-23
	Section 34-5-8 - Right-of-Way and Pavement Widths	34-23
	Section 34-5-9 - Topographical Considerations	34-23
	Section 34-5-10 - Through Traffic Discouraged	34-23
	Section 34-5-11 - Limited Access to Arterials	34-23
	Section 34-5-12 - Dead-End Streets	34-23
	Section 34-5-13 - Intersections	34-24
	Section 34-5-14 - Reverse Curves	34-24
	Section 34-5-15 - Improvements to Existing Streets	34-24
	Section 34-5-16 - When Excess Right-of-Way Required	34-24
	Section 34-5-17 - 34-5-19 Reserved	
	<i>Division IV – Street Improvement Standards</i>	
	Section 34-5-20 - Street Requirements	34-25
	Section 34-5-21 - Pavement Structure	34-25

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b>DESIGN AND IMPROVEMENT STANDARDS (CONTINUED)</b>	
	<i>Division IV – Street Improvement Standards (Continued)</i>	
	Section 34-5-22 - Curb and Gutter	34-26
	Section 34-5-23 - Maintenance Responsibility	34-27
	Section 34-5-24 - Reserved	
	<i>Division V – Blocks</i>	
	Section 34-5-25 - Block Width	34-27
	Section 34-5-26 - Block Length	34-27
	Section 34-5-27 - Crosswalks	34-27
	Section 34-5-28 - Reserved	
	<i>Division VI – Sidewalks</i>	
	Section 34-5-29 - Required	34-27
	Section 34-5-30 - Sidewalk Construction Standards	34-27
	Section 34-5-31 - Reserved	
	<i>Division VII – Streetlights</i>	
	Section 34-5-32 - Intersection Lighting	34-28
	Section 34-5-33 - Streetlight System Standards	34-28
	Section 34-5-34 - Reserved	
	<i>Division VIII – Street Name Signs</i>	
	Section 34-5-35 - Specifications	34-28
	Section 34-5-36 - Reserved	
	<i>Division IX – Utilities</i>	
	Section 34-5-37 - Utility Location and Easements Required	34-28
	Section 34-5-38 - Utility Easements	34-29
	Section 34-5-39 - Drainage Easements	34-29
	Section 34-5-40 - 34-5-41 Reserved	
	<i>Division X – Water Facilities</i>	
	Section 34-5-42 - Potable Water Required	34-29
	Section 34-5-43 - Fire Hydrants	34-29
	Section 34-5-44 - Reserved	
	<i>Division XI – Sanitary Sewers</i>	
	Section 34-5-45 - Compliance with Regulations	34-29
	Section 34-5-46 - When Public System Planned	34-29
	Section 34-5-47 - Alternate Methods of Disposal	34-30
	Section 34-5-48 - Reserved	
	<i>Division XII – Storm Water Management</i>	
	Section 34-5-49 - Purpose and Intent	34-30
	Section 34-5-50 - Definitions	34-30
	Section 34-5-51 - Application	34-31
	Section 34-5-52 - Drainage Plan Drawings	34-31
	Section 34-5-53 - Storm Water Run-Off; Release Rate	34-32
	Section 34-5-54 - Collection of Flows	34-32
	Section 34-5-55 - Design Formula	34-33

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b>DESIGN AND IMPROVEMENT STANDARDS (CONTINUED)</b>	
	<i>Division XII – Storm Water Management (Continued)</i>	
	<i>Section 34-5-56 - Minimum Outlet Size</i>	<i>34-33</i>
	<i>Section 34-5-57 - Storage Requirements</i>	<i>34-33</i>
	<i>Section 34-5-58 - Detention Pond Design Criteria</i>	<i>34-33</i>
	<i>Section 34-5-59 - Retention Pond Design Criteria</i>	<i>34-33</i>
	<i>Section 34-5-60 - Maintenance Responsibilities</i>	<i>34-34</i>
	<i>Section 34-5-61 - Penalties for Violation</i>	<i>34-34</i>

## CHAPTER 34

### SUBDIVISION CODE

#### ARTICLE I – GENERAL PROVISIONS

**34-1-1**        **TITLE.** These regulations shall be known as and may be referred to as the Subdivision Code.

**34-1-2**        **PURPOSE.** In accordance with State law (**Ill. Comp. Stats., Chap. 65, Secs. 5/11-12-5, 5/11-12-8 -- 5/11-12-12; Chap. 765, Sec. 205/1 et seq.**) this Code regulates the subdivision and development of land. This Code assists in achieving the following specific objectives:

- (A)            to preserve, protect, and promote the public health, safety, and welfare;
- (B)            to provide a pleasant living environment by furthering the orderly and efficient layout and use of land and by facilitating aesthetic urban design;
- (C)            to establish accurate legal records, to avoid development in wetland areas, and to avoid legal and other problems by requiring that subdivided land be properly monumented and recorded;
- (D)            to conserve and increase the value of land, improvements, and buildings throughout the City;
- (E)            to preserve the natural beauty and topography of the City to the maximum feasible extent, including preservation of such features as stands of trees, streams, significant archaeological sites, and historical landmarks;
- (F)            to provide adequate light, air, and privacy for all residents of new developments by preventing undue concentration of population;
- (G)            to protect against injury or damage caused by fire, pollution, flooding, storm water runoff, or erosion and sedimentation;
- (H)            to provide safe and convenient access to new developments and to avoid traffic congestion and unnecessary public expenditures by requiring the proper location, design, and construction of streets and sidewalks;
- (I)            to provide an environment whereby the cost of installing and maintaining adequate water mains, sanitary sewers, storm water sewers, and other utilities and services can be kept at a minimum; and
- (J)            to ensure that adequate parks, schools, and similar facilities can be made available to serve the residents.

**(Ord. No. 04-09-07-1)**

**34-1-3**        **JURISDICTION.** The provisions of this Code shall apply to all Planned Developments whether Residential, Commercial, or otherwise in nature, and to any other developments whether a Plat is required or not under the law, statutes, ordinances or regulations of the governmental body or agency having jurisdiction or control, and regardless of whether the same is labeled a subdivision or not, it being the intent of this Code to apply to all types of development, both within the City and to areas lying within **one and one-half (1.5) miles** of the corporate limits of the City.

**34-1-4**        **INSTANCES WHEN PLATS WILL NOT BE REQUIRED.** The provision of these regulations do not apply and no plat is required in any of the following instances:

- (A)            the division or subdivision of land into parcels or tracts of **five (5) acres** or more in size which does not involve any new streets or easements of access or add special utility easements;
- (B)            the division of lots or blocks of less than **one (1) acre** in any recorded subdivision which does not involve any new streets or easements of access or add special utility easements;
- (C)            the sale or exchange of parcels of land between owners of adjoining and contiguous land;

(D) the conveyance of parcels of land or interests therein for use as a right-of-way for railroads or other public utility facilities and other pipelines which does not involve any new streets or easements of access or add special utility easements;

(E) the conveyance of land for highway or other public purposes or grants or conveyance relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;

(F) conveyance made to correct description in prior conveyances;

(G) the sale or exchange of parcels or tracts of land following the division into no more than **two (2) parts** of a particular parcel or tract of land recorded on or before **July 17, 1959** and not involving any new streets or easements of access or add special utility easements;

(H) the conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access or add special utility easements;

(I) the sale of a single lot of less than **five (5) acres** from a larger tract when a survey is made by a registered surveyor; provided, however, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract existing as of **October 1, 1973**.

**34-1-5** **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of the City, and every regulation set forth herein shall be considered the minimum requirement for the promotion of the public health, safety, and welfare.

(A) **More Restrictive Requirements Apply.** Whenever the requirements of this Code differ from those of any statute, lawfully adopted ordinance or regulation, easement, covenant, or deed restriction, the more stringent requirement shall prevail. Thus, in accordance with State law whenever this Code imposes higher standards than the County Subdivision Code, said higher standards shall supersede the County regulations in the unincorporated territory located within the City's subdivision jurisdiction. **(See 65 ILCS Sec. 5/11-12-11)**

**34-1-6** **DISCLAIMER OF LIABILITY.**

(A) Except as may be provided otherwise by statute or ordinance, no officer, council member, agent, or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code. **(See "Local Governmental and Governmental Employees Tort Immunity Act," Ill. Comp. Stats., Chap. 745, Secs. 10/1-101.)**

(B) Any suit brought against any officer, council member, agent, or employee of the City, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the City Attorney and/or an attorney retained by the City's insurer until the final determination of the legal proceedings.

**(Ord. No. 04-09-07-1)**

**34-1-7** **REVIEW AND EXPIRATION.** This Code shall be reviewed by the City Council every **ten (10) years** for necessary amendments. **(Ord. No. 04-09-07-1)**



## ARTICLE II - DEFINITIONS

**34-2-1      INTERPRETATION OF TERMS.** In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Unless the context clearly indicates otherwise, words and phrases shall have the meanings respectively ascribed to them in Section 34-2-2; terms not defined in Section 34-2-2 shall have the meanings respectively ascribed to them in the City's Zoning Code; if any term is not defined either in Section 34-2-2 or in the Zoning Code, said term shall have its standard English dictionary meaning.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and vice versa.

(E) The word "shall" is mandatory; the word "may" is discretionary.

(F) Captions (i.e., titles of sections, subsections, etc.) are intended merely to facilitate general reference and in no way limit the substantive application of the provisions set forth thereunder.

(G) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(H) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

### **34-2-2      SELECTED DEFINITIONS.**

**Administrator:** The official appointed by the Mayor and the City Council to administer the Subdivision and Development Code.

**Alley:** A public right-of-way which affords a secondary means of vehicular access to the side or rear of premises that front on a nearby street, and which may be used for utility purposes.

**Amendment:** A change in the provisions of this code, properly effected in accordance with State law and the procedures set forth herein.

**Area, Building:** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of unenclosed patios, terraces, and steps.

**Area, Gross:** The entire area within the lot lines of the property proposed for subdivision/development, including any areas to be dedicated/reserved for street and alley rights-of-way and for public uses.

**Area, Net:** The entire area within the boundary lines of the territory proposed for subdivision, less the area to be dedicated for street and alley rights-of-way and public use.

**Arterial Street:** A street designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic on a continuous route with intersections at grade, and on which traffic control devices are used to expedite the safe movement of through traffic.

**Barrier (Natural or Artificial):** Any street, highway, river, pond, canal, railroad, levee, embankment, or screening by a fence or hedge.

**Block:** An area of land entirely bounded by streets, highways, barriers, or rights-of-ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a street, highway, or R.O.W.) or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines.

**Building:** Any structure, whether temporary, semi-permanent, or permanent, designed or intended for the support, enclosure, shelter or protection of persons or property.

**Building Line:** See Setback Line.

**Catch Basin:** A receptacle, located where a street gutter opens into a storm sewer, designed to retain matter that would not easily pass through the storm sewer.

**Centerline:**

- (A) the centerline of any right-of-way having a uniform width;
- (B) the original centerline, where a right-of-way has been widened irregularly;
- (C) the new centerline, whenever a road has been relocated.

**Centerline Offset:** The distance between the centerline of two roughly parallel streets, measured along the third street with which both said "parallel" streets intersect.

**Cluster Development:** A subdivision planned and constructed so as to group housing units into relatively dense patterns while providing a unified network of open space and wooded areas, and meeting the requirements of the Subdivision Code and the Zoning Code.

**Collector Street:** A street which carries or is proposed to carry intermediate volumes of traffic from local streets to arterial streets and which may or may not be continuous.

**Common Land:** That land set aside for open space or recreational use for the owners of the lots of a subdivision, which land is conveyed by the developer in fee simple absolute title by warranty to trustees whose trust indenture shall provide that said common land be used for the sole benefit, use and enjoyment of the lot owners present and future. No lot owner shall have the right to convey his interest in the common land except as an incident of the ownership of a regularly platted lot.

**Comprehensive Plan:** The plan or any portion thereof, if any, adopted by the City Council to guide and coordinate the physical and economic development of the City. The City's Comprehensive Plan may include, but is not limited to, plans and programs regarding the location, character, and extent of highways, bridges, public buildings or uses, utilities, schools, residential, commercial, or industrial land uses, parks, drainage facilities, etc. **(Ord. No. 04-09-07-1)**

**Cross-slope:** The degree of inclination measured across a right-of-way rather than in the direction traffic moves on said right-of-way.

**Cul-de-Sac:** A short minor local street having only one outlet for vehicular traffic and having the other end permanently terminated by a turn-around for vehicles; the term may also be used to refer solely to said turn-around.

**Curb and Gutter, Integral:** The rim forming the edge of a street plus the channel for leading off surface water, constructed of concrete as a single facility.

**Dedicate:** To transfer the ownership of a right-of-way, parcel of land, or improvement to the City or other appropriate government entity without compensation.

**Density, Gross:** The total number of dwelling units divided by the total project area, expressed as gross dwelling units per acre.

**Density, Net:** The total number of dwelling units divided by the net acreage. See definition of Area, Net.

**Design:** The arrangement of uses on the land and the arrangement of easements, lots and rights-of-way, including specifications of materials, alignment, grade and width of these elements.

**Develop:** To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation therefor.

**Dimensions:** Refers to both lot depth and lot width.

**District, Zoning:** A portion of the territory of the City wherein certain uniform requirements or various combinations thereof apply to structures, lots, and uses under the terms of the City's Zoning Code.

**Drainageway:** A watercourse, gully, dry stream, creek, or ditch which carries storm water runoff or which is fed by street or building gutters or by storm water sewers, or which serves the purpose of draining water from the lands adjacent to such watercourse, gully, dry stream, creek, or ditch.

**Easement:** A grant by the property owner to the public, a corporation, or a person of the use of land for limited and specifically named purpose.

**Escrow Deposit:** A deposit in cash or other approved securities to assure the completion of improvements within a subdivision.

**Filing Date:** The date that the applicant has filed the last item of required data or information with the City Clerk and has paid the necessary fees for review by the City Council. **(Ord. No. 04-09-07-1)**

**Flood Hazard Area:** All land subject to periodic inundation from overflow of natural waterways.

**Frontage:** The lineal extent of the front (street-side) of a lot.

**Frontage Road:** A minor street fronting on an arterial street or highway (usually a limited access highway), used for access to abutting lots.

**Grade:** The degree of inclination of the site or right-of-way, expressed as a percentage. Synonym for "slope."

**Hillside Area:** An area with an average slope of **twenty percent (20%)** or more.

**Improvement:** Refers to site grading, street work and utilities (including water, sewer, electric, gas, storm water, telephone and cable television) to be installed or agreed to be installed by the subdivider on land to be used for public or private streets, and easements or other purposes as are necessary for the general use of lot owners in the subdivision. Including the furnishing of all materials, equipment, work and services such as engineering, staking and supervision, necessary to construct all the improvements required in Article V of the Code or any other improvements that may be provided by the subdivider. All of such materials, equipment and services shall be provided at the subdivider's cost and expense, although he may enter into a contract with individuals and firms to complete such improvements, and the improvements shall be subject to the final approval of the City Council. **(Ord. No. 04-09-07-1)**

**Improvement Plans:** The engineering plans showing types of materials and construction details for earth moving and for the structures and facilities to be installed both in, or in conjunction with, a subdivision. Plans must include drainage, streets, alleys and utility locations to be installed in or in conjunction with a subdivision - also, include overall drainage plan and its effect on contiguous land and source of effluent or discharge.

**Inlet:** A receptacle, located where surface and/or groundwater can run to by gravity to be received by the storm sewer.

**Intersection:** The point at which two or more public rights-of-way (generally streets) meet.

**Land Use Plan:** The comprehensive long-range plan for the desirable use of land, the purpose of such plan being, among other things, to serve as a guide to the zoning and progressive subdividing and use of undeveloped land.

**Local Street:** A street serving limited amounts of residential traffic, and for access to abutting property, and on which the speed limit is low and the traffic volume minimal.

**Lot:** A tract of land intended as a unit for the purpose (whether immediate or future) of development or transfer of ownership. A "lot" may or may not coincide with a "lot of record."

**Lot Area:** The area of a horizontal plane bounded by the front, side, and rear lines of a lot, exclusive of any land designated for street right-of-way.

**Lot, Butt:** A lot at the end of a block and located between **two (2) corner lots**.

**Lot, Corner:** A lot having at least **two (2) adjacent sides** that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

**Lot Depth:** The mean horizontal distance between the front end and the rear lot lines measured in the general direction of the side lot lines.

**Lot, Interior:** A lot whose side lines do not abut any street.

**Lot Line, Front:** The line separating the lot from the street. On a corner lot, the front lot line shall be the frontage having the least dimension.

**Lot Line, Rear:** The rear lot line is the lot line most nearly parallel to and most remote from the front lot line.

**Lot Line, Side:** Any lot line other than front or rear lot line. A corner side lot line separating a lot from a street is called a street side lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

**Lot of Record:** An area of land designated as a lot on a plat of subdivision recorded with the County Recorder of Deeds in accordance with State law.

**Lot, Through:** A lot having a part of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

**Lot Width:** The mean horizontal width of the lot measured at right angle to the general direction of the side lot lines.

**Maintenance Bond:** A surety bond, posted by the developer and approved by the City, guaranteeing the satisfactory condition of installed improvements for the one-year period following their dedication.

**Master Development Plan:** A combination of maps, drawings, site plans, charts and supportive narrative material that portrays total development to be achieved in the overall project area; which provides sufficient detailed information to both illustrate and describe the intended character and configuration of development to be accomplished.

**Metes and Bounds:** A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and description of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

**Minor Subdivision:** The division of any improved or unimproved land into no more than **two (2)** conforming parcels. **(Ord. No. 11-12-01-1)**

**Official Map:** A graphic statement, if any, of the existing and proposed capital improvements planned by the City which require the acquisition of land--such as streets, drainage systems, parks, etc. **(Ord. No. 04-09-07-1)**

**Owner:** A person having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

**Parking Lane:** An auxiliary lane of a street and primarily used for vehicular parking.

**Pedestrian Way:** A right-of-way dedicated to public use which cuts across a block to facilitate safe pedestrian access to adjacent streets and properties.

**Performance Bond:** A surety bond posted by the developer and approved by the City, guaranteeing the installation of required improvements within, or in conjunction with, a subdivision.

**Person:** Any agent, individual, firm, association, partnership, corporation, syndicate or trust.

**Planned Unit Development (PUD):** A planned unit development is a comprehensively planned development containing residential, commercial, industrial, or other land uses on an area of land under continuing unified control. A planned unit development may contain a single type of land use or combination of land uses provided that such development is reviewed, evaluated and approved by the City and satisfies the requirements contained herein.

**Plans:** All of the drawings including plats, cross-sections, profiles, working details and specifications, which the subdivider prepares or has prepared to show the character, extent and details of improvements required in this Code and which plans shall conform to any requirements of the City as to scale and details for submittal to the approval officials of the City for consideration, approval or disapproval. **(Ord. No. 04-09-07-1)**

**Plat, Final:** The final engineering and architectural maps, drawings, and supporting material indicating the subdivider's plan of the subdivision which, if approved, may be filed with the County Recorder of Deeds.

**Plat, Preliminary:** Preliminary engineering and architectural maps, drawings, and supportive material indicating the proposed layout of a subdivision.

**Project Area:** That territory intended to be subdivided or developed, and portrayed and defined in the preliminary and final plats.

**Reserve:** To set aside a parcel of land in anticipation of its acquisition by the City or other appropriate government entity for public purposes.

**Reserve Strip:** A narrow strip of land between a public street and adjacent lots which is designated on a recorded subdivision plat or property deed as land over which vehicular travel is not permitted.

**Re-subdivision:** See Subdivision.

**Retention Area:** An area of land designed to capture water runoff from a developed parcel and release it at a specified rate of flow as determined by engineering studies **(See Section 5-16.4)**.

**Reverse Curve:** A curve in a street heading in approximately the opposite direction from the curve immediately preceding it so as to form an S-shape.

**Right-of-Way, Public:** A strip of land which the owner/subdivider has dedicated to the City or other appropriate government entity for streets, alleys, and other public improvements; sometimes abbreviated as r.o.w.

**Roadbed:** The graded portion of a street upon which the base course, surface course, shoulders and median are constructed.

**Roadway:** The entire improved portion of the street, including shoulders, parking lanes, travel way, curbs and gutter.

**Setback Line:** A line that is usually parallel to the front, side or rear lot line establishing the minimum space to be provided as the front, side or rear yard.

**Sidewalk:** A pedestrian way constructed in compliance with the standards of this Code, generally abutting or near the curb line of the street.

**Slope:** The degree of inclination of site or right-of-way expressed as a percentage. Synonym for "grade."

**Soil and Water Conservation District:** The County Soil and Water Conservation District.

**Street:** A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court and similar designations, but excludes an alley or a way for pedestrian or bicycle use only.

**Street, Area Service Highway:** Area service highways interconnect collectors and land access streets with the principal system and vice versa, brings all developed areas within a reasonable distance of principal streets, connects and provides direct access to major traffic generators, provides secondary service to smaller communities, may provide access to abutting property, and have a medium volume design capacity and travel speeds.

**Street, Cul-de-Sac:** A short, land-access street, having only **one (1) end** open for vehicular traffic, and the other permanently terminated by a turn-around for vehicles.

**Street, Dead-End:** Land access streets similar to cul-de-sacs, except that they provide no turn-around circle at their closed end, and are not permitted in any proposed subdivision.

**Street, Land Access:** Land access streets provide access to abutting properties, have a relatively short travel distance, and have a low volume design capacity and travel speeds.

**Street, Looped:** Land access streets having **two (2) open ends**, each end generally connecting with the same street, no other streets intersecting between its ends, and property fronts on both sides of the street.

**Street, Marginal Access or Service Road:** A land access street parallel and adjacent to area service highways providing access to abutting properties.

**Structure:** Anything constructed or erected which requires permanent or temporary location on or in the ground, or is attached to something having a fixed location on or in the ground. All buildings are structures but not all structures are buildings (e.g., a fence).

**Stub or Butt Street:** A street that is temporarily terminated, but that is planned for future continuation.

**Subdivider:** Any person, firm, partnership, association, corporation, estate or other group or combination acting as a unit, dividing or proposing to divide land in a manner that constitutes a subdivision as defined in this Article.

**Subdivision:** (1) The division of land into two or more lots or parcels for the purpose of either immediate or future sale, rental or building development or use(s) other than agricultural use or production. (2) Establishment or dedication of a public street or alley through a tract of land regardless of size. The term "subdivision" shall also include all re-subdivisions of land or lots.

**Topography:** The relief features or surface configuration of an area of land.

**Travelway:** That portion of a street used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

**Vacate:** To terminate the legal existence of right-of-way or subdivision, and to so note on the final plat recorded with the County Recorder of Deeds.

**Variance, Subdivision:** A relaxation in the strict application of the design and improvement standards set forth in this Code.

**Yard, Front:** A yard extending across the full width of the lot, the depth of which is set forth in the Zoning Code.

**Yard, Rear:** A yard extending across the full width of the lot between the nearest rear main building and the rear lot lines. The depth of the required rear yard shall be measured horizontally from the nearest part of the main building toward the nearest point of the rear lot lines.

**Yard, Side:** A yard between a main building and the side lot line, extending from the front yard or front lot lines, where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

**Zoning Code:** The Zoning Code of the City.

## ARTICLE III - PLATS AND PLANS

### DIVISION I - PRELIMINARY PLATS

**34-3-1 GENERAL PROCEDURE.** Before preparing a proposed plat for an area, the owner, developer, or their representatives should have a pre-application meeting with the City Administrator to determine applicable ordinance regulations and standards which must be complied with. After the pre-application meeting(s), the subdivider should then prepare the preliminary plat. As defined in the Subdivision Code, the preliminary plat must contain a substantial amount of data, and will thus be incomplete and cannot be considered as filed until all required data are submitted. The preliminary plat is received with filing fees by the City Clerk's office, who, in turn, will forward the same to the Zoning Board of Appeals for their review. Following its review (as well as comments from other appropriate agencies when required), the Zoning Board of Appeals forwards its recommendation(s) to the City Council, who then either approve, disapprove, or approve with modifications the preliminary plat. **(Ord. No. 05-14-07-3)**

**34-3-2 FILING PROCEDURE.** Except as specifically provided otherwise below, every person who proposes to subdivide any land located within the subdivision jurisdiction of this municipality shall file **six (6) copies** of the preliminary plat of said subdivision with the City Clerk.

He shall also file **one (1) copy** of the preliminary plat and supporting data with the appropriate Soil and Water Conservation District. Said district shall have not more than **thirty (30) days** to submit any comments it might wish to make to the Administrator. **(See 70 ILCS Sec. 405/22.02A)**

Whenever a large tract is to be developed in stages and only a portion of that tract is to be submitted for final plat approval, nonetheless, a Master Development Plan of the entire tract shall be submitted.

All preliminary plats shall be reviewed and acted upon in accordance with **Illinois Compiled Statutes, Chapter 65, Section 5/11-12-8** and the provisions of the subsections below.

**EXCEPTION:** The provision of this section shall not apply to:

- (A) minor subdivisions as defined at Section 34-2-2; or
- (B) land that is specifically exempted from the Illinois Plats Act as now or hereafter amended. **(See 765 ILCS Sec. 205/1(B)).**

**34-3-3 INFORMATION REQUIRED.** Every preliminary plat shall be prepared by an Illinois Registered Land Surveyor at any scale from **one inch equals twenty feet (1" = 20')** through **one inch equals one hundred feet (1" = 100')** provided the resultant drawing does not exceed **thirty-six (36) inches square**.

(A) small key map showing the relation of the proposed subdivision to section or U.S. Survey lines and to platted subdivisions and dedicated roads within **three hundred (300) feet** of the proposed subdivision;

(B) names and addresses of the owner, subdivider (if not the owner), and registered professional engineer;

(C) proposed name of the subdivision;

(D) zoning district classification of the tract to be subdivided, and of the adjacent land;

(E) north arrow, graphic scale, and date of map;

(F) the gross and net acreage area of the proposed subdivision, the acreage of streets, and of any areas reserved for the common use of the property owners within the subdivision and/or for public use;

(G) all lot lines adjacent to and abutting the subdivision;

(H) tract boundary lines showing dimensions, bearings, angles, and references to known land lines;

(I) topography of the tract to be subdivided as indicated by **two- (2) foot** contour data for land having slopes of **zero-four percent (0-4%)**, **five- (5) foot** contour data for land having



slopes between **four-twelve percent (4-12%)**, and **ten- (10) foot** contour data for land having slopes of **twelve percent (12%)** or more;

(J) any proposed alteration, adjustment or change in the elevation or topography of any area;

(K) locations of such features as bodies of water, ponding areas, natural drainageways, railroads, cemeteries, bridges, parks, schools, etc.;

(L) streets and rights-of-way on and adjoining the site of the proposed subdivision; showing the names and including street right-of-way and paving widths; approximate gradients; types and widths of pavement, curbs, sidewalks, crosswalks, planting strips and other pertinent data, including classification of all existing or proposed streets as to function as collector, major, minor or county road;

(M) a copy of the results of any tests made to ascertain subsurface rock and soil conditions and the water table;

(N) locations, widths, and purposes of all existing and proposed easements;

(O) a copy of the description of all proposed deed restrictions and covenants;

(P) location and size of existing and proposed sanitary and storm sewers;

(Q) locations, types, and approximate sizes of all other existing and proposed utilities;

(R) building setback or front yard lines and dimensions;

(S) locations, dimensions, and areas of all parcels to be reserved or dedicated for schools, parks/playgrounds, and other public purposes; and

(T) locations, dimensions, and areas of all proposed or existing lots within the subdivision;

(U) information as defined in Section 34-3-4(A).

**34-3-4 ZONING BOARD OF APPEALS ACTION.** The Zoning Board of Appeals shall either approve or disapprove the application for preliminary plat approval within **sixty (60) days** from the date of said application or the filing of the last item of required supporting data, whichever date is later, unless the Zoning Board of Appeals and the subdivider mutually agree to extend this time limit. If the Zoning Board of Appeals disapproves the preliminary plat, they shall furnish to the applicant within the **sixty (60) day period** a written statement specifying the aspects in which the proposed plat fails to conform to this Code and/or the Official Map. If the Zoning Board of Appeals approved the preliminary plat, they shall inform the City Council that action can be taken at the next regularly scheduled City Council meeting.

(A) **Notice of Meeting.** The Zoning Board of Appeals shall give notice of its consideration of any preliminary plat and allow the opportunity to be heard to the following person(s) or groups during its preliminary review time span:

(1) Any person requesting notification of the meeting.

(2) Any property owner whose property is contiguous to the property, including property across the streets, railroads, creeks, and similar barriers; said information shall be provided by the applicant to the City Clerk's office when filing the plat.

(3) Any governmental or taxing body which requests notification of the meeting.

**34-3-5 REVIEW BY CITY COUNCIL; TIME CONSTRAINTS.** The City Council shall review the preliminary plat, along with the Zoning Board of Appeals recommendations and approve, disapprove or approve subject to certain conditions and/or modifications said preliminary plat within **thirty (30) days** after its next regularly scheduled meeting following receipt of the written Zoning Board of Appeals recommendations, unless variances from Zoning Code requirements are needed, in which case, the City Council's **thirty (30) days** commence the day after the Board of Appeals hearing is held, as required by the Zoning Code.

If the City Council rejects the preliminary plat, their resolution shall specify the aspects in which the plat fails to comply with this Code and/or the Official Map. The City Clerk shall attach a certified copy of the

Council's resolution of approval or disapproval to the preliminary plat. One copy of the resolution and plat shall be retained by the Clerk, one copy shall be filed with the Administrator, and one copy shall be sent to the subdivider by return receipt mail. **(Ord. No. 06-11-07-2)**

**34-3-6            RIGHTS AND PRIVILEGES OF SUBDIVIDER.** Preliminary plat approval shall confer the following rights and privileges upon the subdivider:

(A)            That the preliminary plat will remain in effect for a **one (1) year** period from the day the City Council approves the same. The applicant may, during this period, submit all or part or parts of said preliminary plat for final approval. In the event that the subdivision is being developed in stages, the applicant may, by written mutual agreement with the City Council, have final approval of the last part of the plat delayed for a period not to exceed **five (5) years** from the date of the preliminary plat approval. Any part of a subdivision which is being developed in stages shall contain a tract of land at least **one (1) block** in area or **five (5) gross acres**.

(B)            That the general terms and conditions under which the preliminary plat approval was granted will not be changed for final approval.

(C)            The applicant may also proceed with any detailed improvement plans required for all facilities or utilities intended to be provided. Actual construction of such facilities and improvements may commence prior to final plat approval if the detailed improvement plans have been recommended by the City Engineer and approved by the City Council, provided that such facilities and improvements will be inspected throughout their construction, and final plat approval will be contingent in part upon acceptable compliance to City improvement and facilities standards. If the applicant does not submit the improvement plans prior to the submission of the final plat, then he shall submit the improvement plans to the City Clerk's office at the time that the final plat is submitted.

**34-3-7            RESERVED.**

## **DIVISION II - IMPROVEMENT PLANS**

**34-3-8            SUBMISSION OF PLANS.** After the City Council has approved the preliminary plat, but prior to submission of the final plat, the developer shall furnish **six (6) copies** of the plans and specifications for all improvements to be installed within or in conjunction with the proposed development to the City Clerk, pay all associated filing fees before review by the City Engineer. These plans and specifications shall be signed and sealed by the registered professional engineer responsible for their preparation. Until the City Engineer certifies in writing that the proposed improvements conform to generally accepted engineering practices and to the standards in this Code:

(A)            the Administrator shall not issue any building permit to allow construction of said improvements; and

(B)            the City Council shall not act upon the application for final plat approval.

**34-3-9            INFORMATION REQUIRED.** Improvements plans shall consist of black or blue line prints not larger than **thirty-six (36) inches square**. These plans and the related specifications shall provide all of the following information:

(A)            topography of the tract, both before and after development at the same scale as the approved preliminary plat;

(B)            existing and proposed elevations along the centerline of all streets;

(C)            radii of all curves and lengths of tangents on all streets;

(D)            locations and typical cross-section of street pavements including curbs/gutters, catch basins, and inlets;

(E)            locations and typical cross-section of sidewalks and driveway aprons;

- (F) locations, sizes, and invert elevations of all existing and proposed sanitary sewers, storm sewers, and fire hydrants, showing connections to any existing or proposed utility systems;
- (G) locations and sizes of all water, gas, electric, and other utilities;
- (H) locations of street lighting standards and street signs;
- (I) one or more bench marks, when requested by Engineer, in or near the subdivision, to which the subdivision is referenced; the identity and elevation shall be based on sea level datum;
- (J) all proposed measures to control erosion and sedimentation;
- (K) high water elevations of all lakes/streams adjoining or within the tract;
- (L) such other information as the City Engineer may reasonably require to perform his duties under this section; and
- (M) existing and proposed survey monuments on street plans or on the proposed final plat as required by this Code.

**34-3-10      INSPECTIONS REQUIRED.** The subdivider/developer shall notify the Administrator and the Building Commissioner of both the start and completion of construction.

(A) The City Administrator or his designee shall inspect said improvements while they are under construction. If he or his designated deputy determines that they are being built in violation of this Code, he shall request that the Administrator promptly issue a stop order.

(B) The City Administrator or his designee and City Engineer shall inspect improvements upon their completion. This municipality shall not accept any completed improvement until the City Administrator and Engineer have stated in writing that it complies with this Code.

**(Ord. No. 06-11-07-1)**

**34-3-11      FILING "AS-BUILT" RECORDS.**

(A) The subdivider/developer shall file with the Administrator a set of reproducible cloth- or polyester-base film positive showing the as-built details and any deviations from the approved plans upon the completion of improvements, or when **fifty percent (50%)** of the building permits have been issued in a given plat.

(B) The subdivider/developer shall pay the costs to add water, sewer, street, and stormwater improvements to the overall City map(s); street, sewer, water, stormwater;

(C) If the Administrator finds the as-built to be unacceptable, building permits shall be discontinued until such time as the information is acceptable.

**34-3-12      RESERVED.**

**DIVISION III - ASSURANCE FOR COMPLETION OF REQUIRED IMPROVEMENTS**

**34-3-13      APPROVAL OF FINAL PLAT - IMPROVEMENTS.** The City Council shall not approve any final plat of subdivision (and, hence, said final plat shall not be entitled to recording) until:

(A) all improvements required in the improvements plan have been completed by the subdivider/developer at his expense, inspected by the Building Commissioner and Engineer, and dedicated to this municipality or other appropriate entity; or

(B) in accordance with the subsections below, the subdivider/developer has provided this municipality with legal assurance to guarantee the satisfactory completion and dedication of all required improvements.

**34-3-14      FORMS OF ASSURANCE.** At the option of the City Council, the required legal assurance may be either a performance bond or an escrow deposit. Every performance bond shall be

reviewed by the City Attorney, and posted with the City Clerk. Any funds to be held in escrow shall be deposited with the City Clerk.

**34-3-15      AMOUNT OF BOND OR DEPOSIT.** The amount of the performance bond or escrow deposit shall be equal to the City Engineer's opinion of probable costs of constructing the uncompleted portion of the required improvements plus all required inspection fees. Any escrow deposit may be in the form of:

- (A) cash;
- (B) an irrevocable letter of credit or commitment from a lending institution guaranteeing to this municipality the availability of the escrow funds from time to time upon demand; or
- (C) certificates of deposit, treasury bills, or other readily negotiable instruments approved by the City Clerk, and made payable to this municipality.

**34-3-16      ELIGIBLE SURETIES.** No person shall be eligible to act as surety unless he has been approved by the City Clerk. The Clerk shall conduct or cause to be conducted spot audits of all sureties. Any surety who fails to perform shall be ineligible for **two (2) years** thereafter to act as surety for any subdivision improvement within this municipality's jurisdiction.

**34-3-17      TERM OF ASSURANCE, EXTENSION.** The initial term of any performance bond or escrow agreement shall not exceed **two (2) years**. If all the required improvements have not been completed by the end of the two-year period, the Zoning Board of Appeals, with the advice and consent of the City Council, may either extend said bond/escrow agreement for **one (1) year** only, or may proceed as per **Section 34-3-19. (Ord. No. 06-11-07-2)**

**34-3-18      RELEASE OF BOND/ESCROW DEPOSIT.**

(A) The City Clerk may release up to **ninety percent (90%)** of the amount of the performance bond/escrow deposit upon receipt of written authorization from the City Council. The amount which the City Council authorizes to be released shall be equal to the value of improvements actually completed in accordance with approved plans.

(B) The balance of the amount of the performance bond/escrow deposit shall not be released by the City Clerk until:

- (1) the Zoning Board of Appeals has certified to the Administrator in writing that all required improvements have been satisfactorily completed; and
- (2) said improvements have been accepted by and dedicated to this City or other appropriate entity.

**(Ord. No. 06-11-07-2)**

**34-3-19      FAILURE TO COMPLETE IMPROVEMENTS.** If all the required improvements have not been completed by the end of the two-year period (or three-year period, in the case of an extension), the Administrator, with the assistance of the City Attorney, may:

- (A) require the surety to perform on the bond, and to pay to this municipality an equal amount to the cost of completing the required improvements or the amount of the bond not theretofore released, whichever is less; or
- (B) order the City Clerk to retain all escrow funds needed to complete the required improvements, and to return the balance (if any) of such funds to the subdivider/developer; or
- (C) require the subdivider/developer to submit a new performance bond/escrow deposit in an amount sufficient to cover any increase in the cost of constructing the required improvements.

**34-3-20 - 34-3-21      RESERVED.**

## **DIVISION IV - FINAL PLATS**

**34-3-22      CITY COUNCIL APPROVAL.** The City Council shall not approve any final plat unless they determine that it is in compliance with all pertinent requirements of this Code including those set forth in the subsections below.

**34-3-23      FILING, TIME LIMITS.** The subdivider of every subdivision -- whether major or minor but excluding land specifically exempted from the Illinois Plats Act as now or hereafter amended (**Ill. Comp. Stats., Chap. 765, Sec. 205/1(b)**) -- who desires final plat approval shall file **six (6) copies** of the final plat and supporting data with the City Clerk and pay all associated filing fees not later than **one (1) year** after preliminary plat approval has been granted. However, with the consent of the City Council, the subdivider may delay application for final approval of part(s) of the tract shown on the preliminary plat for successive one-year periods. No subdivision plat or re-plat shall be filed for record or recorded in the office of the County Recorder of Deeds, unless and until the approval of the City is endorsed thereon. No lot shall be sold for such subdivision plat or re-plat until it has been approved by the City Council and filed for record in the office of the County Recorder of Deeds as required by the State Statutes.

For official filings, the subdivider shall file the approved final plat with the County Recorder of Deeds within **sixty (60) days** after the City Council has approved the same and the Mayor has affixed his signature thereto. **One (1) copy** of the final plat shall be given to the City Clerk's office by the subdivider bearing the official stamp of the County Recorder attesting its recording within **twenty (20) days** of such action.

**34-3-24      INFORMATION REQUIRED.** Every final plat shall be prepared by a land surveyor on new linen tracing cloth- or polyester-base film with waterproof black ink at a scale not greater than **one hundred (100) feet equals one (1) inch**, provided that the resultant drawing shall not exceed **thirty-six (36) inches square**. The final plat and supporting data shall portray/provide all of the following information:

- (A) north arrow, graphic scale, and date;
- (B) name of subdivider, subdivision, identification of the portion of the Public Lands Survey in which the subdivision is located;
- (C) accurate metes and bounds or other adequate legal description of the tract, and the included area of the subdivision to the nearest **one-hundredth (1/100) of an acre**;
- (D) accurate boundary lines, with dimensions and bearings or angles which provide a survey of the tract, closing with an error of closure of not more than **one (1) foot in ten thousand (10,000) feet**;
- (E) all dimensions shall be shown in feet and decimals of a foot;
- (F) reference to recorded plats of adjoining platted land within **three hundred (300) feet**, by record name, plat book, and page number;
- (G) accurate locations of all existing streets intersecting the boundaries of the subdivision;
- (H) right-of-way lines of all streets, other rights-of-way, easements, and lot lines with accurate dimensions, angles, or bearings and curve data, including radii, arcs or chords, points of tangency, and central angles;
- (I) name and right-of-way width of every proposed street;
- (J) purpose of any existing or proposed easement(s);
- (K) number of each lot, lot dimensions, and (in a separate list) lot areas;
- (L) purpose(s) for which sites, other than private lots, are reserved;
- (M) building or setback lines with accurate dimensions;
- (N) restrictions of all types which will run with the land, and become covenants in the deeds of lots;
- (O) certification of dedication of all public areas;

(P) accurate distances and directions to the nearest established official monument; reference corners shall be accurately described on the final plat;

(Q) reference to known and permanent monuments and bench marks from which future surveys may be made together with elevations of any bench marks; and the Surveyor must, at the time of making his survey, establish permanent monuments (set in such a manner that they will not be moved by frost) which mark the external boundaries of the tract to be divided or subdivided and must designate upon the plat the locations where they may be found;

(R) location, type, material and size of all monuments and lot markers.

**34-3-25 CERTIFICATES REQUIRED.** As required by State law (**Ill. Comp. Stats., Chap. 765, Sec. 205/2; Chap. 65, Sec. 5/11-12-8**), the following certificates shall be executed on the final plat:

(A)

**OWNER'S CERTIFICATE**

We, \_\_\_\_\_, the Owners of \_\_\_\_\_ (description) \_\_\_\_\_, have caused the said tract to be surveyed and subdivided in the manner shown, and said subdivision is to be hereinafter known as \_\_\_\_\_. All rights-of-way and easements shown hereon are hereby dedicated to the use of the public forever including the release and waiver of the right of homestead under the Homestead Exemption laws of the State of Illinois.

Dated this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_ (Seal)

\_\_\_\_\_ (Seal)

(B)

**NOTARY PUBLIC'S CERTIFICATE**

State of Illinois            )  
                                      ) SS  
County of Macon         )

I, \_\_\_\_\_, a Notary Public in and for the County aforesaid, do hereby certify that \_\_\_\_\_ (owners) are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and that they appeared before me this day in person and acknowledged that they signed and sealed the same as their free and voluntary act for the uses and purposes therein set forth, including the release of waiver of the right of homestead.

Given under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public

(C)

**SURVEYOR'S CERTIFICATE**

I, \_\_\_\_\_, an Illinois Registered Land Surveyor, do hereby certify that this plat is a correct representation of a survey made under my direct supervision at the request of \_\_\_\_\_ for the purpose of subdividing the tract into lots as shown.

\_\_\_\_\_  
Land Surveyor

\_\_\_\_\_  
Illinois Registration Number

\_\_\_\_\_  
Date

(D)

**COUNTY CLERK'S CERTIFICATE**

I, \_\_\_\_\_, County Clerk of Macon County, Illinois, do hereby certify that I find no unpaid or forfeited taxes against any of the real estate included within this plat.

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Date

(E)

**CERTIFICATE OF CITY COUNCIL**

I, \_\_\_\_\_, Mayor of the City, do hereby certify that the plat shown herein was duly presented to the City Council and approved at a meeting of same held on \_\_\_\_ (date) \_\_\_\_.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

(F)

**FLOOD HAZARD CERTIFICATE**

We, the undersigned, do hereby certify that no part of this plat to be recorded, is situated within **five hundred (500) feet** of any surface drain or watercourse serving a tributary area of **six hundred forty (640) acres** or more, or, if this plat is within **five hundred (500) feet** of any surface drain or watercourse, we hereby certify that this plat has been reviewed by the Illinois Department of Transportation Division of Water Resources and their report is on file with the County Recorder of Deeds.

By: \_\_\_\_\_  
Owner(s)

By: \_\_\_\_\_  
Illinois Land Surveyor

\_\_\_\_\_  
Registration Number

\_\_\_\_\_  
Date

**34-3-26      ADMINISTRATIVE REVIEW, ADVISORY REPORT.** Within **thirty (30) days** from the date of application for Final Plat approval, the City and the Administrator shall review said Final Plat (and supporting data), and shall each advise the City Council in writing whether it substantially conforms to the approved preliminary plat and improvement plans. A copy of their Advisory Report shall be forwarded to the Zoning Board. The Zoning Board may prepare an addendum to said report (should they so desire), and forward same to the City Council. **(Ord. No. 06-11-07-2)**

**34-3-27      ACTION BY CITY COUNCIL.** The City Council shall either approve or disapprove the application for Final Plat approval by resolution within **sixty (60) days** from the date of said application or the filing of the last item of required supporting data, whichever date is later, unless the Council and the subdivider mutually agree to extend this time limit. The City Council shall not approve any Final Plat unless:

- (A) the final plat substantially conforms to the approved preliminary plat; and
- (B) the final plat manifests substantial compliance with the design and improvements standards of this Code, Zoning Code, and the Official Map; and
- (C) to the Council's knowledge and belief, the final plat complies with all pertinent requirements of State law; and
- (D) either of the following has been met:
  - (1) all required improvements have been completed, inspected, accepted, and dedicated; or
  - (2) the subdivider/developer has posted a performance bond or deposited funds in escrow to guarantee the satisfactory completion and dedication of all required improvements.

If the City Council disapproves the Final Plat, their resolution shall specify the aspects in which the Plat fails to meet the above conditions for approval.

The City Clerk shall attach a certified copy of the Council's resolution of approval or disapproval to the Final Plat. One copy of the resolution and plat shall be retained by the Clerk, one copy shall be filed with the Administrator, and one copy shall be given to the subdivider.

**34-3-28      CHANGES IN APPROVED FINAL PLATS.** Once a Final Plat is approved by the City Council, it shall not thereafter be modified; provided, however, that minor changes may be made upon written application to the Administrator. Major changes require the filing of a new Final Plat and complete re-review.

**34-3-29 - 34-3-34      RESERVED.**

## **DIVISION V - MAINTENANCE OF IMPROVEMENTS**

**34-3-35      SUBDIVIDER'S RESPONSIBILITIES.** The subdivider/developer shall maintain all the improvements in the subdivision until they have been accepted by and dedicated to the City or other appropriate entity.

**34-3-36      MAINTENANCE BOND.** Prior to dedication, the subdivider/developer shall post a maintenance bond with the City Clerk in the form approved by the City Attorney. Said bond shall be in the amount determined by the City Administrator to be sufficient to guarantee the satisfactory condition of the required improvements for a period of **one (1) year** from the date of their acceptance and dedication. If at any time during the one-year period the improvements are found to be defective, they shall be repaired/replaced at the subdivider/developer's expense. If the subdivider/developer fails or refuses to pay such costs within **ninety (90) days** after demand is made upon him by the City Administrator, the City shall



use the maintenance bond to make the necessary repairs/replacement. If the cost of repairs/replacement exceeds the bond amount, the subdivider/developer shall be liable for the excess. At the end of the one-year period, the maintenance bond shall be released. **(Ord. No. 06-11-07-2)**

## **DIVISION VI - VACATION OF PLATS**

**34-3-37      VACATION OF PLATS.** In accordance with State law (**Ill. Comp. Stats., Chap. 765, Secs. 205/6, 205/7, and 205/8**), any plat or part thereof may be vacated by the owner of the tract, at any time before the sale of any lot therein, by a written vacation instrument to which a copy of the plat is attached. If there are public service facilities in any street, other public way, or easement shown on said plat, the instrument shall reserve to the City or other public entity or public utility owning such facilities the property, rights-of-way, and easements necessary for continuing public service by means of those facilities and for maintaining or reconstructing the same. The vacation instrument shall be approved by the Council in the same manner as plats of subdivision and shall also be approved by the County Superintendent of Highways, the Highway Commissioner of the appropriate township, the District Engineer of the State Department of Transportation, and the public utilities. In the case of the platted tracts wherein any lots have been sold, the written vacation instrument must also be signed by all the owners of lots in said tracts.

## ARTICLE IV - ADMINISTRATIVE PROCEDURES

**34-4-1      ENFORCEMENT OFFICER, DUTIES.** The Enforcement Officer, referred to herein as the Administrator, is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties.

- (A) to review and forward preliminary plats to the **Zoning Board (See Art. III; Div. I);**
  - (B) to transmit improvements plans to the City Engineer for his review **(See Art. III; Div. II);**
  - (C) to review and forward final plats to the City Council **(See Sec. 34-3-23);**
  - (D) to issue stop orders as necessary when the City Administrator or City Engineer determines that approved improvements are being constructed in violation of this Code **(See Sec. 34-3-10);**
  - (E) to pursue actions authorized at **Section 34-3-19** when a developer fails to complete required improvements;
  - (F) to evaluate and pass upon proposed changes in approved final plats **(See Sec. 34-3-28);**
  - (G) to review and forward applications for subdivision variances to the Plan Commission **(See Sec. 34-4-2);**
  - (H) to maintain up-to-date records of matters pertaining to this Code including, but not limited to, preliminary plats, as-built records of completed improvements **(See Sec. 34-3-11)**, final plats, variances, and amendments; and
  - (I) to provide information to subdividers/developers and to the general public on matters related to this Code.
- (Ord. No. 06-11-07-2)**

**34-4-2      SUBDIVISION VARIANCES.** Any subdivider/developer desiring a variance from the requirements of this Code shall file a written application therefor with the Administrator at the same time that he files his preliminary plat. The application shall fully explain the grounds for the variance request, and specify the section(s) of this Code which, if strictly applied, would cause great practical difficulties or hardship. The Administrator shall prepare an advisory report on every variance application and submit it, together with the completed application, to the Zoning Board. **(Ord. No. 06-11-07-2)**

**34-4-3      REVIEW BY ZONING BOARD OF APPEALS.** The Zoning Board shall review the variance application and the Administrator's comments, perform on-site review when appropriate, and submit their advisory report to the City Council together with their recommendation on preliminary plat approval **(See Sec. 34-3-2)**. The Zoning Board's advisory report shall be responsive to all the variances standards set forth in **Section 34-4-4**. **(Ord. No. 06-11-07-2)**

**34-4-4      ACTION BY CITY COUNCIL, VARIANCE STANDARDS.** At the same meeting at which they take action on the application for preliminary plat **approval (See Sec. 34-3-3)**, the City Council shall decide by resolution whether to grant or deny the requested subdivision variance. A copy of their decision, clearly stating their reasons therefor and the exact terms of any variance granted, shall be attached to both the preliminary and final plats. The City Council shall not grant any subdivision variance unless, based upon the information presented to them, they determine that:

- (A) the proposed variance is consistent with the general purposes of this Code **(See Sec. 34-1-1);** and
- (B) strict application of the subdivision requirements **(See Article V)** would result in great practical difficulties or hardship to the applicant, not a mere inconvenience; and
- (C) the proposed variance is the minimum deviation from the subdivision requirements that will alleviate the difficulties/hardship; and

- (D) the plight of the applicant is due to peculiar circumstances not of his own making;
- and
- (E) the peculiar circumstances creating the variance request are not applicable to other tracts and, therefore, that a variance would be a more appropriate remedy than a code amendment; and
- (F) the variance, if granted, will not materially frustrate implementation of the municipal comprehensive plan including the Official Map.

**34-4-5** **AMENDMENTS.** Amendments to this Code may be proposed by the Administrator, any member of the City Council, any Zoning Board member, or any party in interest. Every amendment proposal shall be filed on a prescribed form in the Administrator's office. The Administrator shall promptly transmit each proposal, together with any comments or recommendations he may wish to make, to the Zoning Board for a public hearing.

(A) **Public Hearing, Notice.** The Zoning Board shall hold a public hearing on every amendment proposal within a reasonable time after said proposal is submitted to them. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing by publication in a newspaper of general circulation within this municipality.

(B) **Advisory Report, Action By City Council.** Within a reasonable time after the public hearing, the Zoning Board shall submit an advisory report to the City Council. The City Council shall act on the proposed amendment at their next regularly scheduled meeting following submission of this report. Without another public hearing, the City Council may either pass or reject the proposed amendment or may refer it back to the Zoning Board for further consideration. **(Ord. No. 06-11-07-2)**

**34-4-6** **SCHEDULE OF FEES.**

(A) The review for the preliminary plat shall be **One Hundred Dollars (\$100.00)**.

(B) The final plat fee shall be no charge if no variation from the preliminary plat, otherwise **One Hundred Dollars (\$100.00)**, whenever Zoning Board review is required.

(C) Improvement Plan review and inspection fee shall be **one hundred percent (100%)** of the total opinion of probable cost for all improvements as determined by the City Engineer or by the total of all certified contracts for all work related to improvements.

**(Ord. No. 06-11-07-2)**

**34-4-7** **FEES: TIME OF PAYMENT.** All fees listed in **Section 34-4-6** shall be paid by the subdivider/developer or the applicant to the City Clerk's office at the time of submission of documents.

## ARTICLE V - DESIGN AND IMPROVEMENT STANDARDS

### DIVISION I - GENERALLY

**34-5-1      APPLICABILITY OF ARTICLE.** No land within the subdivision and development jurisdiction of this municipality shall be subdivided or developed except in compliance with the regulations of this Article and the applicable provisions of State law. **(See Ill. Comp. Stats., Chap. 65, Sec. 5/11-12-8; Chap. 765, Secs. 205/1 et seq.)** No lot in any subdivision shall be conveyed until:

(A)                the final plat of said subdivision has been approved by the City Council and recorded in the office of the County Recorder of Deeds; and

(B)                the portion of said subdivision in which the lot is located has been improved in accordance with the requirements of this Article or until a performance bond or other security has been posted to assure the completion of such improvements.

(C)                The City Administrator shall not issue a building permit for any lot conveyed in violation of this section.

**(Ord. No. 06-11-07-2)**

**34-5-2      SUITABILITY FOR DEVELOPMENT GENERALLY.** Land that is unsuitable for development due to flooding, poor drainage, rough topography, adverse soil conditions, or other features which will be harmful to the health, safety, and general welfare of the inhabitants of the development and/or its surrounding areas shall not be subdivided or developed unless the subdivider/developer formulates adequate plans/methods to solve the problems caused by the adverse land conditions.

**34-5-3      RESERVED.**

### DIVISION II - LOT REQUIREMENTS

**34-5-4      CONFORMITY WITH ZONING.** All lots in a subdivision shall conform to the minimum lot area and dimensions requirements of the zoning district in which said subdivision is located; land that is under water or reserved for street improvements shall not be counted to satisfy these minimum requirements. Every corner and through lot shall be large enough to permit compliance with the district's front setback requirements on every side of the lot that faces a street. All lot remnants shall be added to adjacent lots to avoid the creation of unbuildable parcels. All lots shall contain adequate space for required off-street parking and loading.

**34-5-5      ACCESS AND RELATIONSHIP TO STREET.** Land shall be subdivided in such a way that each lot abuts a street meeting the requirements of **Section 34-5-7**. All side lot lines shall be at right angles to straight street right-of-way lines or radial to curved street right-of-way lines except where a deviation from this rule will provide a better street and lot design.

**34-5-6      REFERENCE MONUMENTS.** Stone or reinforced concrete reference monuments, set in the ground in such a manner that they will not be moved by frost, shall be placed in the field in accordance with the Plats Act, as now or hereafter amended. **(Ill. Comp. Stats., Chap. 765, Sec. 205/1.)** All lot corners shall be marked by **one-half (0.5) inch** iron pins not less than **twenty-four (24) inches** long. These pins shall be driven into the ground deep enough that they do not protrude above the ground surface more than **one-half (0.5) inch**.

### **DIVISION III - STREET DESIGN STANDARDS**

**34-5-7      PLAN INTEGRATION.** All streets shall be properly integrated with the existing and proposed street system indicated in the municipal comprehensive plan, if any, and shall meet the specifications set forth in **Table 5-A. (Ord. No. 06-11-07-2)**

**34-5-8      RIGHT-OF-WAY AND PAVEMENT WIDTHS.** Every right-of-way established for subdivision purposes is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. All rights-of-way shall be dedicated to the public by the developer.

The minimum pavement widths shall be as noted in **Table 5-A – Street Design Specifications** as revised. **(Ord. No. 11-02-01-1)**

**34-5-9      TOPOGRAPHICAL CONSIDERATIONS.** Grades of street shall conform as closely as possible to the natural topography, but shall not exceed the maximum grade nor be less than the minimum grade indicated in the Table of Street Design Specifications. All streets shall be arranged so that as many as possible of the building sites are at or above street grade.

**34-5-10      THROUGH TRAFFIC DISCOURAGED.** Marginal access and local streets shall be laid out so as to discourage use by through traffic. The rigid rectangular gridiron street pattern shall be avoided, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged to effect a more desirable street layout.

**34-5-11      LIMITED ACCESS TO ARTERIALS.** Where a development abuts or contains an existing or proposed arterial street, the Zoning Board may recommend to the City Council that access to said arterial street be limited by one of the following means:

(A) by subdividing lots so they back onto the arterial street and front onto a parallel local street (double frontage lots), coupled with the installation of screening in a reserve (access-restricting) strip along the rear lot lines of such lots;

(B) a series of cul-de-sacs, U-shaped streets, or short loops entered from and generally at right angles to the arterial street, with the rear lot lines of the lots at the termini of such streets backing onto the arterial street; or

(C) a frontage road separated from the arterial street by a planting strip, but having access thereto at suitable points.

**(Ord. No. 06-11-07-2)**

**34-5-12      DEAD-END STREETS.**

(A) **Temporary Stub Streets.** Streets shall be so arranged to provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire and police protection, and efficient provision of utilities, and where such continuation comports with the City's Official Map. If the adjacent property is undeveloped and the street must dead-end temporarily, the right-of-way shall be extended to the property line, and no strip that would prevent connections with future streets shall be reserved. A temporary turnabout shall be provided at the terminus of any temporary dead-end street.

(B) **Permanent Dead-End Streets.** For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited to **five hundred (500) feet** in length.

The terminus of a permanent dead-end street shall not be closer than **fifty (50) feet** to the boundary of an adjacent tract. A cul-de-sac turnaround, having a minimum right-of-way radius of **fifty (50) feet** and a minimum pavement radius of **forty-two (42) feet**, shall be provided at the end of every permanent dead-end street.

**34-5-13      INTERSECTIONS.**

(A) **Only Two Streets.** Not more than **two (2) streets** shall intersect at any one point.  
(B) **Right Angles.** Streets shall be laid out so as to intersect as nearly as possible at right angles; in no case shall **two (2) streets** intersect at an angle of less than **seventy-five (75) degrees**. An oblique street shall be curved approaching an intersection and shall be approximately at right angles with said intersection for at least **one hundred (100) feet** therefrom.

(C) **Proper Alignment.** Proposed new intersections along one side of an existing street shall, whenever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than **one hundred twenty-five (125') feet** shall not be permitted, except where the intersected street has divided lanes without median breaks at either intersection. Intersections involving collector or arterial streets shall be at least **eight hundred (800) feet** apart.

(D) **Curb Radii.** To permit safe vehicular movements at corners, the minimum curb radius at the intersection of two streets shall be **twenty (20) feet**, and the minimum radius at the back of the curb shall be **thirty-two (32) feet**.

(E) **Flat Grade.** Intersections shall be designed with a flat grade wherever practical. In hilly terrain, an area having not greater than a **three percent (3%)** slope for a distance of **fifty (50) feet** from the nearest right-of-way line of the intersecting street shall be provided at the approach to an intersection.

(F) **Maximum Cross-Slope.** The cross-slopes on all streets, including intersections, shall not exceed **three percent (3%)**.

(G) **Adequate Sight-Lines.** Where any street intersection will involve earth banks or existing vegetation on the triangular area shown in **Figure 1**, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent necessary to provide an adequate sight distance.

**34-5-14      REVERSE CURVES.** A tangent at least **one hundred (100) feet** long shall be introduced between reverse curves on local collector and collector streets (**see Figure 2**).

**34-5-15      IMPROVEMENTS TO EXISTING STREETS.** Whenever any development abuts an existing street that is narrower than the standards indicated in the Table of Street Design Specifications, the subdivider shall dedicate sufficient right-of-way on the side abutting the development to permit compliance with those standards. The developer shall improve said street to the standards imposed at **Section 34-5-21** et seq., and pay one-half the cost of said improvements.

**34-5-16      WHEN EXCESS RIGHT-OF-WAY REQUIRED.** Right-of-way width in excess of the standards set forth in the Table of Street Design Specifications shall be required where:

(A) due to topography, additional width is necessary to provide adequate earth slopes;  
or

(B) due to the location of railroad tracks, additional width is needed to construct overpasses, underpasses, and approaches thereto.

**34-5-17 - 34-5-19      RESERVED.**

## DIVISION IV - STREET IMPROVEMENT STANDARDS

**34-5-20 STREET REQUIREMENTS.** All streets and alleys shall be improved solely at the expense of the developer in accordance with the requirements set forth herein. Typical roadway and pavement sections are shown in **Appendix A**. Requirements for pavement materials, equipment, and methods of construction for bituminous concrete (flexible) pavements and Portland cement concrete (rigid) pavements are contained in **Table 5-B** (revised **November 12, 2001**). Existing streets that adjoin the development on one side only will be improved to meet the current street standards, and this cost will be shared equally between the City and the developer. Existing streets that join the development on both sides shall be improved at the developer's expense. The extent of the improvement of existing streets will be determined by the City and the developer during improvement plan approval process. All streets shall meet IDOT Roads and Bridges Standard Specifications. (**Ord. No. 11-12-01-1**)

**34-5-21 PAVEMENT STRUCTURE.** All streets and alleys shall be paved across the entire surface width specified in **Section 34-5-8**. The structural composition of the pavement shall conform to the minimum requirements set forth in **Table 5-B**. Design requirements for both rigid and flexible pavements are set forth hereinafter.

(A) **Flexible Pavements.** Flexible pavements are to be constructed as multi-layered structures combining hot mix bituminous concrete/bituminous base/crushed stone base/subbase. Each layer of material is to be constructed in lifts not to exceed the maximum lift thickness (compacted) specified in **Table 5-B**. The minimum width of any single pass for any lift/layer of bituminous mixture shall be **ten (10) feet**. There are alternate designs for either deep-strength asphalt or bituminous concrete on a crushed stone base/subbase.

(B) **Rigid Pavements.** Rigid pavements are specified as either reinforced or non-reinforced Portland cement concrete to be constructed either on the earth subgrade or on a crushed stone subbase or underlayment. Alternate designs are shown for two of the seven street classifications. The underlayment is to be **one-fourth (1/4) inch** thick fabric such as "Bidim" or "Petromat," or equal.

- (1) Contraction joints are to be provided at the spacings shown in **Table 5-B** for each of the various alternates. These transverse joints are to be sawed joints that are **one-eighth inch (1/8")** to **one-fourth inch (1/4")** wide with a depth equal to **one-fourth (1/4)** of the pavement thickness. Sawed construction joints are to be sawed within **twenty-four (24) hours** of placement on the concrete. All contraction joints are to be dowelled with the exception of the alleys and land access residential streets. Dowel sizes and spacing shall comply with the following requirements:

Min. Pavement Thickness	Min. Dowel Diameter	Min. Dowel Length	Min. Dowel Spacing
6"	5/8"	12"	12"
7"	3/4"	15"	15"
8"	1"	15"	12"

- (2) The dowel units are to be smooth, plain round bars placed at mid-height of the pavement with an expansion cap on one end. The bars, or assemblies, shall be placed so that the bars are parallel to the centerline and to the pavement surface and shall be treated to prevent bonding of the concrete. Longitudinal joints shall be constructed no closer than **eight (8) feet** and no farther apart than **fifteen (15) feet**. The longitudinal joints may be either "construction" joints or "sawed" joints. In either case, there shall be transverse #4 reformed tie bars, **thirty (30) inches** long, spaced at

**thirty (30) inch** centers along all longitudinal joints. This includes the joint between the pavement and curb/gutter if the curb/gutter is not constructed integral with the pavement. As an option to tie bars, either a half-round or trapezoidal preformed keyway meeting the following dimensions may be used on longitudinal joints excluding the gutter joint:

<u>Pavement Thickness</u>	<u>Half-Round Diameter</u>	<u>Trapezoidal</u>		
		<u>Edge Ht.</u>	<u>Depth</u>	<u>Inside Ht.</u>
6"	2"	2"	1"	1"
7"	2"	2"	1"	1"
8"	2"	2"	1"	1"

Sawed longitudinal joints shall be sawed within **ten (10) days** of concrete placement and prior to any traffic or vehicles traveling on the surface.

- (3) Transverse Construction Joints shall be constructed at the end of each day's run or at locations where a "cold" joint will occur due to a delay or interruption in placement operations. All transverse construction joints shall be "tied" with #4 reformed bars, **thirty-six (36) inches** long, spaced at **twelve (12) inch** centers. Construction joints must be at least **five (5) feet** from a contraction joint.
- (4) Pavement Reinforcement shall be used in all rigid pavements designated as S.R.P.C.C. in Table 5-B. Reinforcement shall be welded wire fabric (**6" X 12"**) with W 4 wire transversely and W 5.5 wire longitudinally weighing approximately **54 lbs. per 100 sq. ft.** The fabric shall be lapped **twelve (12) inches** on transverse laps and **six (6) inches** on longitudinal laps. Reinforcement shall be placed on the subgrade and supported by proper chairs and spacers, prior to paving, at the heights specified below:

<u>Pavement Thickness</u>	<u>Depth Below Pavement Surface</u>
6"	2" min. 3" max.
7"	2 " min. 3" max.
8"	3" min. 4" max.

Should the City Administrator and/or City Engineer or the developer's engineer determine that the minimal standards are not adequate for a given condition (i.e., traffic volume, size of loads, subgrade support, drainage, etc.), the required pavement design shall be determined by the subdivider's engineer on the basis of current pavement design procedures subject to the approval of the City Administrator and/or City Engineer.

**(Ord. No. 06-11-07-02)**

**34-5-22 CURB AND GUTTER.** All streets, except alleys shall be constructed with vertical curbs and gutters and/or V-type gutters made with concrete utilizing Portland cement and constructed in accordance with the dimensions and specifications shown in the Appendices. Only vertical curb and gutter shall be constructed in Industrial Streets. The materials and construction methods for curb and/or gutter shall conform with IDOT Roads and Bridges Standard Specifications.

Curb and/or gutter may be constructed either integrally or separately in conjunction with Portland cement concrete pavement. If constructed separately, the gutter flag shall be "tied" to P.C.C. pavement with **thirty (30) inch** long #4 reinforcing bars spaced at **thirty (30) inch** centers. **(Ord. No. 11-12-01-01)**



**34-5-23      MAINTENANCE RESPONSIBILITY.** Subsequent to completion of street construction by the subdivider, the City Engineer shall make a final inspection of all streets to ascertain the acceptability of structural condition, earth slopes, drainage structures, etc. If said inspection indicates no deficient items, the City shall take formal action to accept the completed streets for maintenance based upon the Engineer's recommendation.

Should any item need correction or repair, the subdivider will be notified in writing of each deficiency. No street(s) will be accepted in a subdivision until all streets comply with the City's requirements to the satisfaction of the City Engineer. In addition, the developer will be required to provide a guarantee in the form of a Surety Bond in the amount of **Ten Thousand Dollars (\$10,000)** for a period of **three (3) years**.

**34-5-24      RESERVED.**

## **DIVISION V - BLOCKS**

**34-5-25      BLOCK WIDTH.** Blocks shall be sufficiently wide to accommodate **two (2) tiers** of lots having the minimum depth required by the zoning district regulations; provided, that this requirement may be waived in blocks adjacent to local collector or collector streets, railroads, or watercourses.

**34-5-26      BLOCK LENGTH.** No block shall be longer than **one thousand four hundred (1,400) feet** nor shorter than **five hundred (500) feet**. Wherever practicable, blocks along collector streets shall not be less than **one thousand (1,000) feet** in length.

**34-5-27      CROSSWALKS.** Crosswalks, not less than **ten (10) feet** wide, may be required through the center of blocks more than **one thousand (1,000) feet** long where necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities.

**34-5-28      RESERVED.**

## **DIVISION VI - SIDEWALKS**

**34-5-29      REQUIRED.** Sidewalks shall be required:  
(A) on the recommendation of the Zoning Board that, sidewalks are needed to ensure public safety;  
(B) along collector streets, near schools, and in shopping areas and similar public places.

These requirements shall not be waived unless the Zoning Board advises the City Council that, in the area in question, sidewalks are not needed to ensure public safety, and/or that topographical conditions make the installation of sidewalks impractical.

All sidewalks constructed within the municipality shall meet IDOT Roads and Bridges Standard Specifications. (**Ord. No. 06-07-11-02**)

**34-5-30      SIDEWALK CONSTRUCTION STANDARDS.**  
(A) **Relationship to Curb.** The street-side edge of every sidewalk shall either abut the curb or be located at least **six (6) feet** from the curb to allow sufficient space for tree planting.  
(B) **Width.** Residential sidewalks shall be at least **four (4) feet** wide. Non-residential sidewalks shall be at least **five (5) feet** wide.

(C) **Thickness of Concrete.** All sidewalks shall be constructed of concrete at least **four (4) inches** thick, except that across driveways the thickness shall be increased to **six (6) inches** and/or number **six (6)** reinforcing mesh shall be used.

(D) **Grade.** No sidewalk shall be constructed at a grade steeper than **six percent (6%)**.

(E) **Ramps at Intersections.** When sidewalks are required curbs shall be cut and sidewalks shall be ramped at all intersections so as to enhance the mobility of handicapped individuals.

**34-5-31      RESERVED.**

## **DIVISION VII - STREETLIGHTS**

**34-5-32      INTERSECTION LIGHTING.** Streetlights shall be provided at each intersection of streets (or alleys) within a subdivision and at each cul-de-sac, but in no event shall there be less than one streetlight per **four hundred (400) feet** (or portion thereof) of street frontage between intersections, or between a street intersection and the terminus of a dead-end street. Additionally, in multi-family dwelling subdivisions, lighting shall be provided within parking areas at a minimum rate of one light per **twenty-five (25) parking spaces** or any fraction thereof.

**34-5-33      STREETLIGHT SYSTEM STANDARDS.** The design and installation of the streetlight system in every subdivision shall be reviewed by the Zoning Board and the appropriate electric utility company.

The lighting intensity of each streetlight shall be equivalent, at a minimum, to a **175 watt lamp** or **6800 mercury luminary lamp**. Each streetlight standard (post) shall be at least **sixteen (16) feet** high. **(Ord. No. 06-11-0-2)**

**34-5-34      RESERVED.**

## **DIVISION VIII - STREET NAME SIGNS**

**34-5-35      SPECIFICATIONS.** Street name signs of the size, height, and type approved by Zoning Board shall be supplied and placed by the developer at all intersections within or abutting any subdivision. Street names shall be sufficiently different in sound and spelling from other street names in this municipality so as to avoid confusion. The City Clerk shall maintain a list of existing street names for reference. A street which is planned as a continuation of an existing street shall bear the same name. **(Ord. No. 06-11-07-2)**

**34-5-36      RESERVED.**

## **DIVISION IX - UTILITIES**

**34-5-37      UTILITY LOCATION AND EASEMENTS REQUIRED.** At locations within the subdivision where utilities and drainage facilities are not to be constructed within public rights-of-way, the subdivider shall make provision for easements for such installations. Preliminary plats shall be submitted to the electric, gas, and telephone companies for their input regarding utility easements.

**34-5-38      UTILITY EASEMENTS.** Utility easements, not less than **twenty (20) feet** wide for sanitary sewers and water mains and not less than **fifteen (15) feet** wide for gas, electric, telephone, and cable television, shall be provided where necessary. Normally, in the case of abutting lots, an equal amount should be taken from each lot. Property owners may (at their own risk) plant shrubbery or hedges or install fences on the easement areas. Utilities (private and public), however, in order to have access for repair shall have the election to destroy said improvements and restore the area only by grading and seeding, or to have alternate access through the owner's property.

**34-5-39      DRAINAGE EASEMENTS.** Adequate easements for storm water drainage shall be established along any natural drainage channel and in such other locations as may be necessary to provide satisfactory disposal of storm water from streets, alleys, and all other portions of the subdivision. The location and minimum widths of such easements shall be approved by the City Engineer.

**34-5-40 - 34-5-41      RESERVED.**

#### **DIVISION X - WATER FACILITIES**

**34-5-42      POTABLE WATER REQUIRED.** An adequate supply of potable water shall be provided to every platted lot in accordance with Illinois Department of Public Health regulations. If the public water system is reasonably accessible, each lot shall be properly connected thereto at the property line. All water distribution lines shall be at least **six (6) inches** in diameter. All water and sewer lines shall be constructed as per **Section 38-3-55** of the Revised Code of the City. **(Ord. No. 11-12-01-1)**

**34-5-43      FIRE HYDRANTS.** Fire hydrants of the type approved by the Water and Sewer Superintendent shall be installed in every subdivision as part of the water distribution system. The distance from any lot to a hydrant, measured along the centerline of the public right-of-way, shall not be greater than **four hundred (400) feet**.

**34-5-44      RESERVED.**

#### **DIVISION XI - SANITARY SEWERS**

**34-5-45      COMPLIANCE WITH REGULATIONS.** All proposed sanitary sewer facilities shall comply with the regulations of the Illinois Department of Public Health and the Illinois Environmental Protection Agency, and shall be approved by the City Council. All water and sewer lines shall be constructed as per **Sections 38-3-63** and **38-4-44** of **Chapter 38** of this Code. **(Ord. No. 11-12-01-1)**

**34-5-46      WHEN PUBLIC SYSTEM PLANNED.** In areas where the public sanitary sewerage system is not reasonably accessible but where plans for the installation of said system have been approved by the Illinois Environmental Protection Agency, sanitary sewers shall be provided in accordance with such plans and temporarily capped. To serve the subdivision until the time when connection to the public system becomes practicable, an approved private central sewage disposal system shall be installed, or individual sewage disposal systems may be used.

**34-5-47      ALTERNATE METHODS OF DISPOSAL.** In the event it is not possible, or feasible, for the subdivider to extend the public sewer system into the proposed subdivision, for whatever reason, the subdivider has the right to petition the City to install an alternative method of sewage disposal. Any such petition shall be considered on an individual basis with each case standing on its own merit. No subdivision shall be approved without the City's approval of the method of sewage disposal:

(A)      **Private Central Sewage Systems.** Upon specific approval of the City Council, the subdivider may install a private central sewage system. The City shall reserve the right to review and approve/reject the detailed plans for such a system. Approval of the plans by the City shall in no way be construed as acceptance of the design or operation or maintenance responsibility for said installation. Such installation shall be designed and constructed in accordance with the rules and regulations of the Illinois Environmental Protection Agency, and the Illinois Department of Public Health. The subdivider shall assume perpetual operational and maintenance responsibilities for such installation unless arrangements to the contrary are provided for in a formal written agreement between home owners and the subdivider. Failure of the subdivider to discharge his operational/maintenance responsibilities may result in a fine of **Five Hundred Dollars (\$500)** per day for each day a deficiency exists and shall apply to the subdivider, his heirs, successors, or assigns.

(B)      **Individual Disposal Systems.** Upon written approval of the City Council, the subdivider may install individual sewage disposal systems providing the lot size is in excess of **twenty thousand (20,000) s.f.** If such installations are permitted, they shall be designed and installed in accordance with the applicable provisions of the requirements and regulations of the "**Private Sewage Disposal Licensing Act and Code**" of the Illinois Department of Public Health.

**34-5-48      RESERVED.**

## **DIVISION XII - STORM WATER MANAGEMENT**

**34-5-49      PURPOSE AND INTENT.** It is the policy of the City to protect and promote the public health, safety and general welfare. The criteria for storm water management will reduce the possibility of damage to public and private property, will help minimize erosion, will assist in the attainment and maintenance of water quality standards, and will preserve and enhance the environmental quality of the watercourses in the City. These criteria provide uniform procedures for designing and evaluating the design of storm water management systems.

The Zoning Board shall not recommend the approval of any plat unless, after consultation with the City Engineer, they determine that the proposed provisions for storm water management are adequate. Drainage improvements shall be coordinated with existing and planned improvements elsewhere so as to form an integrated municipal system. The storm water drainage system shall be separate and independent of the sanitary sewer system. (**Ord. No. 06-11-07-02**)

**34-5-50      DEFINITIONS.** The following definitions shall apply to the Storm Water Management Plan:

**"5-Year Storm":** A precipitation event having a **twenty percent (20%)** chance of occurring in any **one (1) calendar year.**

**"100-Year Storm":** A precipitation event having a **one percent (1%)** chance of occurring in any **one (1) calendar year.**

**"Base Flood":** The flood generated by the 100-year storm.

**"Design Storm":** The 100-year storm.

**"Detention Pond":** See **Section 34-5-58.**

**"Emergency Overflow/Spillway":** In a detention/retention pond, a device or devices having at least the capacity for carrying the peak inflow generated by the design storm. Activation of the emergency overflow/spillway occurs only when the excess storm water run-off exceeds the design storage capacity.

**"Excess Storm Water Run-Off":** The different between the storm water run-off from the design storm for the proposed site conditions and the storm water run-off from a 5-year storm for the undeveloped or existing site.

**"Floodplain":** That land area susceptible to being temporarily inundated by floodwater from an adjacent watercourse.

**"Floodway":** The channel of a river or other watercourse that must be reserved for passage of the base flood.

**"Freeboard":** In a detention/retention pond, the vertical distance from the calculated maximum height of the water surface for the design storm to the lowest point of the top of the berm or containment wall.

**"Impervious Area":** An area that will not appreciably absorb water, such as a parking lot, driveway, roof area, sidewalk, etc.

**"Parking Lot Detention":** The use of parking lots for storm water detention. The following restrictions shall apply:

(A) There should be no more than **seven (7) inches** of water depth in remote areas of the parking lot or **four (4) inches** in heavy traffic areas under design storm conditions.

(B) The applicable provisions of other ordinances governing parking lot design and operation must be followed.

**"Retention Pond":** See **Section 34-5-59.**

**"Storm Water Channel":** A natural or man-made open watercourse with definite bed and banks, and which periodically or continuously contains moving water or forms a connecting link between two bodies of water.

**"Storm Water Run-Off":** That fraction of the water resulting from precipitation that flows from a given area of land during and immediately after a rainfall.

**"Storm Water Run-Off Release Rate":** The rate at which storm water run-off is released from dominant to servient land, the discharge rate from detention/retention facilities, or the sum of both types of discharges where applicable.

**(Ord. No. 09-12-2005-1)**

#### **34-5-51      APPLICATION.**

(A) A combination of storage and controlled release of storm water run-off shall be required to be constructed and maintained in the following:

- (1) All residential subdivision developments within the corporate limits or subject to the provisions of the subdivision ordinance of the City.
- (2) Commercial, business, office, and research developments.
- (3) Any planned unit development.

(B) Developments less than **two (2) acres** with a proposed impervious area of less than **thirty percent (30%)**, and developments generating less than **one (1) cubic foot** per second (cfs) per acre of excess storm water run-off, shall not be required to provide detention/retention storage unless such flows will cause damage or exceed the capacity of any downstream drainage facilities within the City.

**(Ord. No. 09-12-2005-1)**

#### **34-5-52      DRAINAGE PLAN DRAWINGS.**

(A) A drainage plan shall be filed with the preliminary plat for residential subdivisions and planned unit developments and shall be filed and approved prior to the issuance of a building permit for commercial, business, office and research developments.

(B) The drainage plan shall include engineering drawings and supporting calculations describing the storm water drainage systems and environmental features for existing and proposed conditions.

(C) The drainage plan shall show or contain the following:

- (1) Topographic survey of the property with contours at a minimum interval of **two (2) feet.**
- (2) Banks and centerlines of streams and channels.

- (3) Shorelines of lakes, ponds and detention/retention basins.
- (4) Locations, sizes, and slopes of farm drains and tiles.
- (5) Sub-watershed boundaries within the property and the property's location within the larger watershed.
- (6) Location, size, and slope of storm water conduits and drainage of water.
- (7) Locations, sizes, and slopes of sanitary sewers.
- (8) Delineation of upstream and downstream drainage features and watersheds which might be affected by the development.
- (9) Detention/Retention areas and facilities.
- (10) Roads, streets, inlets, and storm sewers.
- (11) Detail of how storm water run-off from the design storm that exceeds the capacity of the storm sewer system will be conveyed to detention/retention areas.
- (12) Site plan showing lots, public improvements, drainage easements, and building outlines.
- (13) Base flood elevation and regulatory floodway where identified for the property.
- (14) Drainage certificate signed by an Illinois licensed Professional Engineer and the Owner of the development. The certificate must include language to the effect that the drainage of surface waters will not be adversely affected by this development, or that if change does occur, adequate provision has been made to protect adjoining property owners from damages which might result from such change in drainage.

(D) All computations, plans, and specifications related to the implementation of the drainage plan must be prepared and sealed by an Illinois licensed Professional Engineer.

**(Ord. No. 09-12-2005-1)**

**34-5-53**  
shall be limited to:

- (A) undeveloped sites.
- (B)

**STORM WATER RUN-OFF; RELEASE RATE.** The maximum allowable run-off

The flow that would occur during a 5-year storm under existing conditions for

For developed sites undergoing redevelopment or expansion:

- (1) If **thirty percent (30%)** or more of the impervious area is increased or modified, detention/retention must be provided for the entire site and outflow is not to exceed what would occur for a 5-year storm under pre-developed (natural) conditions. For example, if more than **thirty percent (30%)** of an area that will not appreciably absorb storm water, such as a parking lot or roof area, is increased, then a storm water detention/ retention facility must be provided for the entire site to control and detain the excess storm water run-off so that it will not exceed that of a 5-year storm.
- (2) If less than **thirty percent (30%)** of the impervious area is increased or modified, the outflow shall not exceed what would occur for a 5-year storm under existing (current) conditions, and detention/retention shall be required only for the area that is to be expanded or modified.

(C) Under all circumstances, the storm water run-off release rate from a site shall be limited to such flows as will not cause damage or exceed the capacity of any downstream drainage facilities within the City.

**(Ord. No. 09-12-2005-1)**

**34-5-54** **COLLECTION OF FLOWS.** All flows shall be collected on-site using closed conduits, open channels, or both. Closed conduits shall be a minimum **twelve (12) inch** diameter pipe where access to a storm sewer is available. **(Ord. No. 09-12-2005-1)**

**34-5-55      DESIGN FORMULA.** The Modified Rational Method will be used to compute storm water run-off unless the City Council approves the use of another methodology. **(Ord. No. 09-12-2005-1)**

**34-5-56      MINIMUM OUTLET SIZE.** Where a single pipe outlet or orifice plate is to be used to control excess storm water run-off, it shall have a minimum diameter of **six (6) inches**. If the minimum size permits release rates greater than those specified, alternative outlet designs incorporating self-cleaning flow restrictors shall be used. **(Ord. No. 09-12-2005-1)**

**34-5-57      STORAGE REQUIREMENTS.**  
(A) The design maximum storage to be provided in a detention/retention basin shall be based on the run-off generated by the design storm. Detention storage shall be computed using the Modified Rational Method as outlined in Chapter 12 of the Illinois Department of Transportation's Drainage Manual.  
(B) The applicable regulations of the Illinois Department of Natural Resources and the Federal Emergency Management Agency shall apply to all storage areas located in floodplains.  
**(Ord. No. 09-12-2005-1)**

**34-5-58      DETENTION POND DESIGN CRITERIA.** A detention pond is an area designated to temporarily store excess run-off with no permanent pool. Detention ponds shall incorporate the following design criteria:  
(A) A minimum **two percent (2%)** bottom slope or implementation of a low flow system or under drain.  
(B) A low flow by-pass system wherever feasible.  
(C) Location shall be at least **one (1) foot** from the property line.  
(D) Inner and outer embankment slopes shall have maximum grades of 3:1.  
(E) Freeboard shall be a minimum of **two (2) feet** or **fifty percent (50%)** of the maximum pond depth, whichever is less.  
(F) Energy dissipation and/or erosion control for areas where velocities meet or exceed **six (6) feet** per second.  
(G) An emergency overflow/spillway.  
(H) Landscaping and multiple use shall be considered in all pond designs.  
(I) Subdivision detention ponds shall be incorporated into multiple properties to encourage maintenance or shall incorporate recreational use and be the responsibility of the Home Owner's Association.  
(J) Discharges shall be deposited directly into an approved storm sewer system where available.  
(K) Outfalls to ditches and open channels shall be designed to prevent erosion. If necessary, energy dissipation strategies shall be used to reduce outfall velocities to acceptable levels.  
(L) Detention facilities adjacent to a state highway may use IDOT design standards for storm water run-off release rates for all discharges to the highway drainage system. The developer shall obtain IDOT approval for such discharges, in addition to any approvals required from the City.  
(M) Flows and storm water run-off from upstream areas outside the site should be based on the assumption that such areas are fully developed according to the latest available forecast land use patterns.  
**(Ord. No. 09-12-2005-1)**

**34-5-59      RETENTION POND DESIGN CRITERIA.** A retention pond shall be defined as an area with a permanent pool having sufficient capacity to store excess run-off and shall incorporate the following design criteria:

- (A) Outer embankment slopes shall have a maximum grades of 3:1, and inner embankment slopes to the pool area shall have maximum grades of 5:1.
- (B) Freeboard shall be a minimum of **two (2) feet** or **fifty percent (50%)** of the height from the permanent pool to the maximum water surface for the design storm, whichever is less.
- (C) The inner embankment shall have a shelf area along the sides of a minimum width of **three (3) feet**.
- (D) The permanent pool area shall have a minimum depth of **three (3) feet** with a maximum depth of **one (1) foot** above the shelf area.
- (E) An emergency overflow/spillway.
- (F) Shall be designed so that as much flow as possible shall enter the pond through grass swales or sheet flow across grass areas.
- (G) Developer shall submit a maintenance plan for sediment removal and water quality control.
- (H) A structure capable of dewatering the pond within **forty-eight (48) hours**.
- (I) Discharges shall be deposited directly into an approved storm sewer system where available.
- (J) Outfalls to ditches and open channels shall be designed to prevent erosion. If necessary, energy dissipation strategies shall be used to reduce outfall velocities to acceptable levels.
- (K) Retention facilities adjacent to a state highway may use IDOT design standards for storm water run-off release rates for all discharges to the highway drainage system. The developer shall obtain IDOT approval for such discharges, in addition to any approvals required from the City.
- (L) Flows and storm water run-off from upstream areas outside the site should be based on the assumption that such areas are fully developed according to the latest available forecast land use patterns.

**(Ord. No. 09-12-2005-1)**

#### **34-5-60      MAINTENANCE RESPONSIBILITIES.**

(A) **Commercial Development.** Maintenance of all structures, conduits, and pooling areas required to convey flow or provide detention/retention for the development shall be the responsibility of the owner to the point of its connection to the City's drainage system or its release onto right-of-way. A signed drainage covenant as provided by the City shall be required prior to site plan approval.

#### **(B)      Residential Development.**

- (1) Detention/Retention pond areas shall be a part of buildable lots and shall be maintained by adjacent residents. All conduits and structures shall be placed in easements and shall be the responsibility of the City.
- (2) Detention/Retention pond areas not incorporated into buildable lots shall be designated as recreation areas and shall be the responsibility of a Home Owner's Association. Proof of Home Owner's Association requirements and responsibilities shall be submitted with the preliminary plat.
- (3) Regional detention/retention areas not incorporated into buildable lots and owned by the City shall be designated as public recreation areas and shall be the responsibility of the City.

(C) All privately maintained storm water systems shall be subject to periodic inspection by the City or its representative to evaluate the condition and functioning of such systems. The cost of any corrective actions as determined by the City shall be the sole responsibility of the owner(s) of the system. Should the City be required to correct deficiencies in a privately maintained storm water system, any costs incurred shall accrue to the owner(s).

**(Ord. No. 9-12-2005-1)**

#### **34-5-61      PENALTIES FOR VIOLATION.**

(A) Violation of the provisions of this Code, or failure to comply with any of its requirements, including conditions and safeguards established, shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense.



(B) Nothing herein contained shall prevent the City from taking such other lawful actions as is necessary to forbid or remedy any violations. All such costs connected therewith shall accrue to the person or persons responsible.

(C) Any person who violates this Code shall be subject to the penalty in **Section 1-1-20** in the Revised Code which shall not be the exclusive remedy but shall be supplementary to any civil and/or quasi-civil remedy the City may wish to pursue.

**(Ord. No. 9-12-2005-1)**

# TABLE 5-A

## STREET DESIGN SPECIFICATIONS

### **Local/Residential (ADT – less than 1000 vehicles)**

Minimum Pavement Width* <u>Feet</u>	Required ROW <u>Feet</u>	Maximum Gradient (%)	Minimum Gradient (%)
25' – No Parking	50'	7.0	1.0
27' Parking One Side	50'	7.0	1.0
30' – Parking Both Sides	50'	7.0	1.0

### **Collector (ADT – 1000 to 2000 vehicles)**

26' – No Parking	60'	7.0	1.0
30' – Parking One Side	60'	7.0	1.0
36' – Parking Both Sides	60'	7.0	1.0

### **Major Arterial and Industrial (ADT – Greater than 2000 vehicles)**

Design will conform to Illinois Department of Transportation requirements.

\*Pavement width is defined as face of curb to face of curb.

**(Ord. No. 11-12-01-1)**

**TABLE 5-B****MINIMUM REQUIREMENTS FOR STRUCTURAL  
COMPOSITION OF PAVEMENTS**

<b><u>Street Classification</u></b>	<b><u>Flexible Pavements</u></b>		<b><u>Rigid Pavements</u></b>	
	<b><u>Alt. #1</u></b>	<b><u>Alt. #2</u></b>	<b><u>Alt. #1</u></b>	<b><u>Alt. #2</u></b>
Local/Residential ADT Less 1000	4" BAM 2" Bit Surf on LSS	5" BAM 2" Bit Surf	6" PCC 15' Plain Jts	-----
Collector ADT 1000 to 2000	6" BAM 2" Bit Surf on LSS	7" BAM 2" Bit Surf	6" PCC 2" Class I	7" PCC 15' Doweled Jts
Major Arterial/Industrial Mechanistic*	-----		Mechanistic*	-----

\*Per procedures in Chapter 54 of IDOT's Bureau of Design and Environmental Manual.

**Abbreviations**

BAM	=	Bituminous Aggregate Mixture (MS=1500)
SSG	=	Lime Stabilized Subgrade
PCC	=	Unreinforced Portland Cement Concrete
Bit Surf	=	Bituminous Concrete Surface Course, Superpave, Mix C, N50

**Maximum Lift Thickness**

BAM	=	4"
Bit Surf	=	3"

**(Ord. No. 11-12-01-1)**

## **CHAPTER 36 - TAXATION**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>TAXPAYERS' RIGHTS CODE</i></b>	
	<i>Section 36-1-1 - Title</i>	<i>36-1</i>
	<i>Section 36-1-2 - Scope</i>	<i>36-1</i>
	<i>Section 36-1-3 - Definitions</i>	<i>36-1</i>
	<i>Section 36-1-4 - Notices</i>	<i>36-1</i>
	<i>Section 36-1-5 - Late Payment</i>	<i>36-1</i>
	<i>Section 36-1-6 - Payment</i>	<i>36-2</i>
	<i>Section 36-1-7 - Certain Credits and Refunds</i>	<i>36-2</i>
	<i>Section 36-1-8 - Audit Procedure</i>	<i>36-2</i>
	<i>Section 36-1-9 - Appeal</i>	<i>36-3</i>
	<i>Section 36-1-10 - Hearing</i>	<i>36-4</i>
	<i>Section 36-1-11 - Interest and Penalties</i>	<i>36-4</i>
	<i>Section 36-1-12 - Abatement</i>	<i>36-4</i>
	<i>Section 36-1-13 - Installment Contracts</i>	<i>36-4</i>
	<i>Section 36-1-14 - Statute of Limitations</i>	<i>36-4</i>
	<i>Section 36-1-15 - Voluntary Disclosure</i>	<i>36-5</i>
	<i>Section 36-1-16 - Publication of Tax Ordinances</i>	<i>36-5</i>
	<i>Section 36-1-17 - Internal Review Procedure</i>	<i>36-5</i>
	<i>Section 36-1-18 - Application</i>	<i>36-5</i>
<b><i>II</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 36-2-1 - Corporate Rate</i>	<i>36-6</i>
	<i>Section 36-2-2 - Police Tax</i>	<i>36-6</i>
	<i>Section 36-2-3 - Audit Tax</i>	<i>36-6</i>
	<i>Section 36-2-4 - F.I.C.A. Tax</i>	<i>36-6</i>
	<i>Section 36-2-5 - I.M.R.F.</i>	<i>36-6</i>
	<i>Section 36-2-6 - General Liability</i>	<i>36-6</i>
<b><i>III</i></b>	<b><i>FOREIGN FIRE INSURANCE COMPANIES</i></b>	
	<i>Section 36-3-1 - Conformance</i>	<i>36-7</i>
	<i>Section 36-3-2 - Fees</i>	<i>36-7</i>
	<i>Section 36-3-3 - Required Reports</i>	<i>36-7</i>
	<i>Section 36-3-4 - Recovery of Monies</i>	<i>36-7</i>
	<i>Section 36-3-5 - Unlawful Operation</i>	<i>36-7</i>
	<i>Section 36-3-6 - Penalty</i>	<i>36-7</i>
<b><i>IV</i></b>	<b><i>SIMPLIFIED TELECOMMUNICATIONS TAX</i></b>	
	<i>Section 36-4-1 - Definitions</i>	<i>36-8</i>
	<i>Section 36-4-2 - Simplified Municipal Telecommunications Tax Imposed</i>	<i>36-10</i>
	<i>Section 36-4-3 - Collection of Tax by Retailers</i>	<i>36-11</i>
	<i>Section 36-4-4 - Returns to Department</i>	<i>36-11</i>
	<i>Section 36-4-5 - Resellers</i>	<i>36-11</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>V</i></b>	<b><i>BUSINESS DISTRICT TAX</i></b>	
	<i>Section 36-5-1 - Findings</i>	<i>36-12</i>
	<i>Section 36-5-2 - Approval of the District Plan</i>	<i>36-12</i>
	<i>Section 36-5-3 - Establishment of the Business District</i>	<i>36-12</i>
	<i>Section 36-5-4 - Imposition of Business District Taxes</i>	<i>36-12</i>
	<i>Section 36-5-5 - Business District Tax Allocation Fund</i>	<i>36-13</i>
	<i>Section 36-5-6 - Filing of Article</i>	<i>36-13</i>
	<i>Section 36-5-7 - Severability</i>	<i>36-13</i>
	<i>Section 36-5-8 - Governing Law</i>	<i>36-13</i>
	<i>Section 36-5-9 - Further Authorization</i>	<i>36-13</i>
	<i>Section 36-5-10 - Adoption</i>	<i>36-14</i>

## CHAPTER 36

### TAXATION

#### ARTICLE I - TAXPAYERS' RIGHTS CODE

**36-1-1**        **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

**36-1-2**        **SCOPE.** The provisions of this Code shall apply to the City's procedures in connection with all of the City's locally imposed and administered taxes.

**36-1-3**        **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A)            **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".

(B)            **Corporate Authorities.** "Corporate Authorities" means the Mayor and City Council.

(C)            **Locally Imposed and Administered Tax or "Tax".** "Locally Imposed and Administered Tax" or "Tax" means each tax imposed by the City that is collected or administered by the City not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the City other than infrastructure maintenance fees.

(D)            **Local Tax Administrator.** "Local Tax Administrator", the City's Treasurer, is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this Code to give full effect to this Code. The exercise of such authority by the local tax administrator shall not be inconsistent with this Code and the Act.

(E)            **City.** "City" means the City of Macon, Illinois.

(F)            **Notice.** "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the City's locally imposed and administered taxes.

(G)            **Tax Ordinance.** "Tax Ordinance" means each ordinance adopted by the City that imposes any locally imposed and administered tax.

(H)            **Taxpayer.** "Taxpayer" means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the City.

**36-1-4**        **NOTICES.** Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than **seven (7) calendar days** prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

(A)            First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or

(B)            Personal service or delivery.

**36-1-5**        **LATE PAYMENT.** Any notice, payment, remittance or other filing required to be made to the City pursuant to any tax ordinance shall be considered late unless it is:

(A)            physically received by the City on or before the due date, or

(B) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the City, with adequate postage prepaid.

**36-1-6**            **PAYMENT.** Any payment or remittance received for a tax period shall be applied in the following order:

- (A) first to the tax due for the applicable period;
- (B) second to the interest due for the applicable period; and
- (C) third to the penalty for the applicable period.

**36-1-7**            **CERTAIN CREDITS AND REFUNDS.**  
(A) The City shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B) The statute of limitations on a claim for credit or refund shall be **four (4)** or less years after the end of the calendar year in which payment in error was made. The City shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the City.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

- (1) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
  - (a) the name of the locally imposed and administered tax subject to the claim;
  - (b) the tax period for the locally imposed and administered tax subject to the claim;
  - (c) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
  - (d) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
  - (e) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the City.
- (2) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
  - (a) grant the claim; or
  - (b) deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
- (3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **four percent (4%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

**36-1-8**            **AUDIT PROCEDURE.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Code.

- (A) Each notice of audit shall contain the following information:
- (1) the tax;
  - (2) the time period of the audit; and
  - (3) a brief description of the books and records to be made available for the auditor.

(B) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within **thirty (30) days** after the originally designated audit and during normal business hours.

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than **seven (7) days** nor more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the **thirty (30) days**, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English Language and shall be subject to and available for inspection by the City.

(E) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the City. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

(F) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within **thirty (30) days** of the City's determination of the amount of overpayment.

(G) In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

### **36-1-9      APPEAL.**

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) the reason for the assessment;
- (2) the amount of the tax liability proposed;
- (3) the procedure for appealing the assessment; and
- (4) the obligations of the City during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within **forty-five (45) days** of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within **fourteen (14) days** of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the **forty-five (45) day** period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax



administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than **ninety (90) days** after the expiration of the **forty-five (45) day** period.

**36-1-10      HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-1-9**, above, the local tax administrator shall conduct a hearing regarding any appeal.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed **fourteen (14) days**.

(C) At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

**36-1-11      INTEREST AND PENALTIES.** In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(A) **Interest.** The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be **seven percent (7%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed.

(B) **Late Filing and Payment Penalties.** If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of **five percent (5%)** of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of **five percent (5%)** of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the City issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to **twenty-five percent (25%)** of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

**36-1-12      ABATEMENT.** The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

**36-1-13      INSTALLMENT CONTRACTS.** The City may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) working days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

**36-1-14      STATUTE OF LIMITATIONS.** The City, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and

owing. The taxpayer shall have **forty-five (45) days** after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(A) No determination of tax due and owing may be issued more than **four (4) years** maximum after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations shall be **six (6) years** maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

**36-1-15**      **VOLUNTARY DISCLOSURE.** For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of **one percent (1%)** per month, for all periods prior to the filing of the application but not more than **four (4) years** before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than **ninety (90) days** after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within **ninety (90) days** after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

**36-1-16**      **PUBLICATION OF TAX ORDINANCES.** Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the City Clerk's office.

**36-1-17**      **INTERNAL REVIEW PROCEDURE.** The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

- (A) timely remove the lien at the City's expense;
- (B) correct the taxpayer's credit record; and
- (C) correct any public disclosure of the improperly imposed lien.

**36-1-18**      **APPLICATION.** This Ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

**(See 50 ILCS 45/1 et seq.)**

**(Ord. No. 02-12-01-1)**

## **ARTICLE II – GENERALLY**

**36-2-1        CORPORATE RATE.** The maximum rate for general corporate purposes of the City be and the same is hereby established at a rate of **.25%. (65 ILCS 5/8-3-1)**

**36-2-2        POLICE TAX.** The maximum rate for police protection purposes of the City be and the same is hereby established at a rate of **.075%. (65 ILCS 5/11-1-3)**

**36-2-3        AUDIT TAX.** The City Council may levy a "Municipal Auditing Tax" upon all taxable property in the City which will produce an amount which will equal the cost of all auditing for the City. **(65 ILCS 5/8-8-8)**

**36-2-4        F.I.C.A. TAX.** The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to participate in the federal Social Security System. **(40 ILCS 5/21-101 et seq.)**

**36-2-5        I.M.R.F.** The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to participate in the Illinois Municipal Retirement Fund. **(40 ILCS 5/7-132 et seq.)**

**36-2-6        GENERAL LIABILITY.** The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to purchase general liability insurance for the City.

### **ARTICLE III - FOREIGN FIRE INSURANCE COMPANIES**

**36-3-1      CONFORMANCE.** It shall be unlawful for any corporation or association, not incorporated under the laws of the State of Illinois to engage in the City in effecting fire insurance or to transact any business of fire insurance in this City, while in default by not fully complying with any of the requirements of this Section, and until such requirements shall have been fully complied with; but this provision shall not relieve any company, corporation or association from the payment of any risk that may be undertaken in violation of this Section.

**36-3-2      FEES.** Any such corporation, company or association not incorporated under the laws of the State of Illinois, which is engaged in the City in effecting fire insurance, shall pay the City Treasurer for the maintenance, use, and benefit of the Fire Department of the City, a sum of money equal in amount to **two percent (2%)** per annum of the gross receipts received as premiums upon fire insurance policies by any and all agents of such corporation, company, association during the year ending on the **first (1<sup>st</sup>) day of July** in each year, for any insurance effected or agreed to be effected on property located in the City by or with such corporation, company, or association during such year.

**36-3-3      REQUIRED REPORTS.** Every person acting in the City as agent for or on behalf of any such corporation, company, or association shall, on or before the **fifteenth (15th) day of July** of each and every year, render the City Clerk a full, true, and just account verified by oath of all premiums upon fire insurance policies which, during the year ending the **first (1<sup>st</sup>) day of July** preceding such report, shall have been received by him, or by some other person for him, in his behalf of any such corporation, company or association on property located in the City. Such agent shall also, at the time of rendering the aforesaid report, pay to the City Treasurer the sum of money for which company, corporation, or association represented by him is chargeable, by virtue of the provisions of this Section.

**36-3-4      RECOVERY OF MONIES.** The sum of money for which such company, corporation, or association is so chargeable may be recovered of it, or its agents or agent, by an action in the name of and for the use of the City as for money had and received. Nothing in this Section shall be held to exempt any person, corporation, company, association from indictment and conviction under the provisions of an act entitled "An Act to enable cities, towns, and villages, organized under any general or special law, to levy and collect a tax or license fee from foreign insurance companies for the benefit of organized fire department," in force **July 1, 1895**.

**36-3-5      UNLAWFUL OPERATION.** No insurance agent in the City shall have any insurance business or dealings with any company, association, or corporation not incorporated under the laws of this State, which shall be in default for not reporting or making payments as hereinbefore provided, until it shall have complied with all the requirements of this Section.

**36-3-6      PENALTY.** Any person violating any of the provisions of this Section shall, upon conviction, be fined as provided in **Section 1-1-20** of the City Code.

## ARTICLE IV - SIMPLIFIED TELECOMMUNICATIONS TAX

**36-4-1**      **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A)      **"Amount Paid"** means the amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid.

(B)      **"Department"** means the Illinois Department of Revenue.

(C)      **"Gross Charge"** means the amount paid for the act or privilege of originating or receiving telecommunications in such a municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel termination point within a municipality that has imposed a tax under this Article and charges for the portion of the inter-office channels provided within that municipality. Charges for that portion of the inter-office channel connecting **two (2)** or more channel termination points, one or more of which is located within the jurisdictional boundary of such municipality, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the municipality and the denominator of which is the total number of channel termination points connected by the inter-office channel. However, "gross charge" shall not include any of the following:

- (1) any amounts added to a purchaser's bill because of a charge made pursuant to:
  - (a) the tax imposed by this Section,
  - (b) the tax imposed by the Telecommunications Excise Tax Act,
  - (c) the tax imposed by Section 4251 of the Internal Revenue Code,
  - (d) 911 surcharges, or
  - (e) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.
- (2) charges for a sent collect telecommunication received outside the City.
- (3) charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement.
- (4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges.
- (5) charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity.
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to

the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.

- (7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made).
- (8) charges paid by inserting coins in coin-operated telecommunications devices.
- (9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
- (10) Charges for nontaxable services or telecommunications if:
  - (a) those charges are aggregated with other charges for telecommunications that are taxable,
  - (b) those charges are not separately stated on the customer bill or invoice, and
  - (c) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business.If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services or telecommunications billed on a combined basis shall be attributed to the taxable services or telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

(D) **"Interstate Telecommunications"** means all telecommunications that either originate or terminate outside this State.

(E) **"Intrastate Telecommunications"** means all telecommunications that originate and terminate within this State.

(F) **"Person"** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, county, or other political subdivision of this State.

(G) **"Purchase at Retail"** means the acquisition, consumption or use of telecommunications through a sale at retail.

(H) **"Retailer"** means and includes every person engaged in the business of making sales at retail as defined in this Section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. The permit may be revoked by the Department at its discretion.

(I) **"Retailer maintaining a place of business in this State"**, or any like term, means and includes any retailer having or maintaining within the State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

(J) **"Sale at Retail"** means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

(K) **"Service address"** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

(L) **"Taxpayer"** means a person who individually or through his or her agents, employees, or permittees, engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Article.

(M) **"Telecommunications"**, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or 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. As used in this Article, "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 group of channels, from one or more specified locations to one or more other specified locations. The definition of "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 purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Act. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupation Tax Act.

**36-4-2      SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED.** A tax is hereby imposed upon any and all of the following acts or privileges:

(A) The act or privilege of originating in the City or receiving in the City intrastate telecommunications by a person at a rate of **one percent (1%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

(B) The act or privilege of originating in the City or receiving in the City interstate telecommunications by a person at a rate of **one percent (1%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state.

(C) The tax imposed by this Article is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the City.

**36-4-3                    COLLECTION OF TAX BY RETAILERS.**

(A) The tax authorized by this Article shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Article and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Article shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(B) Whenever possible, the tax authorized by this Article shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

**36-4-4                    RETURNS TO DEPARTMENT.** On or before the last day of **February, 2018**, and on or before the last day of each month thereafter, the tax imposed under this Article on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

**36-4-5                    RESELLERS.**

(A) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

(B) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunications tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

(C) Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.



## **ARTICLE V – BUSINESS DISTRICT TAX**

**36-5-1        FINDINGS.** The City hereby makes the following findings as supported by the Business District Plan:

(A)            The Business District, on the whole, has not been subject to growth and development through investment by private enterprise or would not reasonably be anticipated to be developed without the adoption of the Business District Development Plan;

(B)            The Business District Plan conforms to the comprehensive plan for the development of the City as a whole; and

(C)            The Business District is a blighted area due to the presence, individually and in combination, of several conditions representative of those outlined in the Act.

These include:

- Defective, Non-Existent, or Inadequate Street Layout
- Existence of Conditions Which Endanger Property
- Deterioration of Site Improvements
- Improper Subdivision or Obsolete Platting

Thus, the District is found to be eligible, as it represents a blighted portion of the City by reason of the existence of defective, non-existent, or inadequate street layout, the existence of conditions which endanger property, the deterioration of site improvements, and the improper subdivision or obsolete platting. These factors, in combination, contribute to the economic underutilization of the Area, as well as cause the Area to be an economic liability to the City. Additionally, the property in the District would not be reasonably anticipated to be developed or without the establishment of the Business District and adoption of the Business District Plan.

**36-5-2        APPROVAL OF THE DISTRICT PLAN.** The Business District Plan, a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by this reference, is hereby approved.

**36-5-3        ESTABLISHMENT OF THE BUSINESS DISTRICT.** The Business District is hereby established pursuant to the Business District Plan and the Business District Law. The boundaries of the Business District are legally described in Appendix "A" of the Business District Plan and depicted in Exhibit "A" of the Business District Plan, which legal description and depiction are incorporated herein by this reference. The Business District includes 259 parcels of real property which are directly and substantially benefitted by the Business District Plan. The City Council shall have and possess, without limitation, such powers with respect to the Business District as authorized under the Business District Law and the Business District Plan.

**36-5-4        IMPOSITION OF BUSINESS DISTRICT TAXES.**

(A)            A Business District Retailers' Occupation Tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of the State of Illinois, at retail within the Business District at the rate of **one percent (1%)** of the gross receipts from such sales made in the course of such business; and a Business District Service Occupation Tax is hereby imposed upon all persons engaged, in the Business District, in the business of making sales of service, at the rate of **one percent (1%)** of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. This "Business District Retailers' Occupation Tax" and this "Business District Service Occupation Tax" shall not be applicable to the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes and needles used by diabetics, for human use.

(B) An occupation tax is hereby imposed upon all persons engaged in the business of renting, leasing, or letting rooms in a hotel, as defined in the Hotel Operators' Occupation Tax Act, at a rate of **one percent (1%)** of the gross rental receipts from the renting, leasing, or letting of hotel rooms within the Business District, excluding, however, from gross rental receipts the proceeds of renting, leasing, or letting to permanent residents of a hotel, as defined in the Hotel Operators' Occupation Tax Act, and proceeds from the tax imposed under subsection (C) of Section 13 of the Metropolitan Pier and Exposition Authority Act.

(C) The taxes imposed pursuant to (A) and (B) above shall be for the planning, execution and implementation of the Business District Plan and to pay for business district project costs as set forth in the Business District Plan, including payment of bonds, notes or other obligations (the "Obligations") issued to finance such business district project costs. These taxes shall be in full force and effect until the earlier of (i) payment of all Obligations in accordance with the Business District Plan, or (ii) the Dissolution date (as such term is defined in the Business District Law) of the Business District.

(D) The imposition of these Business District taxes is in accordance with the provisions of subsections (B), (C) and (D), respectively, of Section 11-74.3-6 of the Business District Law.

(E) The taxes imposed pursuant to (A) above and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce such provisions of this Article. The taxes imposed pursuant to (B) above and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the City. The City shall have full power to administer and enforce such provisions of this Article.

**36-5-5      BUSINESS DISTRICT TAX ALLOCATION FUND.** The City hereby establishes the Business District Tax Allocation Fund in the custody of the City Treasurer and each distribution of taxes imposed by this Article to the City from the Department of Revenue shall be deposited in such fund for the purpose of paying or reimbursing business district project costs and obligations incurred in the payment of the costs.

**36-5-6      FILING OF ARTICLE.** The City Clerk is hereby directed to file a certified copy of this Article with the Department of Revenue on or before the **thirtieth (30<sup>th</sup>) day of March, 2017.**

**36-5-7      SEVERABILITY.** It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Article shall be separate and severable from each and every other part, section and subsection hereof, and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. If any part, section or subsection of this Article shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

**36-5-8      GOVERNING LAW.** This Article shall be governed exclusively by and construed in accordance with the applicable laws of the State of Illinois.

**36-5-9      FURTHER AUTHORIZATION.** The Mayor is hereby authorized and directed to execute and deliver for and on behalf of the City, and the City Clerk is hereby authorized and directed where appropriate to attest, all certificates, documents, agreements or other instruments, and the Mayor or his designated representative is hereby authorized and directed to take any and all actions, as may be necessary, desirable, convenient or proper to carry out and comply with the provisions of all agreements or contracts, necessary or reasonably incidental to the implementation of this Article.

**36-5-10      ADOPTION.** This Article shall be in full force and effect from and after its passage, approval and publication, if required, as provided by law. The imposition of these Business District taxes shall take effect on the **first (1<sup>st</sup>) days of July, 2017.**

**(Ord. No. 2017-03-13-1)**

## **CHAPTER 38 - UTILITIES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>DEPARTMENT ESTABLISHED</i></b>	
	<i>Section 38-1-1 - Department Established</i>	<i>38-1</i>
	<i>Section 38-1-2 - Utilities Committee</i>	<i>38-1</i>
	<i>Section 38-1-3 - Superintendent</i>	<i>38-1</i>
	<i>Section 38-1-4 - Duties of the Superintendent</i>	<i>38-1</i>
<b><i>II</i></b>	<b><i>UTILITY REGULATIONS</i></b>	
	<i>Section 38-2-1 - Contract for Utility Services</i>	<i>38-2</i>
	<i>Section 38-2-2 - Consumer Lists</i>	<i>38-3</i>
	<i>Section 38-2-3 - Filed in Recorder of Deeds</i>	<i>38-4</i>
	<i>Section 38-2-4 - Liability for Charges</i>	<i>38-4</i>
	<i>Section 38-2-5 - Estimated Charge</i>	<i>38-4</i>
	<i>Section 38-2-6 - No Free Utility Service</i>	<i>38-4</i>
	<i>Section 38-2-7 - Meter Malfunction</i>	<i>38-4</i>
	<i>Section 38-2-8 - Utility Deposits</i>	<i>38-4</i>
<b><i>III</i></b>	<b><i>WATER SYSTEM</i></b>	
	<i>Division I – General Regulations</i>	
	<i>Section 38-3-1 - Definitions</i>	<i>38-5</i>
	<i>Section 38-3-2 - Application for Taps and Service Connections to the Waterworks System</i>	<i>38-6</i>
	<i>Section 38-3-3 - All Service to be by Meter</i>	<i>38-6</i>
	<i>Section 38-3-4 - Removal of Meters</i>	<i>38-6</i>
	<i>Section 38-3-5 - Installing and Maintaining Service Lines</i>	<i>38-6</i>
	<i>Section 38-3-6 - Inspection</i>	<i>38-7</i>
	<i>Section 38-3-7 - Meter Damaged</i>	<i>38-7</i>
	<i>Section 38-3-8 - Damage Due to Interruption of Service; Liability</i>	<i>38-7</i>
	<i>Section 38-3-9 - Resale of Water</i>	<i>38-7</i>
	<i>Section 38-3-10 - Discontinuing Service - Dangerous Usage</i>	<i>38-7</i>
	<i>Section 38-3-11 - Electric Ground Wires</i>	<i>38-7</i>
	<i>Section 38-3-12 - Water for Building or Construction Purposes</i>	<i>38-8</i>
	<i>Section 38-3-13 - Fire Hydrants</i>	<i>38-8</i>
	<i>Section 38-3-14 - Limited Water Usage in Emergencies</i>	<i>38-8</i>
	<i>Section 38-3-15 - Shortage and Purity of Supply</i>	<i>38-8</i>
	<i>Section 38-3-16 - Non-Compliance With Rules and Regulations</i>	<i>38-8</i>
	<i>Section 38-3-17 - Easements</i>	<i>38-9</i>
	<i>Section 38-3-18 - Use of Water on Consumer's Premises</i>	<i>38-9</i>
	<i>Section 38-3-19 - Allocation of Maintenance Costs Between User and Village</i>	<i>38-9</i>
	<i>Section 38-3-20 - City Not Liable for Interruption of Supply</i>	<i>38-9</i>
	<i>Section 38-3-21 - Water Well Permits Required</i>	<i>38-9</i>
	<i>Section 38-3-22 - Abandoned Connection</i>	<i>38-10</i>
	<i>Section 38-3-23 - Alternative Water Source</i>	<i>38-10</i>
	<i>Section 38-3-24 - Rules to Become Part of Contract</i>	<i>38-10</i>
	<i>Section 38-3-25 - Repairs and Replacement of Meters</i>	<i>38-10</i>
	<i>Section 38-3-26 - 38-3-30 Reserved</i>	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>WATER SYSTEM (CONTINUED)</b>	
	<i>Division II - Cross-Connection Administration</i>	
	Section 38-3-31 - Approved Backflow Device	38-10
	Section 38-3-32 - Cross-Connection Prohibited; Exception	38-10
	Section 38-3-33 - Investigations by Superintendent	38-11
	Section 38-3-34 - Right to Enter Premises	38-11
	Section 38-3-35 - Notice to Customer; Reconnect Fee	38-11
	Section 38-3-36 - Contamination Costs and the Consumer	38-11
	Section 38-3-37 - 38-3-40 Reserved	
	<i>Division III – Cross-Connection Control Code</i>	
	Section 38-3-41 - Purpose	38-12
	Section 38-3-42 - Application	38-12
	Section 38-3-43 - Responsibility of Owner	38-12
	Section 38-3-44 - Definitions	38-12
	Section 38-3-45 - Water System	38-15
	Section 38-3-46 - Cross-Connection Prohibited	38-15
	Section 38-3-47 - Survey and Investigations	38-15
	Section 38-3-48 - Where Protection is Required	38-16
	Section 38-3-49 - Type of Protection Required	38-17
	Section 38-3-50 - Backflow Prevention Devices	38-17
	Section 38-3-51 - Inspection and Maintenance	38-18
	Section 38-3-52 - Booster Pumps	38-18
	Section 38-3-53 - Violations and Penalties	38-18
	Section 38-3-54 - 38-3-60 Reserved	
	<i>Division IV – Extension of Mains</i>	
	Section 38-3-61 - Main Extension Agreement	38-19
	Section 38-3-62 - Easements	38-19
	Section 38-3-63 - Size and Type	38-19
	Section 38-3-64 - Title	38-20
	Section 38-3-65 - Maintenance and Replacement	38-20
	Section 38-3-66 - 38-3-68 Reserved	
	<i>Division V – Leak Insurance Program</i>	
	Section 38-3-69 - Water Leak Adjustment	38-20
	Section 38-3-70 - Purchase of Water	38-20
	Section 38-3-71 - Evidence of Leak	38-20
	Section 38-3-72 - Limitation on Adjustment	38-21
	Section 38-3-73 - Adjustments Not Made	38-21
	Section 38-3-74 - No Obligation	38-21
	Section 38-3-75 - Investigation	38-21
	Section 38-3-76 - 38-3-77 Reserved	
	<i>Division VI – Water Rates</i>	
	Section 38-3-78 - Building Unit Defined	38-22
	Section 38-3-79 - Water Revenues	38-22
	Section 38-3-80 - Water Accounts	38-22
	Section 38-3-81 - Access to Books	38-22
	Section 38-3-82 - Notice to Rates	38-22
	Section 38-3-83 - Appeals	38-22
	Section 38-3-84 - Adequacy of Service Charges	38-23

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>WATER SYSTEM (CONTINUED)</b>	
	<i>Division VI – Water Rates (Continued)</i>	
	Section 38-3-85 - Computation	38-23
	Section 38-3-86 - Water Tap-On Fees	38-23
	Section 38-3-87 - Water Rates	38-23
	Section 38-3-88 - Requested Shut-Off	38-24
	Section 38-3-89 - Boody Community Water Company Rates	38-24
	Section 38-3-90 - 38-3-94 Reserved	
	<i>Division VII – Water Contracts</i>	
	Section 38-3-95 - Water Contracts with Boody Community Water Company	38-24
<b>IV</b>	<b>WASTEWATER SYSTEM</b>	
	<i>Division I – Definitions</i>	
	Section 38-4-1 - Definitions	38-25
	Section 38-4-2 - 38-4-3 Reserved	
	<i>Division II - Use of Public Wastewaters Required</i>	
	Section 38-4-4 - Deposit of Wastes	38-28
	Section 38-4-5 - Sewage in Natural Outlet	38-28
	Section 38-4-6 - Private System, Unlawful	38-28
	Section 38-4-7 - Connection to System Required	38-28
	Section 38-4-8 - 38-4-9 Reserved	
	<i>Division III - Private Sewage Disposal</i>	
	Section 38-4-10 - Private Sewage System	38-29
	Section 38-4-11 - Health Department Approval	38-29
	Section 38-4-12 - Permit Approval	38-29
	Section 38-4-13 - Compliance with State Requirements	38-29
	Section 38-4-14 - Availability of Public Wastewater	38-29
	Section 38-4-15 - Operation of Private System	38-29
	Section 38-4-16 - Additional Restrictions	38-29
	Section 38-4-17 - 38-4-20 Reserved	
	<i>Division IV - Building Wastewater and Connections</i>	
	Section 38-4-21 - Disturbing System Unlawful	38-30
	Section 38-4-22 - Compliance with Regulating Authorities	38-30
	Section 38-4-23 - Classes of Permits	38-30
	Section 38-4-24 - Cost Borne by Owner	38-30
	Section 38-4-25 - Separate Wastewater: Exception	38-30
	Section 38-4-26 - Old Building Wastewater	38-30
	Section 38-4-27 - Construction Methods	38-30
	Section 38-4-28 - Plumbing Code Requirements	38-31
	Section 38-4-29 - Elevation	38-31
	Section 38-4-30 - Prohibited Connections	38-31
	Section 38-4-31 - Connections to Wastewater Mains	38-31
	Section 38-4-32 - Capacity of Wastewater	38-32
	Section 38-4-33 - Tap-In Supervision and Testing	38-32
	Section 38-4-34 - Inspection	38-32

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IV</b>	<b>WASTEWATER SYSTEM (CONTINUED)</b>	
	<i>Division IV - Building Wastewater and Connections (Continued)</i>	
	Section 38-4-35 - Public Wastewater Connection	38-32
	Section 38-4-36 - Protection of Property	38-32
	Section 38-4-37 - Bond Required	38-32
	Section 38-4-38 - Unlawful Discharges	38-33
	Section 38-4-39 - 38-4-41 Reserved	
	<i>Division V – Extension of Collecting Wastewaters</i>	
	Section 38-4-42 - Permit Required; Authorized Personnel	38-33
	Section 38-4-43 - Extension Permits	38-33
	Section 38-4-44 - Materials	38-33
	Section 38-4-45 - Inspections of Construction	38-34
	Section 38-4-46 - Manholes Required	38-34
	Section 38-4-47 - 38-4-48 Reserved	
	<i>Division VI - Use of Public Wastewater Facilities</i>	
	Section 38-4-49 - Discharge of Storm Water	38-34
	Section 38-4-50 - Storm Water	38-34
	Section 38-4-51 - Regulations of Wastes	38-34
	Section 38-4-52 - Harmful Effects of Certain Materials	38-35
	Section 38-4-53 - Harmful Wastes; Approval	38-36
	Section 38-4-54 - Interceptors Provided	38-36
	Section 38-4-55 - Flow-Equalizing Facilities	38-37
	Section 38-4-56 - Industrial Wastes Control Manhole	38-37
	Section 38-4-57 - Industrial Waste Testing	38-38
	Section 38-4-58 - Measurements and Tests	38-38
	Section 38-4-59 - Special Arrangements	38-38
	Section 38-4-60 - 38-4-64 Reserved	
	<i>Division VII - Inspections</i>	
	Section 38-4-65 - Damage	38-38
	Section 38-4-66 - Inspection and Testing	38-38
	Section 38-4-67 - Liability of City	38-39
	Section 38-4-68 - Private Property Inspections	38-39
	Section 38-4-69 - 38-4-70 Reserved	
	<i>Division VIII – Sewer Rates</i>	
	Section 38-4-71 - Building Unit Defined	38-39
	Section 38-4-72 - Sewer Revenues	38-39
	Section 38-4-73 - Sewer Accounts	38-39
	Section 38-4-74 - Notice of Rates	38-40
	Section 38-4-75 - Access to Records	38-40
	Section 38-4-76 - Appeals	38-40
	Section 38-4-77 - Basis for Wastewater Service Charges	38-40
	Section 38-4-78 - Measurement of Flow	38-41
	Section 38-4-79 - User Charge System	38-41
	Section 38-4-80 - Surcharge Rate	38-41
	Section 38-4-81 - Sewer Tap-In Fee	38-42
	Section 38-4-82 - 38-4-90 Reserved	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>IV</i></b>	<b><i>WASTEWATER SYSTEM (CONTINUED)</i></b>	
	<i>Division IX - Penalties</i>	
	<i>Section 38-4-91 - Penalty</i>	<i>38-42</i>
	<i>Section 38-4-92 - Continued Violation</i>	<i>38-42</i>
	<i>Section 38-4-93 - Liable to City</i>	<i>38-42</i>



## **CHAPTER 38**

### **UTILITIES**

#### **ARTICLE I – DEPARTMENT ESTABLISHED**

**38-1-1        DEPARTMENT ESTABLISHED.** There shall be an executive department of the City known as the **Utilities Department**. It shall include the Superintendent and employees of the Department. The designated office shall be the City Hall.

**38-1-2        UTILITIES COMMITTEE.** The City Council standing committee on Utilities shall exercise a general supervision over the affairs of the Departments. They shall ascertain the condition and needs thereof; and shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had; and generally, shall do all acts necessary to promote the efficiency of the Departments.

**38-1-3        SUPERINTENDENT.** The Superintendent of Public Works shall be subject to the supervision of the Utilities Committee and shall hereinafter be referred to as the **"Superintendent"**. The Superintendent shall be hired by the Mayor, by and with the advice and consent of the City Council and shall hold office until his successor is appointed and qualified. He shall receive such salary as may be provided by the annual budget of the City Council at the time of his appointment.

**38-1-4        DUTIES OF THE SUPERINTENDENT.** The Superintendent shall exercise general management and control over his respective department.

(A)            He shall supervise over and be responsible for the conduct and performance of all employees of the department as a Department Head in accordance with the Employee Code, if any.

(B)            He shall be responsible for the operation and maintenance of the City's water system and sewer system as provided in this Code.

(C)            He shall be the custodian of all vehicles, equipment, structures, and property provided by the City for the use of his department.

(D)            He shall enforce the provisions of this Chapter and make such inspections, measurements, and tests as necessary for that purpose.

(E)            He shall perform such other duties as may be assigned to him by the provisions of this Code or by the City Council.

## ARTICLE II – UTILITY REGULATIONS

### **38-2-1      CONTRACT FOR UTILITY SERVICES.**

(A)      **Customer Accepts Service.** The rates, rules and regulations contained in this Chapter shall constitute and be considered a part of the contract with every person, company or corporation who is supplied with water and sewer services from the waterworks and sewer system and every person, company or corporation, hereinafter called a “customer” who accepts and uses City water and sewer services shall be held to have consented to be bound thereby.

(B)      **Not Liable for Interrupted Service.** The Department shall endeavor at all times to provide a regular and uninterrupted supply of service, however, in case the supply of service shall be interrupted or irregular or defective or fail from causes beyond its control or through ordinary negligence of employees, servants or agents, the Department shall not be liable therefor.

(C)      **Using Services Without Paying.** Any person using utility services from the City without paying therefor, or who shall be found guilty of breaking the seal of any meter or appurtenances, or bypassing any meter, shall be guilty of violating this Code, and upon conviction, shall be fined a sum as provided in **Section 1-1-20** of the Revised Code.

(D)      **Destroying Property.** Any person found guilty of defacing, tampering, injuring or destroying, or in any manner, limiting the use or availability of any meter or any property of the waterworks system and sewer system, or erecting signs on the property of the Department without permission shall, upon conviction of such act, be fined as provided in **Section 1-1-20** of the Revised Code.

(E)      **Service Obtained By Fraud.** All contracts for water and sewer services shall be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of nonpayment of bills, or any unpaid obligation and service has again been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the deposit as may be necessary to satisfy the unpaid obligation shall be retained by the City and credited to the appropriate account.

(F)      **Failure to Receive Bill.** Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the Department be unable to bill a customer for services used during any month, the following billing shall include the charges for services used during the unbilled month.

(G)      **Request to Discontinue Service.** Services shall have been deemed to have been supplied to any property connected to the Water and Sewer System during a month unless the customer notifies the City prior to the first day of the new billing month in which the services are to be discontinued.

### (H)      **Billing; Utility Shut-off; Hearing.**

(1)      All bills for utility services shall be due and payable upon presentation. If a bill is not paid by the **tenth (10th) day** of the month, a penalty of **Ten Dollars (\$10.00)** shall be added thereto. This penalty shall be in addition to the charges heretofore established for the utility services. **(Ord. No. 5-9-2005-1)**

(2)      Any customer who fails to pay the utility bills within **twenty (20) days** of presentation shall have the utility services disconnected after a written notice has been mailed by first-class mail to the customer, affording the customer an opportunity for a hearing. The aforesaid notice shall be mailed to the customer **ten (10) days** after billing, specifically advising the customer of the following:

- (a)      Name and address of the customer and amount of the bill.
- (b)      The date, time, and location of the hearing to be held.
- (c)      That the customer has a right to be heard and to present evidence in his behalf if he does not agree with the bill.

(d) That if the customer fails to appear at the hearing, the consumer's utility service shall be terminated without further proceedings.

(e) The date of termination.

**[See Memphis Light, Gas & Water v. Craft 98 S.Ct 1554 (1978)]**

- (3) The time, date and location of the hearing shall be determined by the Mayor, the Clerk or the Superintendent. One of these officials shall preside over the hearing and shall make a final determination as to the rights of the consumer and the City based on the information received at the hearing. **(See Appendix #6)**
- (4) The customer shall be notified within **two (2) working days** of the decision rendered by the hearing officer. If the service is to be discontinued, a date and time will be set out in the notice to terminate the service or services of the customer. Notice of the hearing officer's decision shall be made by first-class mail.
- (5) If the hearing officer decides in favor of the City, the City shall have the right to discontinue the customer's utility services. Should the customer fail to appear at the hearing, or should the notice be returned non-accepted, then the City shall also have the right to terminate the customer's utility services without further proceedings.
- (6) If the customer who has been notified for nonpayment of utility bills is not the owner of record, then the City shall notify the owner of the property by first-class mail.
- (7) Once utility services have been disconnected the same shall not be again connected or used until all delinquent accounts and bills of service are paid in full, including a fee of **Fifty Dollars (\$50.00)** for each connection of such utility services, plus expenses incurred in the reconnecting of the utility services.

(I) **Lien Notice.** Whenever a bill for utility services remains unpaid for **sixty (60) days** after it has been rendered, the Clerk shall file with the County Recorder of Deeds a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the municipality claims a lien for this amount to the period covered by the bill.

If the consumer of utility services whose bill is unpaid is not the owner of the premises and the Clerk has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the Clerk whenever such bill remains unpaid for a period of **thirty (30) days** after it has been rendered.

The failure of the Clerk to record such lien or to mail such notice, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid utility bills as mentioned herein. **(65 ILCS 5/11-139-8)**

(J) **Foreclosure of Lien.** Property subject to a lien for unpaid utility charges may be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill-in-equity in the name of the City.

The City Attorney is hereby authorized to institute such proceedings in the name of the City in any Court having jurisdiction over such matters against any property for which the bill for utility services has remained unpaid **ninety (90) days** after it has been rendered. **(65 ILCS 5/11-139-8)**

**38-2-2      CONSUMER LISTS.** It is hereby made the duty of the Clerk to prepare or cause to be prepared a complete and accurate list of all premises and properties receiving utility services, showing the name and address of the occupant and the owner of the same. The list shall be kept up-to-date, and shall be corrected from time to time to allow changes in the occupancy or ownership of any such property or premises. It shall be presented at the regular monthly meeting if requested.

**38-2-3      FILED IN RECORDER OF DEEDS.** A copy of this Chapter properly certified by the City Clerk, shall be filed in the office of the Recorder of Deeds of the County, and shall be deemed notice to all owners of real estate of liability for service supplied to any user of the service of the waterworks system of said City on their properties.

**38-2-4      LIABILITY FOR CHARGES.** The owner of any lot, parcel of land or premises and the user of the services shall be jointly and severally liable for the payment of the services to such lot, parcel of land or premises, and all services are rendered to the premises by the City only on the condition that such owner, occupant and user shall be jointly and severally liable therefor to the City.

**38-2-5      ESTIMATED CHARGE.** Whenever any meter, by reason of its being out of repair or from any cause fails to properly register the utilities passing through the same, the consumer shall be charged the average charge of the **previous twelve (12) months usage**. If no record of the previous **twelve (12) months** exists, then it shall be the duty of the Water Clerk to estimate the amount of utilities consumed during the time the meter fails to operate and the consumer shall be charged with such estimated amount. Bills may be estimated whenever it is impossible to read the meters during inclement weather.

**38-2-6      NO FREE UTILITY SERVICE.** No free utility service shall be furnished to any person, public or private, and all rates and charges shall be non-discriminatory, provided that the Mayor and City Council reserve the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust.

**38-2-7      METER MALFUNCTION.** Any municipal water meter shall be taken out and tested upon complaint of the consumer, upon payment of a fee of **Twenty Dollars (\$20.00)**. If upon test the meter is not within **three percent (3%)** of being accurate, it shall be repaired or replaced and the **Twenty Dollar (\$20.00)** fee returned to the consumer.

**38-2-8      UTILITY DEPOSITS.**  
(A) **Residential.** When any application is made for water services in accordance with the provisions of this Code, all applicants for which the service is requested shall put the water service in their name and deposit with the application the amount of **One Hundred Dollars (\$100.00)**. The **Fifty Dollar (\$50.00)** deposit shall be refunded to the applicant after **twelve (12) continuous months** of non-delinquency in water payments. When the amount of the deposit provided for is not sufficient to adequately protect the Water Department, a greater amount than stated may be required, based on the consumer's estimated bill for a customary billing period.

(B) **Security for Payment - No Interest.** The deposits made under the provisions of this Chapter shall be held by the City as security for the payment of utility services used by the applicant upon the premises to which his application pertains, and may be so applied when any default is made in the payment in the utilities bill in accordance with this Chapter. The depositor shall earn no interest on the deposit.

(C) **Liability for Deposit.** The owner of the premises and the tenant thereof shall be jointly and severally liable to pay the required deposit herein established before water and sewer services shall be made available to the tenant-occupied premises. In the case a portion of the deposit is used as aforesaid, the tenant or owner of the premises shall immediately deposit with the City Clerk an amount sufficient to bring the deposit to the established rate of deposit.

## ARTICLE III – WATER SYSTEM

### DIVISION I – GENERAL REGULATIONS

- 38-3-1**      **DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as follows:
- (A)      **Federal Government.**
- (1)      **"Federal Act"** means the federal 1996 Safe Drinking Water Acts Amendments.
- (2)      **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.
- (B)      **State Government.**
- (1)      **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.
- (2)      **"Director"** means the Director of the Illinois Environmental Protection Agency.
- (3)      **"State Loan"** shall mean the State of Illinois participation in the financing of the construction of water works as provided for by the Illinois Anti-Pollution Bond Act and for making such loans as filed with the Secretary of State of the State of Illinois.
- (C)      **Local Government.**
- (1)      **"Approving Authority"** means the City Council of the City of Macon or where such authority is specifically delegated, the Superintendent of the Water and Sewer Department.
- (D)      **"Person"** shall mean any and all persons, natural or artificial, including any individual, firm or company, municipal, or private corporation, association, society, institution, enterprise, governmental agency or other entity.
- (E)      **Clarification of Word Usage.** **"Shall"** in mandatory; **"may"** is permissible.
- (F)      **Water and Its Characteristics.**
- (1)      **"ppm"** shall mean parts per million by weight.
- (2)      **"milligrams per liter"** shall mean a unit of the concentration of water constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water analysis.
- (3)      **"PH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.
- (G)      (1)      **"Curb Cock"** shall mean a shutoff valve attached to a water service pipe from a water main to a building installed near the curb, which may be operated by a valve key to start or stop flow in the water-supply lines of a building. Also called a curb stop.
- (2)      **"Easement"** shall mean an acquired legal right for the specific use of land owned by others.
- (3)      **"Service Box"** shall mean a valve box used with corporation or curb cock.
- (H)      **Types of Charges.**
- (1)      **"Water Service Charge"** shall be the charge per quarter or month levied on all users of the Water Facilities. The service charge shall be computed as outlined in this Article, and shall consist of the total of the Basic User Charge and the Local Capital Cost if applicable.
- (2)      **"User Charge"** shall mean a charge levied on users of water works for the cost of operation, maintenance and replacement.
- (3)      **"Basic User Charge"** shall mean the basic assessment levied on all users of the public water system.

- (4) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.
- (5) **"Capital Improvement Charge"** shall mean a charge levied on users to improve, extend or reconstruct the water works.
- (6) **"Local Capital Cost Charge"** shall mean charges for costs other than the operation, maintenance and replacement costs, i.e. debt service and capital improvement costs.
- (7) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the useful life of the works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (8) **"Useful Life"** shall mean the estimated period during which the water works will be operated.
- (9) **"Water and Sewer Fund"** is the principal accounting designation for all revenues received in the operation of the water system.

**38-3-2 APPLICATION FOR TAPS AND SERVICE CONNECTIONS TO THE WATERWORKS SYSTEM.** An applicant desiring a water tap or service connection with the Waterworks System of the City shall file a written application at the City Hall, signed by the owner of the property for which the tap or service connection is desired, or by the duly authorized agent of such owner. The application shall be accompanied by payment of the fee hereinafter prescribed to cover the cost of such service connection. In the event the application is made by an agent for the owner, then the application shall also be accompanied by the written authority of the owner to the agent for the making of the application. **(See Appendix #1)**

**38-3-3 ALL SERVICE TO BE BY METER.** All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the Water and Sewer Committee. Water shall not be turned on for new connections until the meter has been installed and all other requirements of this Chapter on the part of the property owner have been fully complied with.

**38-3-4 REMOVAL OF METERS.** All meters shall remain the property of the department and may be removed from the customer's premises at any time without notice for the purpose of testing and repairing the same or upon discontinuance of service. Upon discovery of any lawful act by any customer, his agent, or employee herein prohibited or upon failure to comply with any other rules and regulations of the department, such service shall be disconnected.

**38-3-5 INSTALLING AND MAINTAINING SERVICE LINES.** The user shall be responsible for installation and maintenance of service lines between the meter and the residence or business. Such service lines must be at least **three-fourths (3/4) inch** in diameter, and must be installed at a minimum depth of **three (3) feet**. Service lines must have a minimum working pressure rating of **160 psi at 73.4 degrees F** and must be constructed of one of the following types of materials: Copper, (Type K), polyvinyl chloride (PVC), polyethylene or polybutylene. Service lines shall not be covered until they are inspected and approved by the Superintendent.

The user shall not connect any service line or any plumbing connected with the service line to any other water source. The service line shall meet all requirements of the Illinois Environmental Protection Agency's rules and regulations, the Illinois Plumbing Code, and the regulations in this Chapter.

**38-3-6            INSPECTION.**

(A)            **Access to Premises.** The City shall have access to all portions of the premises of the consumer at any reasonable time for inspection of the use of water and the consumer's pipe, fixtures, plumbing, and any other apparatus in any manner connected to the Waterworks System of the City. The City shall have the right and option to demand change or stopping of use or to require any repair, change, removal or improvement of any pipe, fixture, plumbing or other apparatus that would in any manner affect the water supply or system of the City or the supply or fixtures of other consumers.

(B)            **Meters to be Open to Inspection.** All water meters and water fixtures, connections and appurtenances on private property connected with the Waterworks System of the City shall be open to the inspection of the proper officers and employees of the City at all reasonable hours.

**38-3-7            METER DAMAGED.** Whenever a meter is found to have been damaged by hot water being forced back into it from the consumer's hot water or heating apparatus or for any other cause within control of the consumer, the consumer shall pay the City for the actual cost of the removal, repair, and replacement of the damaged meter and all previous water bills shall be corrected on an estimated basis to cover such period as it appears that the meter was out of order for such damage.

**38-3-8            DAMAGE DUE TO INTERRUPTION OF SERVICE; LIABILITY.** All connections for the water services applied for hereunder and all connections now attached to the present City Waterworks System and all use or service of the system shall be upon the express condition that the City shall not be liable for nor shall any claim be made against it for damages or injury caused by reason of the breaking of any main, service, pipe, apparatus or appurtenance connected with the Waterworks System or for any interruption of the supply of water by reason of the breaking of machinery or by reason of stoppages, alterations, extensions or renewals.

**38-3-9            RESALE OF WATER.** No water supplied by the waterworks system shall be resold by any user. No water user may supply water to other families or allow them to take it, except for use on the premises and for the purpose specified in such user's approved application, nor after water is introduced into any building or upon any premises shall any person make or employ any other person to make any tap or connection with work upon the premises for alterations, repairs, extension or attachments without written permit therefore. Resale or unauthorized use of water shall be grounds for discontinuance of water service to the user, or the premises, or both.

**38-3-10           DISCONTINUING SERVICE - DANGEROUS USAGE.** The City shall have the right to refuse water service or to discontinue water service, without notice, at any time to any consumer if the City finds any apparatus or appliances, the operation of which will be detrimental to the water system of the City or to any or all of its consumers. Standpipes, hydrants, gate valves and any other apparatus that cause water hammer or any danger to the water system or other customer's plumbing shall be immediately repaired or removed upon notice from the City, or, at its option, the City may immediately discontinue service without notice and without any liability for direct or resulting damages therefrom.

**38-3-11           ELECTRIC GROUND WIRES.** All persons are strictly forbidden to attach any electric ground wire to any plumbing or water piping which is or may be connected to any water service pipe, water meter, or water main belonging to the City.

The City shall hold the owner of the premises responsible and liable for any damage to the property or injury to the employees of the City caused by such ground wire. Any and all owners and consumers shall remove any existing ground wires immediately upon written notice from the City. If not so disconnected **five (5) days** after notice, the City, through its officials, may enter the property and remove such ground wires and the consumer shall pay all costs.

**38-3-12      WATER FOR BUILDING OR CONSTRUCTION PURPOSES.** Applicants desiring to use water from the City Waterworks System for building or construction purposes shall make application therefor to the Superintendent on a form provided by the Water and Sewer Department for that purpose.

Upon a permit being granted, the service pipe shall be carried at the expense of the applicant to the inside of the curb line where a service cock and meter shall be placed with pipe leading to the surface and a faucet placed at the end thereof above the surface. When the building or construction is completed, the faucet and meter shall be removed and the water shut off unless permanent connection is made in accordance with the provisions of this Chapter. Charge for the use and connection of the meter shall be prescribed by the Superintendent.

**38-3-13      FIRE HYDRANTS.**

(A) All public fire hydrants with gate valves, tees, and connections from the main, inside the City Limits, shall be owned, maintained and used only by the City and shall be solely responsible for same. Use of water from fire hydrants by contractors and others shall be only upon permission by the City and after approved application to the City.

(B) The City shall not be held liable and will not assume any responsibility for the condition of any fire hydrant inside or outside of the City Limits or the pressure or amount of water obtainable therefrom or any damage either direct or resultant because of the condition, pressure or amount of water available at any fire hydrant.

(C) All public fire hydrants located outside the City Limits owned by the City shall be maintained in as good order as reasonably possible, but the City will not undertake or assume any responsibility or liability for their condition or use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fires except when the City may issue a special permit for their use to contractors who shall then be responsible for the hydrants and the use of water from them.

**38-3-14      LIMITED WATER USAGE IN EMERGENCIES.**

(A) The Mayor is hereby authorized to proclaim the existence of an emergency whenever it appears that the City water supply is inadequate for all general uses and purposes, which proclamation shall be published in a newspaper of general circulation in the community and the Mayor is further authorized to declare in similar manner the end of an emergency period.

(B) From and after the publication of a proclamation as provided for in subsection (A) of this Section, the following uses of water shall be prohibited:

- (1) the washing of cars and other vehicles;
- (2) the sprinkling of lawns and shrubbery;
- (3) the watering of gardens;
- (4) other nonessential uses;

and it shall be unlawful for any person to so use water from the City supply during such an emergency.

**38-3-15      SHORTAGE AND PURITY OF SUPPLY.** The City shall not be held responsible for or in any manner liable to any person, company, consumer or public body for any claim or damage, either direct or resultant because of any shortage of water supply, any shutoff of water for any reason, any bursting or leakage of either the consumer's or City's mains, pipes and fixtures, any pollution or impurity in water supply or any fire or water damage.

**38-3-16      NON-COMPLIANCE WITH RULES AND REGULATIONS.** If any consumer fails to comply with any of the rules and regulations in force, the City shall notify the consumer of such failure. If the consumer does not remedy the same as the rules provide and within a reasonable time,



the City shall have the right to discontinue service. Except in case of non-payment, emergency, necessity, or as otherwise provided, the City will not discontinue service for violation of any rule until **five (5) days** after notice has been given and the violation has not been remedied.

**38-3-17      EASEMENTS.** The consumer shall give such easements and rights-of-way as necessary to the City and allow access for the purpose of construction, repair, maintenance, meter reading, relocation or expansion of the water system. The necessity shall be determined by the Superintendent.

**38-3-18      USE OF WATER ON CONSUMER'S PREMISES.** The City shall reserve the right to use the water from the consumer's facilities at any time deemed necessary. No charge shall be made by the consumer for the use of the facilities and no charge shall be made by the City for the water used by the City.

**38-3-19      ALLOCATION OF MAINTENANCE COSTS BETWEEN USER AND CITY.** The City shall maintain and repair all water service pipes between the water mains and the curb lines. Any repairs to service lines or taps between the water mains and the sidewalk or property line shall be the City's expense. Any repairs or renewals of water service pipes between the property line or curb line and extending to the owner's premises shall be made at the sole expense of the consumer or owner of the premises.

**38-3-20      CITY NOT LIABLE FOR INTERRUPTION OF SUPPLY.** The City shall have the right to shut off the supply of water whenever it is necessary to make repairs, improvements, enforce rules or for any notice as circumstances allow, will be given to consumers but in emergencies, the water may be shut off without notice. All hot water faucets shall be left open during any shut-off to prevent damage to plumbing. Such necessary work will be done as rapidly as may be practical and whenever feasible at such times as will cause the least inconvenience. The City shall not be held responsible for or liable because of any shut-off of supply for any direct or resultant damages to any person, company or consumer or to any pipe, fixtures, or plumbing.

Water for steam boilers, gas engines, ice plants, or other industrial use, shall not be furnished by direct pressure from the mains, but only to tanks holding ample reserve supply. Should any equipment be supplied direct from mains, then in case of any shutoff of water, the City will not be held responsible or liable for any direct or resulting damage because of interrupted supply, insufficient pressure, or otherwise.

Whenever water mains, pipes and service connections are taken up, shut-off or interfered with by reason of any City street improvements, the City will endeavor to maintain service so far as reasonably possible, but will not be directly or indirectly liable for any interruption, poor pressure, or damage of any kind either to consumers, adjacent or to other consumers affected thereby.

The City expressly stipulates with all its consumers and other persons that it will not insure or be responsible or liable in any manner for any losses, or damages, direct or resultant by reason of any fire, and all water service furnished shall always be conditional upon acts of God, inevitable accidents, fire, strikes, riots, war, or any other cause not within the reasonable control of the City.

**38-3-21      WATER WELL PERMITS REQUIRED.** It shall be unlawful to drill a water-well in the City without the proper permits from the State of Illinois and the City Council. All wells shall comply with the Cross-Connection Code in this Chapter. No wells shall be drilled when the property is within **two hundred (200) feet** of the municipal water main.

**38-3-22      ABANDONED CONNECTION.** Whenever any connection to the waterworks system is abandoned, because the building to which the water connection is made has been abandoned, destroyed or removed, the Superintendent may remove the meter and any pipe or connections in the public right-of-way or easement, and cap, plug or otherwise seal the pipe or main. Before taking any such steps the Superintendent shall notify the owner of the real estate if the owner's name and address is known, and shall notify the person shown on the real estate tax records as having paid taxes on the property the last time taxes were paid. Such notice shall be made by mail, at least **thirty (30) days** before any action is taken under this Section. If water is leaking, the Superintendent shall take immediate action, and send the notices within **three (3) working days** of the time action was taken.

**38-3-23      ALTERNATIVE WATER SOURCE.** Any customer with critical water requirements shall have an alternate water source. Failure to provide such shall be considered a violation of customer rules and loss or damages resulting therefrom shall be the responsibility of the customer. Those customers shall include but not be limited to manufacturers, hospitals, nursing homes, schools, greenhouses, hatcheries or any other building or business which might suffer any type of loss due to interruption of water service.

The City expressly stipulates with all customers and other persons who may be affected by the discontinuance of service that it will neither insure nor be responsible or liable in any manner for any loss or damages, direct or indirect, by reason of fire or any other cause and all water service furnished shall also be conditional upon acts of God, inevitable accidents, failure of supply, fire, strikes, riots or any other causes.

**38-3-24      RULES TO BECOME PART OF CONTRACT.** All of the rules and regulations concerning the use of the facilities of the water system and the consumption of water shall be adopted and the same shall become part of the contract with every water consumer and every water consumer shall be considered to take water from the City, subject thereto and bound thereby.

**38-3-25      REPAIRS AND REPLACEMENT OF METERS.** All water meters shall be the responsibility of the City to maintain and/or replace when those meters are found to be improperly functioning. Repair and replacement of all meter boxes shall be the responsibility of the City.

**38-3-26 - 38-3-30      RESERVED.**

## **DIVISION II - CROSS-CONNECTION ADMINISTRATION**

**38-3-31      APPROVED BACKFLOW DEVICE.** All plumbing installed within the City shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Inspector, an approved backflow prevention device is necessary for the safety of the public water supply system, the Inspector shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

**38-3-32      CROSS-CONNECTION PROHIBITED; EXCEPTION.** No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply enters the supply or

distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent and the Illinois Environmental Protection Agency.

**38-3-33      INVESTIGATIONS BY SUPERINTENDENT.** It shall be the duty of the Superintendent to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every **two (2) years** or as often as the Inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years**.

**38-3-34      RIGHT TO ENTER PREMISES.** The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying the presence or absence of cross-connections and that the Inspector or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the Inspector any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Inspector, be evidence of the presence of improper connections as provided in this Chapter.

**38-3-35      NOTICE TO CUSTOMER; RECONNECT FEE.**  
(A) The City Clerk is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Chapter and until a reconnection fee of **One Hundred Dollars (\$100.00)** is paid to the City Clerk.

(B) Immediate disconnection with verbal notice can be effected when the Inspector is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Inspector or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C) The public water supply, the Inspector or the agents or assigns shall not be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this Chapter, whether or not said termination was with or without notice.

**38-3-36      CONTAMINATIONS COST AND THE CONSUMER.** The consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

**38-3-37 - 38-3-40      RESERVED.**

### **DIVISION III - CROSS-CONNECTION CONTROL CODE**

**38-3-41      PURPOSE.** The purpose of these Rules and Regulations is:

(A) To protect the public water supply system from contamination or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.

(B) To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable safety.

(C) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

**38-3-42      APPLICATION.** These Rules and Regulations shall apply to all premises served by the public potable water supply system of the City.

**38-3-43      RESPONSIBILITY OF OWNER.** The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customers water service connection. If, in the judgment of the Superintendent or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense; failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in **Section 38-3-47(D)** below for a period of at least **five (5) years**. The Superintendent may require the consumer to submit a cross-connection inspection report to the City to assist in determining whether or not service line protection will be required. All cross-connection inspections shall be conducted by a Cross-Connection Control Device Inspector certified by the Illinois Environmental Protection Agency.

**38-3-44      DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of these regulations:

**"Fixed Proper Air Gap"** means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

**"Agency"** means Illinois Environmental Protection Agency.

**"Approved"** means backflow prevention devices or methods approved by the Research Foundation for Cross-Connection Control of the University of Southern California, Association of State Sanitary Engineers, American Water Works Association, American National Standards Institute or certified by the National Sanitation Foundation.

**"Auxiliary Water System"** means any water source or system on or available to the premises other than the public water supply system and includes the water supplied by the system. These auxiliary waters may include water from another purveyor's public water supply system; or water from a source such as wells, lakes, or streams or process fluids; or used water. These waters may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

**"Backflow"** means the backflow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

**"Backflow Prevention Device"** means any device, method, or type of construction intended to prevent backflow into a potable water system. All devices used for backflow prevention in Illinois must meet the standards of the Illinois Plumbing Code and the Illinois Environmental Protection Agency.

**"Consumer" or "Customer"** means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

**"Consumer's Water System"** means any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

**"Contamination"** means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

**"Cross-Connection"** means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other a substance of unknown or questionable safety or quality, whereby there may be a flow from one system into the other.

**"Direct Cross-Connection"** means a cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

**"Indirect Cross-Connection"** means a cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

**"Double Check Valve Assembly"** means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly and suitable connections for testing the water-tightness of each check valve.

**"Health Hazard"** means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

**"Inspection"** means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admn. Code 890.

**"Non-potable Water"** means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

**"Plumbing"** means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems, from the source of a private water supply on the premises or from the main in the street, alley or at the curb to, within and about any building or buildings where a person or persons live, work or assemble. Plumbing includes all piping, from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances, and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system **five (5) feet** beyond the foundation walls.

**"Pollution"** means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

**"Potable Water"** means water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

**"Potential Cross-Connection"** means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

**"Process fluid(s)"** means any fluid or solution which may be chemically, or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

- (A) polluted or contaminated waters;
- (B) process waters;
- (C) used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (D) cooling waters;
- (E) questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (F) chemicals in solution or suspension;
- (G) oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

**"Public Water Supply"** means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

**"Reduced Pressure Principle Backflow Prevention Device"** means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closed shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

**"Service Connection"** means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

**"Survey"** means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

**"System Hazard"** means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or a consumer's potable water system.

**"Used Water"** means any water supplied by a public water supply system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water supply official custodian.

**"Water Purveyor"** means the owner or official custodian of a public water system.

**38-3-45      WATER SYSTEM.**

(A)            The water system shall be considered as made up of two parts: the public water supply system and the consumer's water system.

(B)            The public water supply system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Superintendent up to the point where the consumer's water system begins.

(C)            The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D)            The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E)            The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

**38-3-46      CROSS-CONNECTION PROHIBITED.**

(A)            Connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to insure proper operation on a continuing basis.

(B)            No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

(C)            There shall be no arrangement or connection by which an unsafe substance may enter a supply.

**38-3-47      SURVEY AND INVESTIGATIONS.**

(A)            The consumer's premises shall be open at all reasonable times to the approved cross-connection control device inspector for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

(B)            On request of the Superintendent, or his authorized representative, the consumer shall furnish information regarding the piping system or systems or water use within the customer's premises. The consumer's premises shall be open at all reasonable times to the Superintendent for the verification of information submitted by the consumer to the public water supply custodian regarding cross-connection inspection results.

(C)            It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with **225 ILCS 320/3**.

(D)            It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

(1)            All cross-connections are removed; or approved cross-connection control devices are installed for control of backflow and back-siphonage.

(2)            Cross-connection control devices shall be installed in accordance with the manufacturer's instructions.

- (3) Cross-connection control devices shall be inspected at the time of installation and at least annually by a person approved by the Agency as a cross-connection control device inspector (CCCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.
- (4) Testing and Records
  - (a) Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.
  - (b) Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with **415 ILCS 5/4(e)**.
  - (c) Each device shall have a tag attached listing the date of most recent test, name of CCCDI, and type and date of repairs.
  - (d) A maintenance log shall be maintained and include:
    - 1. date of each test;
    - 2. name and approval number of person performing the test;
    - 3. test results;
    - 4. repairs or servicing required;
    - 5. repairs and date completed; and
    - 6. servicing performed and date completed.

### **38-3-48**

#### **WHERE PROTECTION IS REQUIRED.**

(A) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 680. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises, where in the judgment of the Superintendent, actual or potential hazards to the public water supply system exist.

(B) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist:

- (1) Premises having an auxiliary water supply, unless such auxiliary supply is accepted as an additional source by the Superintendent and the source is approved by the Illinois Environmental Protection Agency.
- (2) Premises on which any substance is handled which can create an actual or potential hazard to the public water supply system. This shall include premises having sources or system containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the Superintendent.
- (3) Premises having internal cross-connections that, in the judgment of the Superintendent, are not correctable or intricate plumbing arrangements which make it impractical to determine whether or not cross-connections exist.
- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
- (5) Premises having a repeated history or cross-connections being established or reestablished.

(C) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Superintendent determines that no actual or potential hazard to the public water supply system exists:



- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.
- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- (5) Food or beverages processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.
- (8) Petroleum processing or storage plants.
- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.
- (11) Pesticide, or herbicide or extermination plants and trucks.
- (12) Farm service and fertilizer plants and trucks.

**38-3-49      TYPE OF PROTECTION REQUIRED.**

(A) The type of protection required under **Section 38-3-48** of these regulations shall depend on the degree of hazard which exists as follows:

- (1) An approved fixed proper air gap separation shall be installed where the public water supply system may be contaminated with substances that could cause a severe health hazard.
- (2) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly shall be installed where the public water supply system may be contaminated with a substance that could cause a system or health hazard.
- (3) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly or a double check valve assembly shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(B) The type of protection required under **Section 38-3-48** of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention device.

(C) Where a public water supply or an auxiliary water supply is used for a fire protection system, reduced pressure principle backflow preventers shall be installed on fire safety systems connected to the public water supply when:

- (1) The fire safety system contains antifreeze, fire retardant or other chemicals;
- (2) water is pumped into the system from another source; or
- (3) water flows by gravity from a non-potable source; or water can be pumped into the fire safety system from any other source;
- (4) there is a connection whereby another source can be introduced into the fire safety system.

(D) All other fire safety systems connected to the potable water supply shall be protected by a double check valve assembly on metered service lines and a double detector check valve assembly on unmetered service lines.

**38-3-50      BACKFLOW PREVENTION DEVICES.**

(A) All backflow prevention devices or methods required by these rules and regulations shall be approved by the Research Foundation for Cross-Connection Control of the University of Southern California, American Water Works Association, American Society of Sanitary Engineering, or American National Standards Institute or certified by the National Sanitation Foundation to be in compliance with applicable industry specification.

(B) Installation of approved devices shall be made in accordance with the manufacturer's instructions. Maintenance as recommended by the manufacturer of the device shall be performed. Manufacturer's maintenance manual shall be available on-site.

**38-3-51      INSPECTION AND MAINTENANCE.**

(A) It shall be the duty of the consumer at any premises on which backflow prevention devices required by these regulations are installed to have inspection, tests, maintenance and repair made in accordance with the following schedule or more often where inspections indicate a need or are specified in manufacturer's instructions.

- (1) Fixed proper air gap separations shall be inspected to document that a proper vertical distance is maintained between the discharge point of the service line and the flood level rim of the receptacle at the time of installation and at least annually thereafter. Corrections to improper or by passed air gaps shall be made within 24 hours.
- (2) Double check valve assemblies shall be inspected and tested at time of installation and at least annually thereafter, and required service performed within **five (5) days**.
- (3) Reduced pressure principle backflow prevention assemblies shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer, and required service performed within **five (5) days**.

(B) Testing shall be performed by a person who has been approved by the Agency as competent to service the device. Proof of approval shall be in writing.

(C) Each device shall have a tag attached listing the date of most recent test or visual inspection, name of tester, and type and date of repairs.

(D) A maintenance log shall be maintained and include:

- (1) date of each test or visual inspection;
- (2) name and approval number of person performing the test or visual inspection;
- (3) test results;
- (4) repairs or servicing required;
- (5) repairs and date completed; and
- (6) servicing performed and date completed.

(E) Whenever backflow prevention devices required by these regulations are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay as required by **Section 38-3-41(A)**.

(F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent.

**38-3-52      BOOSTER PUMPS.**

(A) Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low pressure cut-off device designed to shut-off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 psi or less.

(B) It shall be the duty of the water consumer to maintain the low pressure cut-off device in proper working order and to certify to the Superintendent, at least once a year, that the device is operable.

**38-3-53      VIOLATIONS AND PENALTIES.**

(A) The Superintendent shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by these regulations is not installed, tested, maintained and repaired in a manner acceptable to the

Superintendent, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cut-off required by these regulations is not installed and maintained in working order.

(B) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Superintendent, and the required reconnection fee is paid.

(C) Neither the City, the Superintendent, or its agents or assigns, shall be liable to any customers of the City for any injury, damages or lost revenues which may result from termination of said customer's water supply in accordance with the terms of this ordinance, whether or not said termination of the water supply was with or without notice.

(D) The consumer responsible for back-siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the potable water supply system.

(E) Any person found to be violating any provision of this Code shall be served with written notice stating the notice of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.

(F) Any person violating any of the provisions of this Code in addition to the fine provided, shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation, whether the same was caused before or after notice.

#### **38-3-54 - 38-3-60 RESERVED.**

### **DIVISION IV - EXTENSION OF MAINS**

**38-3-61 MAIN EXTENSION AGREEMENT.** Upon application for water service in areas not served by a City-owned water main, the City may, with approval of the City Council, authorize the extension of the main. Water mains extended by and paid for by the City shall require a connection (tap-on fee) of **One Thousand Five Hundred Dollars (\$1,500.00)** for each premises served. The tap-on fee shall not apply if the water main extension is paid by the applicant.

**38-3-62 EASEMENTS.** Applicants for main extensions shall deliver, without cost to the City, permanent easements or right-of-way when necessary for the installation and maintenance of the extensions or subsequent additions thereto. The City shall not be obligated to authorize any construction until all requirements of this Chapter have been met.

**38-3-63 SIZE AND TYPE.** The City reserves the right to determine and specify the diameter and type of pipe required to provide the service requested, and subject to the requirements of municipal authorities, its location within or without the limits of a street. The City further reserves the right to install a main larger in diameter than the main required to render the service requested, in which case, the City will pay the difference in cost. The water main material specifications shall be as follows:

(A) **Pipe.** ANSI/AWWA C900 PVC, Class 150, DR18.

(B) **Tracer Wire.** No. 12 copper, Type THWN or equivalent. Tracer wire shall be installed along all mains and fire hydrant branches. The wire shall be continuous and brought into all valve boxes such that it is accessible by hand inside the valve box. Wire shall be spliced using 3M splice kits approved for water tight, underground installation.

(C) **Fittings.** ANSI/AWWA C153/A21.53 Compact Ductile Iron, Cement Mortar Lined.

(D) **Gate Valves.** AWWA C509, Resilient seat type.

- (E) **Tapping Sleeves.** All Ductile Iron tapped full circle clamp coupling.
- (F) **Service Saddles.** All Bronze, Dual Strap type.
- (G) **Corporation Stops.** Bronze Body with compression connection to service line.
- (H) **Service Lines.** **Three-fourths (3/4) inch** minimum, Copper Tubing, Type K, Soft Temper.
- (I) **Connections to Existing Service Lines.** Bronze Body Compression Couplings.
- (J) **Thrust Restraint.** Provide joint restraints or blocking, as directed by the Water Superintendent. Joint restraints shall be UL listed/FM approved. Restraints shall be designed to withstand **100 psi.**
- (K) **Fire Hydrants.** Three way type, **five and one-fourth (5 1/4) inch** end, National Standard Thread, open counter-clockwise.

**38-3-64** **TITLE.** Title to all main extensions shall be vested in the City and the City shall have the right to further extend any main installed in and to other streets or premises without repayment or refund to any applicant. However, the City reserves the right to consider extensions made at the applicant's expense and without written agreement as to service lines. Upon such lines, the City will set a meter at the beginning of the extension to measure all water used and title to the line beyond the meter will be vested in the customer who shall be responsible for maintenance and replacement, when necessary.

**38-3-65** **MAINTENANCE AND REPLACEMENT.** The City, at its own expense, shall maintain and when necessary, replace the City-owned mains used to supply water to its customers, and if adequate service requires the reconstruction or replacement of such mains, the mains shall be reconstructed or replaced by the City at its expense.

**38-3-66 - 38-3-68** **RESERVED.**

## **DIVISION V – LEAK INSURANCE PROGRAM**

**38-3-69** **WATER LEAK ADJUSTMENT.** The City will be implementing a Leak Insurance Program. This insurance Program will automatically enroll every Residential Customer into the Program. Any residential customer may decline to participate in the Leak Insurance Program by contacting, in writing, the City Clerk. Any customer declining to participate in the Leak Insurance Program will be responsible for the full amount of their bill, with no adjustments for leaks being made.

**38-3-70** **PURCHASE OF WATER.** All water which passes through a water meter shall be purchased by the customer. Customers are responsible for keeping their plumbing repaired and in good working order. Failure to make timely repairs may disqualify a customer from a leak adjustment.

**38-3-71** **EVIDENCE OF LEAK.** A leak may be evidenced by a bill for water used that is more than double the customer's average monthly usage for the previous **four (4) months**. If the period of connection is fewer than **four (4) months**, then usage in the **four (4) month** period immediately following the month in which the leak was repaired may be used to establish the customer's average bill, at the Water Superintendent's discretion. To qualify as a leak, the water loss must be underground, within walls, under the floor or otherwise concealed and may not be resulting from the fault of the customer or his agent.

**38-3-72      LIMITATION ON ADJUSTMENT.** No customer shall receive more than one leak adjustment for leaks on the customer's premises during any **three hundred sixty-five (365) day** rolling period, beginning on the date on which the first leak is entered into the City's records system. Normally only **one (1) month's** bill will be adjusted, with that month to be determined by the customer. However, the Water Superintendent has the discretion to adjust a leak that spans more than **one (1) billing period** if the leak otherwise qualifies under this policy.

**38-3-73      ADJUSTMENTS NOT MADE.** Adjustments on water bills will NOT be made on or for the following:

- (A) Residential customers who do not have their own water meter.
- (B) Commercial or Industrial Customers.
- (C) Leaking faucets, toilets, water heaters (except those in crawl spaces), or other faulty or leaking plumbing fixtures.
- (D) Premises left or abandoned without reasonable care for the plumbing system.
- (E) Watering of lawns or gardens, whether by irrigation systems or manually.
- (F) Outside water spigots or hydrants that are left running, whether intentionally or accidentally.
- (G) Excess water charges not directly resulting from a qualifying plumbing leak.
- (H) Periodic or continual filling of swimming pools or other water containment vessels and/or leaks from such pools or vessels.
- (I) In general, water usage related to the malfunction of automatic livestock watering devices or systems, or other such automatic devices or systems, whether the malfunction was caused by humans, animals or malfunction of the device or system itself, will not be considered a leak. However, the City has determined that a customer may receive, one time only, a single leak adjustment for a malfunctioning device as identified above, provided that the customer provides a written statement to the City's Clerk stating that the device did in fact malfunction. This exception is not transferable and will not apply to any customer who may, at some future date, occupy the premises where the device is installed.
- (J) In general, water usage that occurs due to the malfunction of a water softening unit will not be considered as a leak. However, the City has determined that a customer may receive, one time only, a single leak adjustment for a malfunctioning water softener, provided that the customer furnishes a written statement from the company that serviced and/or repaired the water softener, stating that the unit did in fact malfunction. This exception is not transferable nor will it apply to any customer who may, at some future date, occupy the building where the water softener is installed.

**38-3-74      NO OBLIGATION.** The City, through its water leak insurance program, will not be obligated to make adjustments of any bills not submitted for a leak adjustment within **ninety (90) days** from the billing date.

**38-3-75      INVESTIGATION.** The City shall first determine that the meter was properly read. If, an investigation of the meter and meter records establishes that the meter was misread or that there was a failure of utility equipment, a new bill will be issued with the proper reading or using an estimated reading based on an average of the past **twelve (12) months** billing for this period. There will be no penalty assessed in the event the adjustment procedure delays payment past the penalty date. If such investigation establishes that the meter was properly read and that there was no failure of Utility equipment, the bill will remain valid and payable.

**(Ord. No. 2017-09-11-3)**

**38-3-76 - 38-3-77      RESERVED.**

## **DIVISION VI – WATER RATES**

**38-3-78      BUILDING UNIT DEFINED.** All persons or families residing in a building under one roof, be it an apartment or homes converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account according to the number of families or individual residents residing therein.

**38-3-79      WATER REVENUES.** All revenues and moneys derived from the operation of the Water system shall be deposited in the water account of the water fund. All such revenues and moneys shall be held by the City Treasurer separate and apart from its private funds and separate and apart from all other funds of the City Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may from time to time be directed by the City Council. The City Treasurer shall receive all such revenues from the water system and all other funds and moneys incident to the operation of such system as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewer System Fund of the City". The Treasurer shall administer such fund in every respect in the manner provided by **65 ILCS 5/3.1-35-40 et seq.**

**38-3-80      WATER ACCOUNTS.** The City Treasurer shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the system, and at regular annual intervals shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water system. In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the water facilities, including a replacement cost. The financial information to be shown in the audit report shall include the following:

- (A) Flow data showing total gallons received at the water plant for the current fiscal year.
- (B) Billing data to show total number of gallons billed per fiscal year.
- (C) Debt service for the next succeeding fiscal year.
- (D) Number of users connected to the system.
- (E) Number of non-metered users.

**38-3-81      ACCESS TO BOOKS.** The Illinois Environmental Protection Agency or its authorized representative shall have access to any books, documents, papers and records of the City which are applicable to the City system of user charges for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of any Loan Agreement with the City.

**38-3-82      NOTICE OF RATES.** A copy of this Division, properly certified by the City Clerk, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the sewer system of the City on their properties. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to sewer treatment services.

**38-3-83      APPEALS.** The method for computation of rates and service charges established for user charges in **Article IV Division I** shall be made available to a user within **fifteen (15) days** of receipt of a written request for such. Any disagreement over the method used, or in the computation thereof, shall be remedied by a third party selected by both parties within **ninety (90) days** after notification of a formal written appeal outlining the discrepancies.

**38-3-84      ADEQUACY OF SERVICE CHARGES.** The adequacy of the water service charge shall be reviewed, not less often than annually by the City Council with assistance if requested by the Council from the City Engineer and any accountant performing audit services for the City. The water service charge rates shall be revised periodically to reflect the change in local capital costs or operation, maintenance and replacement costs. The rates established by the City from time to time shall include a basic user charge, a debt service charge, and a capital improvement charge. The basic user charge is levied on all users to recover the operation, maintenance plus replacement (O, M & R) costs and shall be based on water usage as recorded by water meters. The basic user charge shall be computed as follows:

- (A)                Estimate the annual water volume;
- (B)                Estimated the projected annual revenue required to operate and maintain the water facilities, including a replacement fund for the year, for all works categories;
- (C)                Compute costs per **one thousand (1,000) gallons.**

The debt service charge is computed by apportioning the annual debt service as a charge per **one thousand (1,000) gallons.** The capital improvement charge is levied on users to provide for capital improvements, extensions or reconstruction of the water works. The capital improvement charge is computed by apportioning the annual amount to be accrued as a charge per **one thousand (1,000) gallons.**

**38-3-85      COMPUTATION.** The method for computation of rates and service charges established for user charges in this Article shall be made available to a user within **twenty (20) days** of receipt of a written request for such. Any disagreement over the method used or in the computations thereof shall be remedied by the City within **forty-five (45) days** after notification of a formal written appeal outlining the discrepancies.

**38-3-86      WATER TAP-ON FEES.**  
(A)                **Generally.** Applicants for water service shall pay a charge of **One Hundred Dollars (\$100.00)** for each connection or tap-on to the water mains of the City for properties not now connected or tapped-on to the water mains, whether presently constructed or to be constructed. All such connections shall be made under the supervision of the City and in such a manner as the City may direct through its duly authorized employees. The owner/applicant shall indemnify the City from any and all loss or damage that may be directly or indirectly occasioned by the connection of the property to the water system. All costs for the connection or tap-on, including but specifically not limited to the costs or excavation and labor shall be the applicant's sole responsibility.

(B)                **Plumbing.** No water shall be turned on for service in premises in which the plumbing does not comply with the ordinances of the City or specifications for plumbing which may be established by the Council; provided, that water may be turned on for construction work in unfinished buildings subject to the provisions of this Article.

(C)                **Illinois Plumbing Code.** All water tap and service connections made to the mains of the Waterworks System of the City shall conform to the regulations of this Code and of the Illinois Plumbing Code.

(D)                **Maintenance of Water Lines.** **The City shall replace all water mains when it has been deemed necessary to do so in order to maintain service in the City. The City shall limit its responsibility to maintaining water mains. The property owner shall be responsible for the service line from the meter into the premises served.**  
**(65 ILCS 5/11-150-1)**

**38-3-87      WATER RATES.** The water rates shall be paid by each customer beginning at the time the City makes the service available to the customer.

The minimum rate will be paid by those customers not using the service even though they may be connected to the system, provided the service is available from the City.

(A) **CUSTOMERS INSIDE MUNICIPAL LIMITS CONNECTED TO SYSTEM.**

First 1,000 gallons per month \$8.15 MINIMUM CHARGE

Over 1,000 gallons per month \$8.00 per 1,000 gallons

(B) **CUSTOMER OUTSIDE MUNICIPAL LIMITS CONNECTED TO SYSTEM.**

First 1,000 gallons per month \$13.65 MINIMUM CHARGE

Over 1,000 gallons per month \$13.50 per 1,000 gallons

(C) **BULK SALES.** Bulk water sale delivered in tank or carthage **Seven Dollars (\$7.00)** per **one thousand (1,000) gallons** for treated water.

**38-3-88** **REQUESTED SHUT-OFF.** If user requests water to be shut off, there will be a **Twenty-Five Dollar (\$25.00)** fee to have the water turned on again.

**38-3-89** **BOODY COMMUNITY WATER COMPANY RATES.** The rate for water usage for the Boody water system shall be as follows:

First 1,000 gallons per month \$8.78 MINIMUM CHARGE

Over 1,000 gallons per month \$8.63 per 1,000 gallons

**38-3-90 - 38-3-94** **RESERVED.**

## **DIVISION VII – WATER CONTRACTS**

**38-3-95** **WATER CONTRACTS WITH BOODY COMMUNITY WATER COMPANY.** The water purchase contract and the water system maintenance contract is found in **Exhibits "A" and "B". (Ord. No. 09-08-2014-1)**



## ARTICLE IV - WASTEWATER SYSTEM

### DIVISION I - DEFINITIONS

**38-4-1**      **DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

**"GOVERNMENT, FEDERAL".**

(A)      **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B)      **"Federal Act"** means the Federal Clean Water Act (**33 U.S.C. 466 et seq.**) as amended, (**Pub. L. 95-217**).

(C)      **"Federal Grant"** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

**"GOVERNMENT, LOCAL".**

(A)      **"Approving Authority"** shall mean the Superintendent of the City or his authorized deputy, agent, or representative.

(B)      **"NPDES Permit"** means any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

(C)      **"Person"** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private cooperation, association, society, institution, enterprise, governmental agency or other entity.

(D)      **"Inspector"** shall mean the Superintendent or other person or persons duly authorized by the City to inspect and approve the installation of building sewer and their connection to the sanitary sewer system.

**"GOVERNMENT, STATE".**

(A)      **"Director"** means the Director of the Illinois Environmental Protection Agency.

(B)      **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.

(C)      **"State Grant"** shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of State of Illinois.

**"CLARIFICATION OF WORD USAGE".** "Shall" is mandatory; "may" is permissible.

**"WASTEWATER TYPES AND APPURTENANCES".**

(A)      **"Building Drain"** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning **five (5) feet (1.5 meters)** outside the inner face of the building wall.

(B)      **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C)      **"Combined Sewer"** shall mean a sewer which is designed and intended to receive sewer, storm, surface and groundwater drainage.

(D)      **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E)      **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the City. It shall also include sewer within or outside the City boundaries that serve **one (1)** or more persons and ultimately discharge into the City sanitary sewer or combined sewer system, even though those sewers may not have been constructed with City funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewer"** shall mean the system of sewer and appurtenances for the collection, transportation and pumping of sewage.

(H) **"Storm Sewer"** shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(I) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewer.

#### **"TREATMENT":**

(A) **"Pretreatment"** shall mean the treatment of sewer from sources before introduction into the sewer treatment works.

(B) **"Sewer Treatment Works"** shall mean an arrangement of devices and structures for treating sewer, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "sewer treatment plant" or "pollution control plant".

#### **"TYPES OF CHARGES":**

(A) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public sewer system.

(B) **"Capital Improvement Charge"** shall mean the charge levied on users to improve, extend or reconstruct the sewage treatment works.

(C) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.

(D) **"Local Capital Cost Charge"** shall mean charges for costs other than the Operation, Maintenance and Replacements costs, i.e. debt service and capital improvement costs.

(E) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(F) **"Sewer Fund"** is the principal accounting designation for all revenues received in the operation of the sewer system.

(G) **"Surcharge"** shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than average concentration values as established by code.

(H) **"Useful Life"** shall mean the estimated period during which the collection system and/or treatment works will be operated.

(I) **"User Charge"** shall mean a charge levied on users of treatment works for the cost operation, maintenance and replacement.

(J) **"Sewer Service Charge"** shall be the charge per quarter or month levied on all users of the Sewer Facilities. The service charge shall be computed as outlined in Article IV of this Code and shall consist of the total or the Basic User Charge, the local capital cost and a surcharge, if applicable.

(K) **"Reserve Fund Charge"** shall mean a revolving fund for expansion and construction of the sewer system.

#### **"USER TYPES":**

(A) **"Control Manhole"** shall mean a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the City representative to sample and/or measure discharges.

(B) **"Industrial User"** shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products.

(C) **"Residential User"** shall mean all dwelling units such as houses, buildings, mobile homes, apartments, permanent multi-family dwellings.

(D) **"User Class"** shall mean the type of user either "residential or commercial" (non-industrial) or "industrial" as defined herein.

(E) **"Commercial User"** shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services.

(F) **"Institutional/Governmental User"** shall include schools, churches, penal institutions, and users associated with Federal, State and local governments.

**"WASTEWATER FACILITIES"** shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

**"WATERCOURSE AND CONNECTIONS":**

(A) **"Watercourse"** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(B) **"Natural Outlet"** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**"WASTEWATER AND ITS CHARACTERISTICS":**

(A) **"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in **five (5) days at 20 degrees centigrade (20°C)**, expressed in milligrams per liter.

(B) **"Effluent Criteria"** are defined in any applicable "NPDES Permit".

(C) **"Floatable Oil"** is oil, fat, or grease in a physical state such that it will separate by gravity from sewer by treatment in an approved pretreatment facility. A sewer shall be considered free of floatable fat if it is properly pretreated and the sewer does not interfere with the collection system.

(D) **"Garbage"** shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

(E) **"Industrial Waste"** shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

(F) **"Major Contributing Industry"** shall mean any non-governmental user of the publicly owned treatment works that:

- (1) Has a flow of 50,000 gallons or more per average work day; or
- (2) Has a flow greater than **ten percent (10%)** of the flow carried by the municipal system receiving the waste; or
- (3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
- (4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

(G) **"Milligrams per Liter"** (mg/l) shall mean a unit of the concentration of water or sewer constituent. It is 0.001 gram of the constituent in 1,000 milliliter of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and sewer analysis.

(H) **"pH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(I) **"Population Equivalent"** is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

(J) **"ppm"** shall mean parts per million by weight.

(K) **"Properly Shredded Garbage"** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried

freely under the flow conditions normally prevailing in public sewer, with no particle greater than **one (1/2) half inch (1.27 centimeters)** in any dimension.

(L) **"Sewage"** is used interchangeably with "sewer".

(M) **"Slug"** shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than **fifteen (15) minutes more than five (5) times** the average **twenty-four (24) hour** concentration or flows during normal operation.

(N) **"Suspended Solids"** (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the I.E.P.A. Division of Laboratories Methods.

(O) **"Unpolluted Water"** is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewer and sewer treatment facilities provided.

(P) **"Sewer"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(Q) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

**38-4-2 - 38-4-3      RESERVED.**

## **DIVISION II - USE OF PUBLIC WASTEWATERS REQUIRED**

**38-4-4      DEPOSIT OF WASTES.** It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

**38-4-5      SEWAGE IN NATURAL OUTLET.** It shall be unlawful to discharge to any natural outlet within the City, or in area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Code.

**38-4-6      PRIVATE SYSTEM, UNLAWFUL.** Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

**38-4-7      CONNECTION TO SYSTEM REQUIRED.** The owner of all the houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley, right-of-way in which there is now located or may in the future be located any public sanitary (or combined) sewer of the City is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Code, within **ninety (90) days** after date of official notice to do so, provided that said public sewer is within **two hundred (200) feet** of the nearest property line and adequate to handle the additional connection, where determined to be required.

**38-4-8 - 38-4-9      RESERVED.**

### **DIVISION III - PRIVATE SEWAGE DISPOSAL**

**38-4-10      PRIVATE SEWAGE SYSTEM.** Where a public sanitary sewer is not available under the provisions of **Section 38-4-7**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

**38-4-11      HEALTH DEPARTMENT APPROVAL.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the appropriate Health Department. The application for such permit shall be made on a form furnished by the City (**reference Appendix #3**) which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Superintendent. A permit and inspection fee of **One Hundred Dollars (\$100.00)** shall be paid to the City at the time the application is filed.

**38-4-12      PERMIT APPROVAL.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within **forty-eight (48) hours** of the receipt of written notice by the Superintendent.

**38-4-13      COMPLIANCE WITH STATE REQUIREMENTS.** The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than **forty thousand (40,000) square feet**. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

**38-4-14      AVAILABILITY OF PUBLIC WASTEWATER.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-4-7**, a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

**38-4-15      OPERATION OF PRIVATE SYSTEM.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.

**38-4-16      ADDITIONAL RESTRICTIONS.** No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Local Health Officer.

**38-4-17 - 38-4-20      RESERVED.**

## **DIVISION IV - BUILDING WASTEWATER AND CONNECTIONS**

**38-4-21      DISTURBING SYSTEM UNLAWFUL.** No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

**38-4-22      COMPLIANCE WITH REGULATING AUTHORITIES.** All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

**38-4-23      CLASSES OF PERMITS.**

(A) There shall be **two (2)** classes of building sewer permits as follows:

- (1) Residential sewer service.
- (2) Service to Commercial or Institutional establishments or industrial sewer service.

(B) In either case, the owner or his agent shall make applications on a special form furnished by the City. **(See Appendix #4)** The fee per connection shall be paid to the City at the time the application is filed pursuant to this Division of this Article.

(C) The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. The industry, as a condition of permit authorization, shall provide information describing its sewer constituents, characteristics and type of activity.

**38-4-24      COST BORNE BY OWNER.** All costs and expenses including labor and material incidental to the installation, connection and maintenance of a lateral sewer line shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation, connection and maintenance of the lateral sewer lines. This section shall apply even where the lateral sewer line runs under a public street, public right-of-way, or public easement.

**38-4-25      SEPARATE WASTEWATER: EXCEPTION.** A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; except for sewer connection charges accruing from such buildings or properties.

**38-4-26      OLD BUILDING WASTEWATER.** Old building sewer may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Code.

**38-4-27      CONSTRUCTION METHODS.** The size, slope, depth and alignment, of the building sewer shall be subject to the approval of the Superintendent. In no case shall the inside diameter of the building sewer be less than **four (4) inches**. If **six (6) inch diameter pipe** is used, the slope shall not be less than **one-eighth (1/8) inch** per foot. If **four (4) inch or five (5) inch diameter pipe** is used, the slope shall not be less **one-fourth (1/4) inch** per foot. The depth of the building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only

with properly curved pipe and fittings, unless the break in alignment is made at a manhole facilitating servicing. Installation shall be in accordance with Standard Specifications for Water and Sewer Main Construction in Illinois.

All building sewer shall be constructed of materials approved by the City. Generally all building sewer shall be constructed of the following materials:

- (A) Ductile iron pipe
- (B) PVC solid wall plastic pipe (6" diameter maximum) SDR-35

All pipe joints must be gastight and watertight and are subject to the approval of the City. Transition joints from one pipe material to another shall be made using fittings manufactured for such transitions.

**38-4-28 PLUMBING CODE REQUIREMENTS.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois** shall apply.

**38-4-29 ELEVATION.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means which is approved in accordance with **Section 38-4-22** and discharged to the building sewer.

**38-4-30 PROHIBITED CONNECTIONS.** No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

**38-4-31 CONNECTIONS TO WASTEWATER MAINS.** Building Sewer connections with any sewer shall be made only at manholes or other such junctions as may be provided or designated by the City, and then only in such manner as directed. The connection of the building sewer shall be made at a wye branch, if such branch is available. The building service sewer shall generally enter the sewer main or lateral by way of an existing wye. In the event of absence of the wye, the connection to the sewer main or lateral shall be made by one of the methods indicated below.

(A) Installation of a manhole

(B) Circular saw-cut sewer main by proper tools ("Sewer Tap" machine or similar), and proper installation of hub wye saddle, in accordance with manufacturer's recommendation. This method shall not be allowed when the wye branch is larger than **four (4) inches** in diameter. The entire sewer main in the location of the wye and the wye shall be encased in concrete.

(C) Using the pipe cutter only, neatly and accurately cut out desired length of pipe for insertion of proper fitting. Remove both hub and bell ends, or other compression couplings from wye branch fitting to allow the wye branch to be inserted with no more than a total of **one-half (1/2) inch** gap. Use "Band Seal" couplings, or similar couplings, and shear rings and clamps to fasten the inserted fitting and hold it firmly in place. The entire section shall then be encased in concrete having a minimum thickness of **four (4) inches** and extending **eight (8) inches** beyond each joint.

If another method is desired, a detail shall be submitted for review and approval by the City before the connection is made. Indiscriminate breaking of the sewer main pipe is not allowed.

**On Site Inspection.** After the wye branch has been inserted and jointed, and before any additional fittings have been placed in the service line, the installation shall be approved by the

Superintendent, or his authorized representative. After approval is granted the contractor shall encase the work area as specified herein.

**Backfill.** To be placed in accordance with The Standard Specifications for Water and Sewer Main Construction in Illinois, Current Edition. In addition, any building sewer crossing any street, or traveled alley shall be backfilled with CA-86 backfill material.

**Concrete Encasement.** When a riser is constructed and its height is **four (4) feet** or more measured from the flowline of the sewer main to the top of the riser pipe, the wye connection shall be encased in concrete to a height of at least **one foot six inches (1' 6")** above the flowline of the sewer main. When the height of the riser is less than **four (4) feet** above the flowline of the sewer main, the wye connection shall be backfilled to the top of the riser pipe with carefully placed and compacted granular backfill.

**38-4-32      CAPACITY OF WASTEWATER.** A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewer facilities, including sewer, pump stations and sewer treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

**38-4-33      TAP-IN SUPERVISION AND TESTING.** The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

At any time after the installation of the building sewer, the City may test the building sewer for violation of this Code.

**38-4-34      INSPECTION.** After the building sewer has been constructed in the trench but before the sewer is backfilled, the applicant for the building sewer permit shall notify the Superintendent that the building sewer is ready for inspection. If the sewer has been constructed properly, permission will be given to backfill the trench. If the sewer construction is found to be unsuitable, the permit applicant will correct the installation to meet City 's requirements.

**38-4-35      PUBLIC WASTEWATER CONNECTION.** The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the American Society of Testing Materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois**. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

**38-4-36      PROTECTION OF PROPERTY.** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

**38-4-37      BOND REQUIRED.** If the applicant for the building sewer permit does not have a general bond on file with the City, the applicant shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.



**38-4-38      UNLAWFUL DISCHARGES.** All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

**38-4-39 - 38-4-41      RESERVED.**

## **DIVISION V - EXTENSION OF COLLECTING WASTEWATERS**

**38-4-42      PERMIT REQUIRED; AUTHORIZED PERSONNEL.** No person, other than an authorized employee of the City, shall make any connection with, uncover, alter or disturb a City sewer, or open any manhole, intercepting chamber, or any appurtenance thereof without first obtaining a written permit to do so from the City, and no person shall make any connection or opening into any sewer, the flow of which is directly or indirectly discharged into any City sewer, without first obtaining a written permit to do so from the City. **(See Appendix #2)**

**38-4-43      EXTENSION PERMITS.** Issuance of sewer extension permits shall be initiated by an application for construction permit. The application shall be made on the forms provided by the IEPA, shall be fully completed by the applicable persons or parties, and shall be accompanied by a set of plans, specifications, and any other information as may be required by the City.

Plans and specifications shall be prepared by a registered professional engineer and approval thereof must be obtained from the City and IEPA.

If the application is in proper form, and the sewer extension indicated therein appears to be in accordance with this ordinance and all state and federal requirements, the City shall issue the permit for construction of the sewer. If otherwise, the application for permit shall be denied by the City. There shall be no fee charged for sewer extension application or permits.

If the application is denied by the City, they shall state the reason or reasons therefore in writing, mailed or personally delivered to the applicant. The applicant shall have the right to amend such application in conformity with the reasons given for denial, and resubmit it to the City for further consideration.

All permits issued under this Article V shall have an expiration date of **two (2) years** after the date of issuance. Any sewer not constructed prior to the date of expiration shall have a new application submitted and a new permit issued prior to their construction.

The applicant for the permit shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

**38-4-44      MATERIALS.** All sewer extensions shall be constructed of the following materials:  
(A) Sewer pipe with diameters **eight (8) inches** and larger shall be one of the following:

- (1) ABS composite pipe conforming to ASTM D-2680 with solvent weld joints or O-ring rubber gasket joints as referenced in ASTM D-2680.
- (2) PVC sewer pipe SDR-35 conforming to ASTM 03033 or D3034 with joints conforming to ASTM D3212.

(B) Laterals and fittings from the sewer to the property lines shall be **six (6) inch** diameter and  

- (1) of comparable material to the sewer main for VCP and PVC pipe.
- (2) for ABS pipe use ABS solid wall pipe SDR-23.5 conforming to ASTM D-2751.

**38-4-45      INSPECTIONS OF CONSTRUCTION.** Construction of the sewer shall be inspected under competent supervision supplied by a registered professional engineer and upon completion of construction, accurate detailed plans as constructed ("record drawings") shall be certified and submitted by the professional engineer to the City before any applications for building sewer permits are filed; all at the expense of the Owner. These plans shall show all elevations as installed as well as accurate measurements showing the locations of service connections. The Engineer shall also submit a certified statement showing the source, place and volume of foreign waters.

All sewer shall be subjected to:

(A) A lamp test which shall provide that from one manhole to another, at least **one-half (1/2)** of the pipe end area shall be visible.

(B) Infiltration or exfiltration test with acceptable allowance of 200 gallons per day per inch diameter per mile;

(C) Under special circumstances, when approved by the City, air pressure testing with allowance to be specified by the City.

When any sewer line fails to pass the infiltration test, the exfiltration test, or an air pressure test, the sewer line shall be televised in the presence of the City's representatives to determine points of faulty construction. The Owner shall repair all defects; the method of repair shall be subject to the approval of the City. **(See Appendix #5)**

**38-4-46      MANHOLES REQUIRED.** Manholes shall be installed at all changes in grade and/or direction and at distances not greater than **four hundred (400) feet** apart. All manhole covers shall be watertight and self-sealing, incorporating an "O" ring gasket. All covers shall have concealed pick holes. Where manhole covers may be subjected to frequent and extreme submergence, additional watertightness shall be ensured by using bolt down covers.

**38-4-47 - 38-4-48      RESERVED.**

## **DIVISION VI - USE OF PUBLIC WASTEWATER FACILITIES**

**38-4-49      DISCHARGE OF STORM WATER.** No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

**38-4-50      STORM WATER.** Stormwater and all other unpolluted drainage shall be discharged to such sewer as are specifically designated as storm sewer, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the City, to a storm sewer, or natural outlet.

**38-4-51      REGULATIONS OF WASTES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(A) Any gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solids, or gas.

(B) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewer, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

**38-4-52 HARMFUL EFFECTS OF CERTAIN MATERIALS.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewer, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewer, materials of construction of the sewer, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than **One Hundred Fifty degrees Fahrenheit (150°F), (65°C).**

(B) Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of **One Hundred (100) mg/l** or containing substances which may solidify or become viscous at temperatures between **Thirty-Two (32) and One Hundred Fifty degrees Fahrenheit (150°F), (0 and 65°C).**

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of **three-fourths (3/4) horsepower (0.76 hp metric)** or greater shall be subject to the review and approval of the City.

(D) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solution whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc, or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City for such materials.

(F) Any waters or wastes containing phenols or other waste odor-producing substances, in such concentration exceeding limits which may be established by the City as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulations.

(H) Any mercury or any of its compounds in excess of **0.0005 mg/l as Hg** at any time except as permitted by the City in compliance with applicable State and Federal regulations.

(I) Materials which exert or cause:

- (1) unusual concentrations or inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
- (2) excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
- (3) unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
- (4) unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein. **(See Appendix #7)**

(J) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

- (K) Any waters or wastes having a pH in excess of 9.5.
- (L) Any cyanide in excess of 0.025 mg/l at any time except as permitted by the City in compliance with applicable State and Federal regulations.

**38-4-53      HARMFUL WASTES; APPROVAL.**

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewer, which waters contain the substances or possess the characteristics enumerated in **Section 38-4-52** of this Division, and/or which are in violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978 and any amendments thereto, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) reject the wastes;
- (2) require pretreatment to an acceptable condition for discharge; and/or;
- (3) require control over the quantities and rates for discharge; and/or;
- (4) require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of **Section 38-4-42.**

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, articles, and laws.

(C) The owner of the pretreatment or equalization facilities shall obtain construction and operating permits from the Illinois Environmental Protection Agency prior to the issuance of final approval by the Superintendent.

(D) Where multiple process or discharges are present or contemplated at an industry, the City shall have the authority to require the owner or person to furnish and install more than one control manhole with appurtenances and/or require that all sewer be discharged through a single control manhole or structure with appurtenances described herein.

**38-4-54      INTERCEPTORS PROVIDED.**

(A) Grease, oil, and sand interceptors shall be provided in accordance with the Illinois State Plumbing Code to assure the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection. All grease interceptors shall be serviced and emptied of accumulated waste content as required or at a minimum of once every **four (4) months** in order to maintain minimum design capability or effective volume of the grease interceptor and to prevent carry over of grease into the sanitary sewer system. All fast food and sit-down restaurants shall install a grease interceptor with a capacity of at least **one thousand five hundred (1,500) gallons**, and designed in accordance with **Appendix "A"**. Food establishments that serve a minimum amount of fried foods such as deli sandwich shops, shall install a grease interceptor with a capacity of at least **one thousand (1,000) gallons**, and designed in accordance with **Appendix "B"**.

(B) Users whose operations cause or allow excessive grease to discharge or accumulate in the City wastewater collection and treatment system may be liable to the City for costs related to service calls for sewer line blockages, line cleaning, line and pump repairs, etc. including all labor, materials, and equipment. Failure to pay all service related charges may also be grounds for sewer service discontinuance.

(C) **Maintenance Log.** A grease trap cleaning/maintenance log indicating each pumping for the previous **twenty-four (24) months** shall be maintained by each Food Service Facility. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made available to the City or his representative upon request.

(D) **Submittal of Records.** Each user shall submit all cleaning and maintenance records to the City. The maintenance records shall include the following information:

- (1) Facility name, address, contact person, and phone number.
- (2) Company name, address, phone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of grease trap.
- (3) Types of maintenance performed.
- (4) Dates maintenance was performed.
- (5) Date of next scheduled maintenance.
- (6) Copies of manifests.
- (7) The user shall be required to submit maintenance records to the City on an annual basis. Records shall be submitted by **September 1<sup>st</sup>** of each year. The records shall be submitted to:  
Attn: Wastewater Superintendent

(E) The City will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the City, the user shall be required to perform the maintenance and records of said maintenance within **fourteen (14) calendar days**. Upon inspection by the City the user may be required to install, at his expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

(F) **Control Plan for Fats, Oils, Greases (FOG) and Food Waste.**

- (1) Any new construction, renovation, or expansion of Food Service Facilities shall be required to submit to the City a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system.
- (2) Any existing Food Service facilities shall also be required to submit a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system. Existing facilities shall not be exempt from the requirements of this Section. There will be no "Grandfathering".

(G) **Exceptions to the Above.** Should existing facilities be hampered by space constraints or restrictions caused by unchangeable plumbing, an alternative interceptor may be approved, provided that:

- (1) Said interceptor and installation is endorsed by a licensed plumbing contractor in regard to its operability.
- (2) Said interceptor and installation is endorsed by the City Engineer.
- (3) Said interceptor and installation is approved by the Superintendent and the Water and Sewer Committee.

Such installations may be subject to more stringent inspections and maintenance schedules.

**38-4-55 FLOW-EQUALIZING FACILITIES.** Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**38-4-56 INDUSTRIAL WASTES CONTROL MANHOLE.** Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

**38-4-57      INDUSTRIAL WASTE TESTING.**

(A) The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of waters and wastes to illustrate compliance with this Code and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge.

(B) The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the City, but no less than once per year the industry must supply a complete analysis of the constituents of the sewer discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the City at such times and in such a manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary the City reserves the right to take measurements and samples for analysis by an outside laboratory service.

**38-4-58      MEASUREMENTS AND TESTS.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of **IEPA Division of Laboratories Manual of Laboratory Methods**, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a **twenty-four (24) hour** composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from **twenty-four (24) hour** composites of all outfalls, whereas pH's are determined from periodic grab samples.)

**38-4-59      SPECIAL ARRANGEMENTS.** No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, in accordance with the Chapter, hereof, by the industrial concern provided such payments are in accordance with Federal and State guidelines for User Charge System and Industrial Cost Recovery System. **(See Article IV - Division I of this Code)**

**38-4-60 - 38-4-64      RESERVED.**

**DIVISION VII - INSPECTIONS**

**38-4-65      DAMAGE.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**38-4-66      INSPECTION AND TESTING.**

(A) The Superintendent and other duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Code.

(B) The Superintendent or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewer or waterway or facilities for waste treatment. **(See Appendix #5)**

**38-4-67      LIABILITY OF CITY.** While performing the necessary work on private properties referred to in **Section 38-4-66** above, the Superintendent or duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain conditions as required in **Section 38-4-57**.

**38-4-68      PRIVATE PROPERTY INSPECTIONS.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**38-4-69 - 38-4-70      RESERVED.**

## **DIVISION VIII – SEWER RATES**

**38-4-71      BUILDING UNIT DEFINED.** All persons or families residing in a building under one roof, be it an apartment or homes converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account according to the number of families or individual residents residing therein.

**38-4-72      SEWER REVENUES.** All revenues and moneys derived from the operation of the sewer system shall be deposited in the Water Fund. All such revenues and moneys shall be held by the Treasurer separate and apart from his private funds and separate and apart from all other funds of the City and all of said sum, without any deductions whatever, shall be delivered to the Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may, from time to time, be directed by the City Council.

The Treasurer shall receive all such revenues from the water and sewer systems and all other funds and moneys incident to the operation of such system as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewage Fund of the City".

The Treasurer shall administer such fund in every respect in the manner provided by **65 ILCS 5/3.1-35-40 et seq.**

**38-4-73      SEWER ACCOUNTS.** The Treasurer shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the water and sewer systems and at regular annual intervals, he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water and sewer systems.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the sewer facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do, in fact, meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

- (A) Flow data showing total gallons received at the sewer plant for the current fiscal year.
- (B) Billing data to show total number of gallons billed.
- (C) Debt service for the next succeeding fiscal year.
- (D) Number of users connected to the system.
- (E) Number of non-metered users.
- (F) A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged.

**38-4-74 NOTICE OF RATES.** A copy of this Article, properly certified by the City Clerk, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the sewer system of the City on their properties. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to sewer treatment services.

**38-4-75 ACCESS TO RECORDS.** The Illinois Environmental Protection Agency, United States Environmental Protection Agency, or its authorized representative shall have access to any books, documents, papers and records of the City which are applicable to the City's system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the special and general conditions to any state grant or loan.

**38-4-76 APPEALS.** The method for computation of rates and service charges established for user charges shall be made available to a user within **fifteen (15) days** of receipt of a written request for such. Any disagreement over the method used, or in the computation thereof, shall be remedied by a third party selected by both parties within **ninety (90) days** after notification of a formal written appeal outlining the discrepancies.

**38-4-77 BASIS FOR WASTEWATER SERVICE CHARGES.** The sewer service charge for the use of and for service supplied by the sewer facilities of the City shall consist of a basic user charge, applicable surcharges, and debt service charge.

(A) The **debt service charge** is computed by dividing the annual debt service of all outstanding bonds by the number of users.

(B) The **basic user charge** shall be based on water usage as recorded by water meters for wastes having the following normal domestic concentrations:

- (1) A **five (5) day twenty degree centigrade (20°C)** biochemical oxygen demand **BOD of 200 mg/l**.
- (2) A suspended solids (SS) content of **250 mg/l**.
- (C) It shall be computed as follows:
  - (1) Estimate sewer volume, pounds of SS and pounds of BOD to be treated.
  - (2) Estimate the projected annual revenue required to operate and maintain the sewer facilities including a replacement fund for the year, for all work categories.
  - (3) Proportion the estimated operation, maintenance and replacement (OM&R) costs to each user class by volume, BOD, and SS.



- (4) Proportion the estimated operation, maintenance and replacement (OM&R) costs to sewer facility categories by Volume, Suspended Solids and BOD.
- (5) Compute costs per 1000 gal. for normal sewage strength.
- (6) Compute surcharge costs per pound per 1000 gal. in excess of normal sewage strength for BOD and SS.

(D) A **surcharge** will be levied to all users whose waste waters exceed the normal domestic concentrations of **BOD 200 mg/l and SS 225 mg/l**. The surcharge will be based on water usage as recorded by water meters or sewage meters for all wastes which exceed the **200 mg/l and 225 mg/l** concentration for BOD and SS respectively. (**Section 38-4-80** specifies the procedure to compute a surcharge.)

(E) The **adequacy of the sewer service charge** shall be reviewed, not less often than annually, by Certified Public Accountants for the City in their annual audit report. The sewer service charge shall be revised periodically to reflect a change in operation and maintenance costs, replacement costs and reserve fund costs.

(F) The **capital improvement charge** is levied on users to provide for capital improvements, extensions or reconstruction of the sewage treatment works. The capital improvement charge is computed by apportioning the annual amount to be accrued as a charge per 1,000 gallons.

(G) The **users** of sewer treatment services will be notified annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to the sewer treatment operation, maintenance and replacement.

**38-4-78      MEASUREMENT OF FLOW.** The volume of flow used for computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of **one thousand (1,000) gallons**.

(A) If the person discharging wastes into the public sewer procures any part, or all, of his water from sources other than the Public Waterworks System, all or a part of which is discharged into the public sewer, the person shall install and maintain, at his expense, water meters of a type approved by the City for the purpose of determining the volume of water obtained from these other sources.

(B) Devices for measuring the volume of waste discharged may be required by the Approving Authority if these volumes cannot otherwise be determined from the metered water consumption records.

(C) Metering devices for determining the volume of waste shall be installed, and maintained by the person and owned by the City. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the City.

**38-4-79      USER CHARGE SYSTEM.** The following rates are established for the User Charge system:

(A) **Basic User Charge.** There shall be and there is hereby established a basic user charge of **\$5.00** per **1,000** gallons of metered water consumption to be applied to all users to recover O, M & R costs.

(B) **Rates.** A minimum charge of **\$5.00 per month** shall be applied to all users whose water consumption does not exceed **1,000 gallons** per month. Usage in excess of **1,000** gallons per month shall be charged **\$2.00 per 1,000 gallons**.

**38-4-80      SURCHARGE RATE.** The rates of surcharges for BOD and SS shall be as follows:

per lb. of BOD:	<u>\$0.26</u> in excess of 200 mg/l
per lb. of SS:	<u>\$0.39</u> in excess of 225 mg/l

**38-4-81      SEWER TAP-IN FEE.** A connection charge of **One Hundred Dollars (\$100.00)** for the privilege of using the sewer system shall be made for each connection serving an applicant for each unit, as defined by this Code. For said fee, the City will provide **one (1) four (4) inch** saddle; **one (1)** riser; **one (1)** elbow; **one (1) ten (10) foot** section PVC pipe; and labor to install same.

The connection charge is for dwellings within the City limits only. Charges for connections to other users shall be made at the same charge, or actual costs, if greater. Additional charges shall be determined by the City Council and paid in advance before the City accepts the applicant's contract for service.

**38-4-82 - 38-4-90      RESERVED.**

## **DIVISION IX - PENALTIES**

**38-4-91      PENALTY.** Any person found to be violating any provision of this Code except **Section 38-4-65** shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

The City may revoke any permit for sewage disposal as a result of any violation of any provision of this ordinance.

**38-4-92      CONTINUED VIOLATIONS.** Any person who shall continue any violation beyond the time limit provided for in **Section 38-4-91** shall be, upon conviction, be fined in the amount not exceeding **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

**38-4-93      LIABILITY TO CITY.** Any person violating any of the provisions of this Chapter shall become liable to the City by reason of such violation.

## **UTILITIES**

### **EXHIBIT "A"**

#### **REVISED WATER PURCHASE CONTRACT**

THIS REVISED CONTRACT entered into this 9<sup>th</sup> day of January, 2006 by and between the City of Macon, a municipality (Seller) and the Boody Community Water Company, a not-for-profit corporation (Purchaser). Seller and Purchaser, by mutual consent, hereby revoke the Water Purchase Contract entered into between the parties on the 12<sup>th</sup> day of July, 2004.

#### **WITNESSETH:**

**WHEREAS**, the Purchaser is a not for profit corporation in Macon County, Illinois, established for the purpose of constructing and operating a water storage and distribution system; and

**WHEREAS**, the Purchaser desires to purchase and distribute water to its members, and

**WHEREAS**, the Seller owns and operates a water storage and distribution system with a capacity currently capable of serving the present customers in its system and the estimated number of water users to be served by the said Purchaser as shown in the plans currently on file in the office of the Purchaser; and

**WHEREAS**, the Seller agrees to provide water to the Purchaser for the above purpose, and

**WHEREAS**, by Ordinance, Number 04/09/2001-1 enacted on the Ninth day of April, 2001 by the City Council of the City of Macon, the sale of water to the Boody Community Water Company in accordance with the provisions of the said Ordinance was approved, and the execution of this contract carrying out the said Ordinance by the Mayor, and attested by the Clerk, was duly authorized, and

**WHEREAS**, by Resolution, of the Board of Directors of the Boody Community Water Company, enacted on the 4<sup>th</sup> day of April, 2001, the purchase of water from the City of Macon in accordance with the terms set forth in the said resolution was approved, and the execution of this contract by the President, and attested by the Secretary, was duly authorized;

**NOW, THEREFORE**, in consideration of the foregoing and mutual agreements hereinafter set forth,

**A. The Seller Agrees:**

1. To operate and manage its water storage and distribution system based on the annual budget and fee schedule adopted by the Seller. Seller and Purchaser shall mutually exchange annual reports covering appropriate financial and operational statistics.
2. If a greater pressure than that normally available at the point of delivery is required by the purchaser, the cost of providing such greater pressure shall be borne by the Purchaser.
3. To furnish the Purchaser with, at the point of delivery hereinafter specified, during the term of this Contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the Environmental Protection Agency in such quantity as may be required by the Purchaser not to exceed 750,000 gallons per month. That water will be furnished at a reasonably constant pressure calculated at 45 PSIG from an existing six (6) inch main supply at a point located at the intersection of Shaw and Andrew Streets in Macon, Illinois. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire, and the use of water to fight fire, earthquake, Act of God, or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service.
4. The Seller will at all times, operate and maintain its system in a commercially reasonable manner and will take such action as may be necessary to furnish the Purchaser with quantities of water specified. Temporary or partial failures to deliver water shall be remedied within a commercially reasonable period of time. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over an extended period of time, the supply of water to the Purchaser shall be reduced in the same ratio as the supply to the Seller's consumers is reduced or diminished.

**B. The Purchaser Agrees:**

1. The Purchaser shall be solely responsible for designing and constructing a transmission line from the point of delivery, water storage and distribution system and shall be solely responsible for all costs incurred in the design and construction of said line, storage, and system. The Seller must approve the design of said system and shall not unreasonably withhold its approval.

**C. It is further mutually agreed between the Seller and Purchaser that:**

1. After the initial construction and hookup phase has been completed, the Purchaser will collect an enhanced hookup fee for new members who had the opportunity to hook on to the new water system in the initial phase but declined. This enhanced fee shall be equal to twelve (12) times that of the fee charged to members in the initial phase of the project. Any exceptions to this provision will require written authorization from the Board of Directors of the Purchaser. In no case will the connection fee charged by the Seller be waived.
2. This contract shall extend for forty (40) years, starting on the date when water is first purchased.

3. The provisions of this contract pertaining to the schedule of rates and connection fees paid by the members of the Purchaser are subject to modification at the end of every one (1) year period or when there is a mutual agreement in writing that a rate modification is necessary. Any increase or decrease in rates or connection fees shall be based on a demonstrable increase or decrease in the costs of performance hereunder, but such costs shall not include increased capitalization of the Seller's system.
4. If a water rate increase is determined to be required, the Seller will give the Purchaser a minimum of ninety (90) days' notice so that the Purchaser's members may be informed.
5. Provisions of this contract may be altered or modified by mutual agreement in writing.
6. The construction of the system by the Purchaser will be financed by a grant from the Department of Commerce and Economic Opportunities and loan made by, and a grant from, the United States of America, acting through Rural Development of the United States Department of Agriculture. The provisions hereof pertaining to the undertakings of the Purchaser are conditioned upon the approval, in writing, of the State Director of Rural Development.
7. Either party may assign, transfer or otherwise convey this Agreement, which said assignment shall relieve the assigning party of all obligations hereunder, provided that the assigning party shall first provide thirty (30) days advance written notice to the non-assigning party.
8. Any area within one and one-half (1 ½) miles of the current or future corporate boundaries of the Seller shall be considered outside the boundaries of the Purchaser and subject to the rules and regulations of the Seller and not the Purchaser.
9. Any future expansions of the Purchaser's system shall be solely at the expense of the Purchaser and require written approval of the Seller.
10. Each section, paragraph, sentence, clause and provision of this contract is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the contract, nor any part thereof, other than that part affected by such decision.
11. Throughout the duration of this contract the Purchaser shall provide adequate commercial liability with coverage limits of at least One Million Dollars (\$1,000,000.00) per occurrence, and Three Million Dollars (\$3,000,000.00) in the aggregate, naming the Seller as an additional insured. The Purchaser shall provide certificates of coverage to the Seller.
12. Throughout the duration of this contract the Seller shall provide adequate commercial liability with coverage limits of at least One Million Dollars (\$1,000,000.00) per occurrence, and Three Million Dollars (\$3,000,000.00) in the aggregate, naming the Purchaser as an additional insured. The Seller shall provide certificates of coverage to the Purchaser.
13. In the event that the purchaser enters into a definitive agreement to sell all or any portion of the Purchaser's water transmission and the distribution system, the Seller shall have a right of first refusal to purchase the property, water transmission and distribution system for the same price, and under the same terms and conditions. The Purchaser shall give the Seller written notice of such agreement. The Seller shall exercise its right of first refusal by giving the Purchaser written notice of its election to purchase not later than sixty (60) days after receipt of such notice. Purchaser and Seller agree this provision is supported by independent and separate consideration.
14. The Seller agrees to comply with all requirements related to the Federal financial assistance as if it were the recipient of the assistance.
15. The Purchaser will be allowed to have a bulk water station operated by a pre-paid credit card type system.
16. The cost for water used for fighting a fire will not be charged to the Boody Community Water Company.
17. In the case of a water main break, or other similar such condition, the cost for water lot will not be charged to the Boody Community Water Company.
18. Except for non-payment of water charges, and except as may be otherwise provided by applicable law, termination shall not be available as a remedy to enforce the provisions of this Agreement, but the parties hereto may resort to action for damages or other appropriate relief to enforce the same or to correct, or obtain restitution for injury occasioned by, violation of the provisions hereof. In the event a violation is claimed, the claiming party shall give notice in writing thereof to the other party, which party shall be given a reasonable time in light of the nature of the violation claimed to correct the same, which time shall be no less than ten (10) days from the date of notice. Provided, however, that any violation resultant upon a cause majeure shall not subject either party to liability hereunder.
19. The provisions of this Agreement are expressly made subject to the provisions and covenants of any currently outstanding water revenue bond issues of either party, and the provisions hereof shall be so construed as to be compatible with and to conform thereto.
20. All notices required to be sent in connection with this Agreement shall be given when mailed by certified mail, postage prepaid, on the Mayor of the City of Macon, PO Box 349, 1039 Woodcock Road, Macon, IL 62544-0349, with a copy to the attorney for the City of Macon, Michael L. Antoline, One East Main Street, One Main Plaza, Suite 212, Champaign, IL 61820, the President of the Boody Community Water Company, with a copy to the attorney for the Boody Community Water Company, R.C. Bollinger, 225 S. Main Street, Decatur, IL 62525.
21. Purchaser's members shall pay for water delivered in accordance with the following schedule of rates:
  - a. \$5.21 for the first 1,000 gallons, which amount shall be the minimum rate per month.
  - b. \$5.21 per 1,000 gallons for water in excess of 1,000 gallons.
  - c. The amount collected each month for debt retirement shall be established, from time to time, by the Purchaser's Board of Directors and added to the member's monthly bill.

**(Ord. No. 01-09-2006-1)**

**EXHIBIT "B"**

**REVISED WATER SYSTEM MAINTENANCE AND  
OPERATION CONTRACT**

THIS REVISED CONTRACT entered into this 9<sup>th</sup> day of January, 2006 by and between the City of Macon, a municipality (Seller) and the Boody Community Water Company, a not-for-profit corporation (Purchaser). Seller and Purchaser, by mutual consent, hereby revoke the Water Purchase Contract entered into between the parties on the 12<sup>th</sup> day of July, 2004.

**WITNESSETH:**

**WHEREAS**, the Purchaser is a not for profit corporation in Macon County, Illinois, established for the purpose of constructing and operating a water storage and distribution system; and

**WHEREAS**, the Purchaser desires to purchase and distribute water to its members, and

**WHEREAS**, the Seller owns and operates a water storage and distribution system with a capacity currently capable of serving the present customers in its system and the estimated number of water users to be served by the said Purchaser as shown in the plans currently on file in the office of the Purchaser; and

**WHEREAS**, the Seller agrees to provide water to the Purchaser for the above purpose, and

**WHEREAS**, by Ordinance, Number 04/09/2001-1 enacted on the Ninth day of April, 2001 by the City Council of the City of Macon, the sale of water to the Boody Community Water Company in accordance with the provisions of the said Ordinance was approved, and the execution of this contract carrying out the said Ordinance by the Mayor, and attested by the Clerk, was duly authorized, and

**WHEREAS**, by Resolution, of the Board of Directors of the Boody Community Water Company, enacted on the 4<sup>th</sup> day of April, 2001, the purchase of water from the City of Macon in accordance with the terms set forth in the said resolution was approved, and the execution of this contract by the President, and attested by the Secretary, was duly authorized;

**NOW, THEREFORE**, in consideration of the foregoing and mutual agreements hereinafter set forth,

A. The Seller Agrees:

1. Upon completion of the initial construction the Seller agrees to maintain and operate the said system to comply with all Federal, State, local government, requirements. Any significant changes to the water companies Rules, Rates, and Regulations will be done by mutual consent of the Purchaser and Seller. Any extension or modification of the Seller's water storage and distribution system shall be constructed in compliance with the established standards used by the Illinois Environmental Protection Agency for similar construction by a plumber licensed by the State of Illinois.
2. The Seller shall be responsible for sending monthly statements to the Purchaser's members receiving water. The statements shall require the Purchaser's members to submit payment for water usage, tower maintenance, and debt retirement pursuant to the Purchaser's membership agreement.

B. The Purchaser Agrees:

1. The Purchaser shall establish the initial hookup fee for its members and shall be solely responsible for the collection of said fees.
2. The Purchaser shall be responsible for maintaining the water storage tank located in Boody. This will include periodic cleaning and painting of the tank, but will not include maintenance or repair of the water level antennae on top of the tank. Said cleaning, painting, and repair shall be undertaken when mutually agreed upon by the Seller's engineer and Purchaser's engineer.
3. The Purchaser will be responsible for maintaining and repairing the bulk water distribution station located in Boody to meet all public health rules and regulations.
4. Members of the Purchaser shall abide by all rules and regulations that have been or might be enacted by the Seller to ensure a safe and adequate supply of water. These rules are defined in the Purchaser's 'Rules and Regulations Handbook' provided to the members by the Purchaser.
5. The Purchaser is responsible for obtaining all necessary easements, permits, and rights-of-way.
6. The Purchaser shall not permit connections of its mains with other sources of supply.

C. It is further mutually agreed between the Seller and Purchaser that:

1. The Purchaser shall decide the color, name, and design to be painted on the water storage tank located in Boody, but shall not authorize or cause to be placed on the tank any equipment or appurtenances without the Seller's approval.
2. This contract shall extend for forty (40) years, starting on the date when water is first purchased.
3. When requested by the Purchaser, the Seller will make available to the contractor at the point of delivery, water sufficient for testing, flushing, and trench filling. The Purchaser guarantees payment for the cost of this water at the Seller's then current bulk treated water rates.
4. Provisions of this contract may be altered or modified by mutual agreement in writing.

5. Either party may assign, transfer or otherwise convey this Agreement, which said assignment shall relieve the assigning party of all obligations hereunder, provided that the assigning party shall first provide thirty (30) days advance written notice to the non-assigning party.
6. Any future expansions of the Purchaser's system shall be solely at the expense of the purchaser and require written approval of the Seller.
7. Each section, paragraph, sentence, clause and provision of this contract is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the contract, nor any part thereof, other than that part affected by such decision.
8. The Seller shall be responsible for obtaining and maintaining all necessary licenses, certifications, and accreditations as may be necessary to operate and maintain the water system.
9. In the event a member of the Purchaser fails to pay their monthly bill in full, the Seller is authorized to take all legal steps necessary to enforce collection. This includes but is not limited to, suspension of the water service for the member in default of the payment. Except for non-payment of water charges, and except as may be otherwise provided by applicable law, termination shall not be available as a remedy to enforce the provisions of this Agreement, but the parties hereto may resort to action for damages or other appropriate relief to enforce the same or to correct, or obtain restitution for injury occasioned by, violation of the provisions hereof. In the event a violation is claimed, the claiming party shall give notice in writing thereof to the other party, which party shall be given a reasonable time in light of the nature of the violation claimed to correct the same, which time shall be no less than ten (10) days from the date of notice. Provided, however, that any violation resultant upon a cause majeure shall not subject either party to liability hereunder.
10. The Seller reserves the right to further extend its mains and facilities outside the Purchaser's system.
11. The Seller shall be responsible for performing JULIE Locates for the water system.
12. The provisions of this Agreement are expressly made subject to the provisions and covenants of any currently outstanding water revenue bond issues of either party, and the provisions hereof shall be so construed as to be compatible with and to conform thereto.
13. All notices required to be sent in connection with this Agreement shall be given when mailed by certified mail, postage prepaid, on the Mayor of the City of Macon, PO Box 349, 1039 Woodcock Road, Macon, IL 62544-0349, with a copy to the attorney for the City of Macon, Michael L. Antoline, One East Main Street, One Main Plaza, Suite 212, Champaign, IL 61820, the President of the Boody Community Water Company, with a copy to the attorney for the Boody Community Water Company, R.C. Bollinger, 225 S. Main Street, Decatur, IL 62525.

**(Ord. No. 01-09-2006-1)**

**APPENDIX #1**

**CITY OF MACON**

**APPLICATION FOR WATER SYSTEM SERVICE CONNECTION**

The undersigned, representing himself as owner of the property located at \_\_\_\_\_, hereby makes application for connection to the Water System of the City for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or enacted and passed from time to time providing for the regulation of service furnished by the City, it is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and water usage which shall become due as the result of the connecting of the water mains and the furnishing of water service to the above property, and that all such charges and fees for water service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable on or before the due date following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ \_\_\_\_\_ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the Water System.

**CONNECTION MUST BE INSPECTED BEFORE BACKFILLING:**

SIGNATURE: \_\_\_\_\_

\_\_\_\_\_  
(STREET NUMBER AND NAME OF STREET)

\_\_\_\_\_  
(CITY, STATE AND ZIP CODE)

\_\_\_\_\_  
(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

\_\_\_\_\_  
(  
\_\_\_\_\_  
(NAME)  
\_\_\_\_\_  
(STREET NUMBER AND NAME OF STREET)  
\_\_\_\_\_  
(CITY, STATE AND ZIP CODE)

**APPENDIX #2**

**CITY OF MACON**

**UTILITY MAIN EXTENSION CONTRACT**

**AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_,  
by and between the Utility System of the **City of Macon, Illinois**, hereinafter called the "Utility  
Department" and \_\_\_\_\_, hereinafter called the  
"Depositor".

**FIRST:** That the Utility Department contracts and agrees to have installed by  
contract in accordance with its rules, utility mains as shown on the plat  
thereof, and the specifications are attached hereto and made a part hereof.

**SECOND:** Bids having been taken and the lowest responsible bid having been in the  
amount of \$\_\_\_\_\_, the Depositor agrees to deposit and  
does deposit herewith the cost thereof.

- (A) The lowest responsible bid \$\_\_\_\_\_.
- (B) Engineering and Inspection Charge \$\_\_\_\_\_.
- (C) TOTAL: \$\_\_\_\_\_.

**THIRD:** Final costs to be adjusted up or down according to completed job cost.

**FOURTH:** The ownership of the utility mains laid herein shall be at all times in the  
Utility Department, its successors and assigns.

**FIFTH:** This Agreement shall be valid and binding on the Utility Department only  
when signed by the Mayor and Clerk.

**SIXTH:** This Agreement shall be binding upon the heirs, executors, administrators,  
successors or assigns of the respective parties.

**EXECUTED** in duplicate by the parties hereto on the date first above written.

**UTILITY DEPARTMENT  
CITY OF MACON**

**BY:** \_\_\_\_\_  
**PUBLIC WORKS DIRECTOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**DEPOSITOR**

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_



### APPENDIX #3

### CITY OF MACON

### PRIVATE WASTE DISPOSAL APPLICATION (SEPTIC TANK ETC.)

The undersigned, being the \_\_\_\_\_ of the property  
(owner, owner's agent)  
located at \_\_\_\_\_ does hereby request a permit to install  
(Number) (Street)  
sanitary sewage disposal facilities to serve the \_\_\_\_\_ at the location.  
(residence, commercial building, etc.)

1. The proposed facilities include: \_\_\_\_\_ to be constructed in complete accordance with the plans and specifications attached hereunto as **Exhibit "A"**.
2. The area of the property is [\_\_\_\_\_] square feet or [\_\_\_\_\_] square meters.
3. The name and address of the person or firm who will perform the work is \_\_\_\_\_
4. The maximum number of persons to be served by the proposed facilities is \_\_\_\_\_
5. The location and nature of all sources of private or public water supply within **one hundred (100) feet [30.5 meters]** of any boundary of said property are shown on the plat attached hereunto as **Exhibit "B"**.

#### IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the proposed work that shall be requested by the City.
2. To accept and abide by all provisions of the **Revised Code** and of all other pertinent codes or ordinances that may be adopted in the future.
3. To operate and maintain the wastewater disposal facilities covered by this application in a sanitary manner at all times, in compliance with all requirements of the City and at no expense to the City.
4. To notify the City **at least twenty-four (24) hours** to commencement of the work proposed, and again **at least twenty-four (24) hours** prior to the covering of any underground portions of the installation.

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(APPLICANT)

\_\_\_\_\_  
(ADDRESS OF APPLICANT)

---

#### (CERTIFICATION BY CLERK)

\$\_\_\_\_\_ (Inspection Fee Paid) DATE: \_\_\_\_\_, 20\_\_\_\_  
\$\_\_\_\_\_ (Connection Fee Paid) SIGNED: \_\_\_\_\_  
(CLERK)

---

#### (APPLICATION APPROVED AND PERMIT ISSUED)

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

---

**APPENDIX #4**

**CITY OF MACON**

**RESIDENTIAL OR COMMERCIAL BUILDING SEWER APPLICATION**

The undersigned, being the \_\_\_\_\_ of the  
(owner, owner's agent)  
property located at \_\_\_\_\_ does hereby request a permit to install and  
(Number) (Street)  
connect a building sewer to serve the \_\_\_\_\_ at said location.  
(residence, commercial building, etc.)

1. The following indicated fixtures will be connected to the proposed building sewer:

<b><u>NUMBER</u></b>	<b><u>FIXTURE</u></b>	<b><u>NUMBER</u></b>	<b><u>FIXTURE</u></b>
_____	Kitchen Sinks	_____	Water Closets
_____	Lavatories	_____	Bathtubs
_____	Laundry Tubs	_____	Showers
_____	Urinals	_____	Garbage Grinders

Specify Other Fixtures: \_\_\_\_\_

2. The maximum number of persons who will use the above fixtures is \_\_\_\_\_.
3. The name and address of the person or firm who will perform the proposed work is \_\_\_\_\_
4. Plans and specifications for the proposed building sewer are attached hereunto as **Exhibit "A"**.

**IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:**

- To accept and abide by all provisions of the **Revised Code**, and of all other pertinent ordinances and codes that may be adopted in the future.
- To maintain the building sewer at no expense to the City.
- To notify the City when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(APPLICANT)

\_\_\_\_\_  
(ADDRESS OF APPLICANT)

**(CERTIFICATION BY CLERK)**

\$ _____ (Inspection Fee Paid)	DATE: _____, 20____
\$ _____ (Connection Fee Paid)	SIGNED: _____ (CLERK)

**(APPLICATION APPROVED AND PERMIT ISSUED)**

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

## **APPENDIX #4**

### **CITY OF MACON**

#### **INDUSTRIAL SEWER CONNECTION APPLICATION**

The undersigned, being the \_\_\_\_\_ of the  
(owner, owner's agent)  
property located at \_\_\_\_\_ does hereby request a permit to \_\_\_\_\_  
(Number) (Street) (install, use)  
an industrial sewer connection serving the \_\_\_\_\_. which company is engaged in  
\_\_\_\_\_ at said location.

1. A plan of the property showing accurately all sewers and drains now existing is attached hereunto as **Exhibit "A"**.
2. Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as **Exhibit "B"**.
3. A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge and representative analyses is attached hereunto as **Exhibit "C"**.
4. The name and address of the person or firm who will perform the work covered by this permit is \_\_\_\_\_

#### **IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:**

1. To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the City.
2. To accept and abide by all provisions of the **Revised Code**, and of all other pertinent ordinances or codes that may be adopted in the future.
3. To operate and maintain a control manhole and any waste pretreatment facilities, as may be required as a condition of the acceptance into the public sewer of the industrial wastes involved in an efficient manner at all times, and at no expense to the City.
4. To cooperate at all times with the City and its representative(s) in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.
5. To notify the City immediately in the event of any accident, negligence, or other occurrence that occasions discharge to the public sewers of any wastes or process waters not covered by this permit.

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(APPLICANT)

\_\_\_\_\_  
(ADDRESS OF APPLICANT)

#### **(CERTIFICATION BY CLERK)**

\$ \_\_\_\_\_ (Inspection Fee Paid) DATE: \_\_\_\_\_, 20\_\_\_\_  
\$ \_\_\_\_\_ (Connection Fee Paid) SIGNED: \_\_\_\_\_  
(CLERK)

#### **(APPLICATION APPROVED AND PERMIT ISSUED)**

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

## **APPENDIX #4**

### **CITY OF MACON**

#### **APPLICATION FOR SANITARY SEWER SERVICE CONNECTION**

The undersigned, representing himself as owner of the property located at \_\_\_\_\_, hereby makes application for Sanitary Sewerage Service for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or ordinances enacted and passed from time to time providing for the regulation of the sanitary sewer system or specifying fees and rates to be charged for connection and sanitary sewer service furnished by the City. It is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and sewer usage which shall become due as the result of the connecting of the sewerage mains and the furnishing of sanitary sewerage service to the above property, and that all such charges and fees for sanitary sewerage service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable on or before the due date following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ \_\_\_\_\_ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the sewerage outlets, pipes and mains.

\_\_\_\_\_  
(APPLICANT'S SIGNATURE)

\_\_\_\_\_  
(STREET NUMBER AND NAME OF STREET)

\_\_\_\_\_  
(OWNER'S SIGNATURE, IF NOT APPLICANT)

\_\_\_\_\_  
(CITY, STATE AND ZIP CODE)

\_\_\_\_\_

\_\_\_\_\_  
(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

(  
(  
(NAME)  
(  
(STREET NUMBER AND NAME OF STREET)  
(  
(  
(CITY, STATE AND ZIP CODE)

**APPENDIX #4**  
**CITY OF MACON**  
**R E C E I P T**

Receipt is hereby acknowledged of the executed Application for Sanitary Sewer Service Connection from the person and for the property indicated below.

This receipt does not authorize service connection is made, inspection and approval of the customer service line by an authorized representative of the City is required, and approval of such connection and issuance of a Certificate of Inspection and Approval and Permit is conditioned upon compliance with all the Ordinances, Codes, Rules and Regulations of the **City**.

**NOTE:**

1. In the event the location of the sewer service connection is unknown, the Superintendent is to be contacted.
2. This office is to be notified the day before the work is to be done so that inspection may be arranged in accordance with specifications furnished. For example, if you desire inspection on Tuesday, contact us on Monday. If you desire inspection on Monday, contact us on Friday, etc.
3. If the sewer line is deep enough to drain your basement, if you have one, then the wastes from the basement as well as the other floor(s) of the property must go into the sanitary sewers. Downspout and surface drainage are prohibited inasmuch as this is not a storm sewer system.

**WARNING!** In order to coordinate our inspections, we must be advised a day in advance before the work is done. The inspection must be made before the trench is backfilled. If trench is backfilled before the inspection is made, it will have to be reopened to permit inspection.

NO. \_\_\_\_\_

**CITY OF MACON**  
**COUNTY OF MACON**

DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

OWNER(S): \_\_\_\_\_

\_\_\_\_\_

**APPENDIX #5**

**CITY OF MACON**

**CERTIFICATE OF INSPECTION, APPROVAL AND  
PERMIT**

**IT IS HEREBY CERTIFIED THAT** inspection has been made of the individually-owned sewer mains and sanitary service connection for the property described below, and said installation is hereby approved as in compliance with the Specifications, Rules and Regulations established by the Revised Code (Ch. 38) of this Municipality.

Permission is hereby granted to complete the construction of said individually-owned sewer main to the City Sanitary Sewerage System and to utilize the same for waste disposal in compliance at all times, with the Revised Code of this City.

NO. \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TYPE OF CONNECTION:

\_\_\_\_\_ Single-Family Residence  
\_\_\_\_\_ Multiple dwelling or trailer court  
\_\_\_\_\_ Commercial  
\_\_\_\_\_ Industrial  
\_\_\_\_\_ Institutional  
\_\_\_\_\_ Governmental

INSTALLATION BY: \_\_\_\_\_

THE SERVICE IS IN OPERATION AS OF THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

**CITY OF MACON  
COUNTY OF MACON**

**SIGNED:** \_\_\_\_\_

**APPENDIX #6**

**CITY OF MACON**

**UTILITY SHUTOFF HEARING NOTICE**

This notice is being sent to you pursuant to the provisions of **CHAPTER 38 OF THE REVISED CODE OF ORDINANCES** as adopted by the corporate authorities.

CUSTOMER'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TOTAL AMOUNT OF BILL:     \$\_\_\_\_\_ WATER

                                     \$\_\_\_\_\_ SEWER

                                     \$\_\_\_\_\_ OTHER

SUB-TOTAL:     \$\_\_\_\_\_

PENALTY:         \$\_\_\_\_\_

TOTAL DUE:      \$\_\_\_\_\_

DATE OF HEARING \_\_\_\_\_

TIME OF HEARING \_\_\_\_\_

LOCATION OF HEARING \_\_\_\_\_

\_\_\_\_\_

PHONE: \_\_\_\_\_

If the consumer/customer fails to appear at the hearing, the applicable utility services shall be **terminated** [shut off] without further proceedings.

If payment for the charges and fees is received prior to the date of the hearing, you may disregard this hearing notice.

The Mayor and City Clerk, or their designated representative(s), shall preside at the hearing.

\_\_\_\_\_  
**CITY CLERK**

**DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.**

**NOTE:**         **After services have been shut off there will be a reconnection fee of \$\_\_\_\_\_.**

**APPENDIX #7**

**CITY OF MACON**

**OBJECTIONABLE MATERIAL EFFLUENT LIMITS**

<b><u>Waste or Chemical</u></b>	<b><u>Concentration mg/l</u></b>
Boron	1.0
Chromium (Hexavalent)	5.0
Chromium (Trivalent)	10.0
Copper	3.0
Cyanide	0.005
Iron	15.0
Lead	0.1
Mercury or its compounds	0.005
Nickel	3.0
Oil & Grease, etc. (carbon tetrachloride extraction)	100.0
Temperature not over 150° F. (65° C.)	
Acid iron pickling waste or concentrated plating waste	Zero
Free acids and alkalis pH	Between 5.5 and 9.5
Zinc	2.0
Cadmium	2.0
Chlorine Demand	30.0
Phenols	0.5



## **CHAPTER 40 – ZONING CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERAL PROVISIONS</i></b>	
	<i>Section 40-1-1 - Title</i>	<i>40-1</i>
	<i>Section 40-1-2 - Purpose</i>	<i>40-1</i>
	<i>Section 40-1-3 - Jurisdiction</i>	<i>40-1</i>
	<i>Section 40-1-4 - Interpretation</i>	<i>40-1</i>
	<i>Section 40-1-5 - Disclaimer of Liability</i>	<i>40-1</i>
	<i>Section 40-1-6 - Severability</i>	<i>40-2</i>
	<i>Section 40-1-7 - Review</i>	<i>40-2</i>
<b><i>II</i></b>	<b><i>DEFINITIONS</i></b>	
	<i>Section 40-2-1 - Construction of Terms</i>	<i>40-3</i>
	<i>Section 40-2-2 - Selected Definitions</i>	<i>40-3</i>
<b><i>III</i></b>	<b><i>ZONING REGULATIONS</i></b>	
	<i>Division I – General Regulations</i>	
	<i>Section 40-3-1 - Establishment of Districts</i>	<i>40-15</i>
	<i>Section 40-3-2 - Map – Annual Publication</i>	<i>40-15</i>
	<i>Section 40-3-3 - Determining Territorial Limits</i>	<i>40-15</i>
	<i>Section 40-3-4 - Annexed Territory</i>	<i>40-16</i>
	<i>Section 40-3-5 - General Prohibition</i>	<i>40-16</i>
	<i>Section 40-3-6 - Unlisted Uses Prohibited</i>	<i>40-16</i>
	<i>Section 40-3-7 - Temporary Uses</i>	<i>40-16</i>
	<i>Section 40-3-8 - Meeting Minimum Requirements</i>	<i>40-16</i>
	<i>Section 40-3-9 - Access Required</i>	<i>40-16</i>
	<i>Section 40-3-10 - Front Setbacks – Corner/Through Lots</i>	<i>40-16</i>
	<i>Section 40-3-11 - Front Setbacks in Certain Built-Up Areas</i>	<i>40-17</i>
	<i>Section 40-3-12 - Yard Intrusions</i>	<i>40-17</i>
	<i>Section 40-3-13 - Height – Exceptions</i>	<i>40-17</i>
	<i>Section 40-3-14 - Reserved</i>	
	<i>Section 40-3-15 - Accessory Uses – Permitted</i>	<i>40-17</i>
	<i>Section 40-3-16 - Accessory Use Restrictions</i>	<i>40-17</i>
	<i>Section 40-3-17 - Area Bulk Regulations</i>	<i>40-18</i>
	<i>Section 40-3-18 - 40-3-19 Reserved</i>	
	<i>Division II – Planned Developments</i>	
	<i>Section 40-3-20 - Planned Development Defined</i>	<i>40-18</i>
	<i>Section 40-3-21 - Objectives</i>	<i>40-18</i>
	<i>Section 40-3-22 - Compliance with Regulations Generally Required</i>	<i>40-18</i>
	<i>Section 40-3-23 - Districts Where Allowed</i>	<i>40-18</i>
	<i>Section 40-3-24 - Permissible Deviation From Code Requirements</i>	<i>40-19</i>
	<i>Section 40-3-25 - Procedures for Planned Developments</i>	<i>40-19</i>
	<i>Section 40-3-26 - Application; Information Required</i>	<i>40-19</i>
	<i>Section 40-3-26.1 - Written Documents</i>	<i>40-19</i>
	<i>Section 40-3-26.2 - Graphic Materials</i>	<i>40-20</i>
	<i>Section 40-3-27 - Criteria Considered</i>	<i>40-20</i>
	<i>Section 40-3-28 - Decision by Zoning Board</i>	<i>40-20</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>ZONING REGULATIONS (CONTINUED)</b>	
	<i>Division II – Planned Developments (Continued)</i>	
	Section 40-3-29 - Changes in Approved Plans	40-21
	Section 40-3-30 - Failure to Begin Development	40-21
	Section 40-3-31 - Municipal Exemption	40-21
<b>IV</b>	<b>REGULATIONS FOR SPECIFIC DISTRICTS</b>	
	<i>Division I – Single-Family Districts</i>	
	Section 40-4-1 - "SR-1" – Single-Family Residence District (Large Lot)	40-22
	Section 40-4-2 - Special Restrictions	40-22
	Section 40-4-3 - Lot and Building Requirements	40-22
	Section 40-4-4 - Permitted Uses	40-22
	Section 40-4-5 - Special Uses	40-22
	Section 40-4-6 - 40-4-15 Reserved	
	<i>Division II – Single-Family District (SR-2)</i>	
	Section 40-4-16 - "SR-2" – Single-Family Residence District (Small Lot)	40-23
	Section 40-4-17 - Special Restrictions	40-23
	Section 40-4-18 - Lot and Building Requirements	40-23
	Section 40-4-19 - Permitted Uses	40-23
	Section 40-4-20 - Special Uses	40-23
	Section 40-4-21 - 40-4-30 Reserved	
	<i>Division III – Multiple-Family Districts (MR-1)</i>	
	Section 40-4-31 - "MR-1" – Multiple-Family Residence District	40-24
	Section 40-4-32 - Lot and Building Requirements	40-24
	Section 40-4-33 - Permitted Uses	40-24
	Section 40-4-34 - Special Uses	40-24
	Section 40-4-35 - 40-4-36 Reserved	
	<i>Division IV – Multiple-Family Districts (MR-2)</i>	
	Section 40-4-37 - "MR-2" – Multiple-Family Residence District	40-25
	Section 40-4-38 - Lot and Building Requirements	40-25
	Section 40-4-39 - Permitted Uses	40-25
	Section 40-4-40 - Special Uses	40-25
	Section 40-4-41 - 40-4-45 Reserved	
	<i>Division V – Manufactured Housing District (MH-1)</i>	
	Section 40-4-46 - "MH-1" – Manufactured Housing District	40-26
	Section 40-4-47 - Manufactured Housing Lot Ownership	40-26
	Section 40-4-48 - Lot and Building Requirements, Generally	40-26
	Section 40-4-49 - Permitted Uses	40-26
	Section 40-4-50 - Special Uses	40-26
	Section 40-4-51 - Manufactured Home Parks	40-27
	Section 40-4-52 - 40-4-62 Reserved	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IV</b>	<b>REGULATIONS FOR SPECIFIC DISTRICTS (CONTINUED)</b>	
	<i>Division VI – Central Business District (B-1)</i>	
	Section 40-4-63 - Description	40-27
	Section 40-4-64 - Use Restrictions	40-27
	Section 40-4-65 - Lot and Building Requirements	40-28
	Section 40-4-66 - Permitted Uses	40-28
	Section 40-4-67 - Special Uses	40-28
	Section 40-4-68 - 40-4-69 Reserved	
	<i>Division VII – Highway Business District (B-2)</i>	
	Section 40-4-70 - Description	40-29
	Section 40-4-71 - Use Restrictions	40-29
	Section 40-4-72 - Lot and Building Requirements	40-29
	Section 40-4-73 - Permitted Uses	40-29
	Section 40-4-74 - Special Uses	40-30
	Section 40-4-75 - Reserved	
	<i>Division VIII – Industrial District</i>	
	Section 40-4-76 - "I-1" – Industrial District	40-30
	Section 40-4-77 - Use Restriction	40-30
	Section 40-4-78 - Lot and Structure Requirements	40-31
	Section 40-4-79 - Permitted Uses	40-31
	Section 40-4-80 - Special Uses	40-31
	Section 40-4-81 - 40-4-83 Reserved	
	<i>Division IX – Agricultural District (A)</i>	
	Section 40-4-84 - Purpose	40-31
	Section 40-4-85 - Permitted Uses	40-32
	Section 40-4-86 - Special Uses	40-32
	Section 40-4-87 - Yard and Setback Regulations	40-32
	Section 40-4-88 - Structure Height	40-32
	Section 40-4-89 - 40-4-90 Reserved	
	<i>Division X – Flood Plain District</i>	
	Section 40-4-91 - "O-FP" – Flood Plain Overlay District	40-32
	Section 40-4-92 - Permitted and/or Special Uses	40-33
	Section 40-4-93 - Additional Restrictions	40-33
<b>V</b>	<b>SUPPLEMENTARY ZONING REGULATIONS</b>	
	Section 40-5-1 - Applicability of Article	40-34
	Section 40-5-2 - Recreational Vehicles	40-34
	Section 40-5-3 - Fences, Walls	40-34
	Section 40-5-4 - Service Stations	40-34
	Section 40-5-5 - Nursing Homes and Group Homes	40-35
	Section 40-5-6 - Junk Yards	40-35
	Section 40-5-7 - Home Occupations	40-35
	Section 40-5-8 - Schools	40-36
	Section 40-5-9 - Swimming Pools	40-36
	Section 40-5-10 - Utility Substations	40-36
	Section 40-5-11 - Kennels	40-36

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b>SUPPLEMENTARY ZONING REGULATIONS (CONTINUED)</b>	
	Section 40-5-12 - Agricultural Activities	40-37
	Section 40-5-13 - Lighting Controls	40-37
	Section 40-5-14 - Public Buildings	40-37
	Section 40-5-15 - Churches and Houses of Formal Worship	40-37
<b>VI</b>	<b>SIGN REGULATIONS</b>	
	Section 40-6-1 - General Prohibition	40-38
	Section 40-6-2 - Computation of Sign Area Allowance	40-38
	Section 40-6-3 - Definition of Sign Area	40-38
	Section 40-6-4 - Special Situations	40-38
	Section 40-6-5 - Signs to be Non-Hazardous, Well-Maintained	40-38
	Section 40-6-6 - Illumination	40-38
	Section 40-6-7 - Nonconforming Signs	40-39
	Section 40-6-8 - Restrictions	40-39
	Section 40-6-9 - Strictly Prohibited Signs	40-39
	Section 40-6-10 - Signs Permitted in Any District	40-39
	Section 40-6-11 - Residential Districts	40-40
	Section 40-6-12 - Business; Industrial Districts	40-40
	Section 40-6-13 - Temporary Signs	40-42
<b>VII</b>	<b>SUPPLEMENTARY OFF-STREET PARKING AND LOADING REGULATIONS</b>	
	Section 40-7-1 - Applicability of Article	40-43
	Section 40-7-2 - Existing Parking/Loading Facilities	40-43
	Section 40-7-3 - Parking Design and Maintenance Standards	40-43
	Section 40-7-4 - Reserved	
	Section 40-7-5 - Location of Parking	40-44
	Section 40-7-6 - Design and Location of Off-Street Loading Facilities	40-44
	Section 40-7-7 - Computation of Required Parking/Loading Spaces	40-45
	Section 40-7-8 - Number of Parking and Loading Spaces Required	40-45
<b>VIII</b>	<b>NONCONFORMITIES</b>	
	Section 40-8-1 - Purpose of Article	40-49
	Section 40-8-2 - Nonconforming Lots	40-49
	Section 40-8-2.1 - Residential Districts	40-49
	Section 40-8-2.2 - Commercial and Industrial Districts	40-49
	Section 40-8-2.3 - Two or More Lots in Common Ownership	40-49
	Section 40-8-3 - Nonconforming Structures	40-49
	Section 40-8-4 - Nonconforming Uses Occupying a Structure	40-50
	Section 40-8-5 - Nonconforming Use of Land	40-50
	Section 40-8-6 - Nonconformities Under Permit Authority	40-50
<b>IX</b>	<b>ADMINISTRATION AND ENFORCEMENT</b>	
	Section 40-9-1 - Zoning Administrator	40-51
	Section 40-9-2 - Duties	40-51
	Section 40-9-3 - Initial Certificates of Zoning Compliance	40-51

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IX</b>	<b>ADMINISTRATION AND ENFORCEMENT (CONTINUED)</b>	
	Section 40-9-4 - Zoning Application	40-51
	Section 40-9-5 - Duration of Certificate	40-52
	Section 40-9-6 - Relationship to Building Permits	40-52
	Section 40-9-7 - Final Certificates of Zoning Compliance	40-52
	Section 40-9-8 - Corrective Action Orders	40-52
	Section 40-9-9 - Contents of Order	40-52
	Section 40-9-10 - Service of Order	40-53
	Section 40-9-11 - Stop Orders	40-53
	Section 40-9-12 - Emergency Measures	40-53
	Section 40-9-13 - Complaints	40-53
	Section 40-9-14 - Fees	40-53
	Section 40-9-15 - Penalties	40-54
<b>X</b>	<b>SPECIAL PROCEDURES AND PERMITS</b>	
	<i>Division I – Board of Appeals</i>	
	Section 40-10-1 - Zoning Board of Appeals	40-55
	Section 40-10-2 - Membership, Appointment, Compensation	40-55
	Section 40-10-3 - Term of Office – Vacancies	40-55
	Section 40-10-4 - Meeting—Quorum	40-55
	Section 40-10-5 - Records	40-55
	Section 40-10-6 - Decisions	40-55
	Section 40-10-7 - Period of Validity	40-55
	Section 40-10-8 - Finality of Decisions of the City Council	40-56
	Section 40-10-9 - Office of the Secretary of the Board of Appeals	40-56
	Section 40-10-10 - 40-10-11 Reserved	
	<i>Division II – Appeals</i>	
	Section 40-10-12 - Nature of an Appeal	40-56
	Section 40-10-13 - Filing, Record Transmittal	40-56
	Section 40-10-14 - Stay of Further Proceedings	40-56
	Section 40-10-15 - Public Hearing, Notice	40-56
	Section 40-10-16 - Decision by Board of Appeals	40-57
	Section 40-10-17 - Reserved	
	<i>Division III – Variances</i>	
	Section 40-10-18 - Variances	40-57
	Section 40-10-19 - Application	40-57
	Section 40-10-20 - Public Hearing, Notice	40-58
	Section 40-10-21 - Standards for Variances	40-58
	Section 40-10-22 - Decision by Board of Appeals	40-58
	Section 40-10-23 - Action by City Council	50-58
	<i>Division IV – Special Uses</i>	
	Section 40-10-24 - Special-Use Permits	40-59
	Section 40-10-25 - Application	40-59
	Section 40-10-26 - Public Hearing, Notice	40-59
	Section 40-10-27 - Advisory Report, Factors Considered	40-60
	Section 40-10-28 - Action by City Council	40-60
	Section 40-10-28 - Temporary Use Permits: Procedure For	40-60

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>X</i></b>	<b><i>SPECIAL PROCEDURES AND PERMITS (CONTINUED)</i></b>	
	<i>Division V – Amendments</i>	
	<i>Section 40-10-30 - Amendments</i>	<i>40-60</i>
	<i>Section 40-10-31 - Filing</i>	<i>40-60</i>
	<i>Section 40-10-32 - Public Hearing – Notice</i>	<i>40-60</i>
	<i>Section 40-10-33 - Advisory Report – Findings of Fact</i>	<i>40-61</i>
	<i>Section 40-10-34 - Action by City Council</i>	<i>40-61</i>
	<i>Section 40-10-35 - When Two-Thirds Majority Vote is Required</i>	<i>40-61</i>
	<i>Section 40-10-36 - Notice to Applicant of Written Protest</i>	<i>40-61</i>

## CHAPTER 40

### ZONING CODE

#### ARTICLE I – GENERAL PROVISIONS

**40-1-1**      **TITLE.** This Code shall be known as and cited as the **Zoning Code of the City of Macon.**

**40-1-2**      **PURPOSE.** In accordance with State law, this Code regulates structures and land uses in order to preserve, protect, and promote the public health, safety and welfare. More specifically, this Code is intended to assist in achieving the following objectives:

- (A)            To encourage the development of buildings and uses on appropriate sites in order to maximize community-wide social and economic benefits while accommodating the particular needs of all residents, and to discourage development on appropriate sites;
- (B)            To assist in implementing the Comprehensive Plan, if any;
- (C)            To protect and enhance the character and stability of sound existing residential, commercial and industrial areas, and to gradually eliminate nonconforming uses and structures;
- (D)            To conserve and increase the value of taxable property throughout the City;
- (E)            To ensure the provision of adequate light, air and privacy to the occupants of all buildings;
- (F)            To protect persons and property from damage caused by fire, flooding, and improper sewage disposal;
- (G)            To provide adequate and well-designed parking and loading space for all buildings and uses, and to reduce vehicular congestion on the public streets and highways;
- (H)            To ensure the proper design and improvement of manufactured home parks;
- (I)            To promote the use of signs which are safe, aesthetically pleasing, compatible with their surroundings, and legible in the circumstances in which they are seen; and
- (J)            To provide for the efficient administration and fair enforcement of all the substantive regulations in this Code. **(65 ILCS 5/11-13-1)**

**40-1-3**      **JURISDICTION.** This Code shall be applicable within the corporate limits of this municipality.

**40-1-4**      **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of this municipality, and every requirement imposed in this Code shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

**40-1-5**      **DISCLAIMER OF LIABILITY.**

- (A)            Except as may be provided otherwise by statute or ordinance, no officer, board member, agent or employee of this municipality shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code.
- (B)            Any suit brought against any officer, board member, agent, or employee of this municipality, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the Municipal Attorney until the final determination of the legal proceedings. **(See "Local Governmental and Governmental Employees Tort Immunity Act", 745 ILCS 10/1-101)**

**40-1-6            SEVERABILITY.** If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

**40-1-7            REVIEW.** This Code shall be reviewed every **five (5) years** after its effective date by the Plan Commission and/or the Zoning Board of Appeals. After the review, they shall file their reports and recommendations with the corporate authorities.



## ARTICLE II - DEFINITIONS

**40-2-1 CONSTRUCTION OF TERMS.** In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

- (A) Words and phrases shall have the meanings respectively ascribed to them in Section 40-2-2 unless the context clearly indicates otherwise; terms not defined in Section 40-2-2 shall have their standard English meanings.
- (B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.
- (C) Words used in the present tense shall include the future tense.
- (D) Words used in the singular number shall include the plural number, and the plural the singular.
- (E) The term "shall" is mandatory.
- (F) The term "may" is discretionary.
- (G) The words "lots," "parcel," "tract," and "site" shall be synonymous.
- (H) The phrases "used for," "arranged for," "designed for," "intended for," "maintained for," and "occupied for" shall be synonymous.
- (I) All distances shall be measured to the nearest integral foot; **six (6) inches** or more shall be deemed **one (1) foot**.
- (J) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.
- (K) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

### **40-2-2 SELECTED DEFINITIONS.**

**Abutting:** As applied to lots, "abutting" means having a common lot line or district line, or so located in relation to each other that there would be a common lot line or district line but for the existence of a street, alley, or other public right-of-way.

**Access Way:** A curb cut, ramp, or other means for providing vehicular access to an off-street parking or loading area from a street.

**Accessory Use:** Any structure or use that is:

- (A) Subordinate in size or purpose to the principal use or structure which it serves;
- (B) Necessary or contributing to the comfort and convenience of the occupants of the principal use or structure served; and
- (C) Located on the same lot as the principal use or structure served.

Under no circumstances shall a shipping container, semi-trailer container, or any other freestanding storage container be permitted for use as an accessory use in any residential zoning district. **(Ord. No. 20190909-01)**

**Administrator:** The official appointed by the Mayor with the advice and consent of the City Council to administer this Code, or his representative. **(Synonymous with "Zoning Administrator.")**

**Agriculture:** Any one or any combination of the following: the growing of farm or truck garden crops, dairying, pasturage, horticulture, floriculture, or animal/poultry husbandry. The term "agriculture" encompasses the farmhouse, and accessory uses and structures customarily incidental to agricultural activities.

**Aisle:** A vehicular traffic-way within an off-street parking area, used as a means of access/egress from parking spaces.

**Alley:** A public right-of-way which affords a secondary means of vehicular access to abutting premises that front on a nearby street.

**Alter:** To change the size, shape, or use of a structure or the moving from one location to another.

**Amendment:** A change in the provisions of this Code {including those portions incorporated by reference}, properly effected in accordance with State law and the procedures set forth herein.

**Apartment:** A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

**Apartment Hotel:** A multiple-family dwelling which furnishes for its tenants services customarily provided by hotels, but which does not furnish such services to the transient public.

**Attached:** As applied to buildings, "attached" means having a common wall and/or a common roof.

**Auditorium:** A room, hall or building made a part of a church, theater, school, recreation building or other building assigned to the gathering of people as an audience, to hear lectures, plays and other presentations, as well as participate in dances, dinners, expositions, bingos, etc.

**Basement:** A story having **one-half (1/2)** or more of its height below the average level of the adjoining ground.

**Bed and Breakfast:** An operator-occupied residence providing accommodations for a charge to the public with no more than **five (5) guest rooms** for rent, in operation for more than **ten (10) nights** in a **twelve (12) month** period. Breakfast and light snacks/refreshments may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses or food service establishments.

**Billboard:** A sign advertising a commodity, business, service, or event not available or conducted upon the premises where such sign is located or to which it is affixed.

**Block:** An area of land entirely bounded by streets, highways, barriers, or ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a street, highway, or way) or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines.

**Board of Appeals:** The Zoning Board of Appeals of the City.

**Boarding House:** A building or portion thereof--other than a hotel, motel, or apartment hotel--containing lodging rooms for **three (3)** or more persons who are not members of the keeper's family, and where lodging and/or meals are provided by prearrangement and for definite periods.

**Buffer Strip:** An area of land undeveloped except for landscaping fences, etc., used to protect a use situated on **one (1) lot** from the deleterious effects of the use on the adjacent lot.

**Building:** Any structure having a roof supported by columns or walls, and designed or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

**Building, Enclosed:** A building covered by a permanent roof and separated on all sides from adjacent open space or other buildings by fixed exterior walls or by common walls, with openings only for windows and doors.

**Building Height:** The vertical distance measured from the average elevation of the proposed finish grade at the front wall of the building to the highest point of the roof.

**Building Line:** The line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street right-of-way line.

**Building, Principal:** A non-accessory building in which the principal use of the premises is conducted.

**Bulk:** Any one or any combination of the following:

- (A) Size or height of structure;
- (B) Location of exterior walls at all levels in relation to lot lines, streets, or other structures;
- (C) Floor/area ratio;
- (D) Yards or setbacks;
- (E) Lot coverage.

**Camping Trailer:** A mobile structure designed for temporary occupancy.

**Camping Trailer Park:** A lot developed with facilities for accommodating temporarily occupied camping trailers.

**Centerline:**

- (A) The centerline of any right-of-way having a uniform width;
- (B) The original centerline, where a right-of-way has been widened irregularly;
- (C) The new centerline, whenever a road has been relocated.

**Certificate of Zoning Compliance, Initial:** A permit issued by the Administrator indicating that proposed construction work is in conformity with the requirements of this Code and may, therefore may be occupied or used.

**Certificate of Zoning Compliance, Final:** A permit issued by the Administrator indicating that a newly completed structure complies with all pertinent requirements of this Code and may, therefore, be occupied or used.

**Church or Building for Religious Worship:** A building used by a corporate religious institution that people regularly attend to participate in religious services, meetings and other customary, integrally related religious activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

**Clinic:** An establishment where licensed physicians or dentists practice medicine or dentistry, but where overnight lodging for sick or injured persons is not provided.

**Club/Lodge:** A nonprofit association or persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

**Commercial Use/Establishment:** Any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other businesses (wholesale).

**Community Residence:** A group home or specialized residential care home serving unrelated persons with handicaps which is licensed, certified or accredited by appropriate local, state or national bodies. **Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse or for treatment of communicable disease.**

**Community Residence - Large:** A community residence serving **nine (9) to fifteen (15) persons** with handicaps.

**Community Residence - Small:** A community residence serving **eight (8) or fewer persons** with handicaps in a family-like atmosphere.

**Conforming:** In compliance with the applicable provisions of this Code.

**Convenience Shop:** Any small retail commercial or service establishment offering goods/services.

**Day Care Center:** See "Nursery School."

**Deck:** An open porch which has no roof, is generally open on the sides, is above ground level, and its intended use is for leisure enjoyment.

**Detached:** As applied to buildings, "detached" means surrounded by yards on the same lot as the building.

**Develop:** To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation therefor.

**District Zoning:** A portion of the territory of this municipality wherein certain uniform requirements or various combinations thereof apply to structures, lots and uses under the terms of this Code.

**Driveway:** A minor way commonly providing vehicular access to a garage or off-street parking area.

**Drive-In Restaurant or Refreshment Stand:** An establishment principally used for the sale of fast order food for consumption off the premises or in parked cars on the premises. Fast order food means food that is:

- (A) Primarily intended for immediate consumption;
- (B) Available after a short waiting time; and
- (C) Packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

**Dwelling:** A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, and other accommodations for the transient public. Modular dwellings on permanent foundations shall be treated in the same manner as conventionally constructed dwellings (see definition for modular and permanent foundation).

**Dwelling, Multiple-Family:** A building or portion thereof containing **three (3)** or more dwelling units.

**Dwelling, Single-Family:** A detached dwelling containing one dwelling unit and intended for the occupancy of one family.

**Dwelling, Two-Family:** A dwelling containing **two (2)** dwelling units.

**Dwelling Unit:** One or more rooms designed or used as living quarters by one family. A "dwelling unit" always includes a bathroom and a kitchen.

**Easement:** A right to use another person's real property for certain limited purposes.

**Enlarge:** To increase the size (floor area, height, etc.) of an existing principal structure or accessory use, or to devote more land to an existing use.

**Erect:** Build, construct.

**Essential Governmental or Public Utility Services:** The erection, replacement, construction, alteration, or maintenance by public utilities or governmental departments, of underground or overhead gas, electrical, steam, water transmission or distribution systems, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings.

**Establishment:** Either of the following:

- (A) an institutional, business, commercial, or industrial activity that is the sole occupant of one or more buildings; or
- (B) an institutional, business, commercial, or industrial activity that occupies a portion of a building such that:
  - (1) the activity is a logical and separate entity from the other activities within the building and not a department of the whole; and
  - (2) the activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

**Existing:** Existing, constructed or in operation, on the effective date of this Code.

**Extend:** To increase the amount of floor area or land area devoted to an existing use.

**Family:**

- (A) A single individual doing his own cooking and living upon the premises as a separate housekeeping unit; or
- (B) A collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, adoption or employment as domestic servants; or
- (C) A group of not more than **three (3)** unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit pursuant to a mutual housekeeping agreement (not including a group occupying a boarding or rooming house, club, fraternity or hotel).

**Farmhouse:** A detached dwelling on a tract of land of not less than **ten (10) acres**, and occupied by a family whose income is primarily derived from agricultural activities conducted on the premises.

**Filling Station:** (See Service Station)

**Floor Area, Gross:** As used in determining floor/area ratios and parking requirements, the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes all of the following: basement floors; attic floor space; halls, closets, stairwells; space devoted to mechanical equipment; enclosed porches.

**Freight Terminal:** as applied to motor carriers subject to the **625 ILCS 18c-1101 et seq.**, a station for commercial motor vehicles wherein said motor trucks are stored, repaired or parked.

**Frontage:** The lineal extent of the front (street-side) of a lot.

**Garage:** A structure designed and primarily used for the storage of motor vehicles, whether free of charge or for compensation.

**Government:** The act or process of administering public policy in a political unit; a political jurisdiction, the office or function thereof.

**Home Occupation:** Any business, profession, or occupation conducted for gain or support entirely within a dwelling or on residential premises in conformity with the provisions of this Code. **(See Section 40-5-7.)**

**Hospital:** An institution devoted primarily to the maintenance and operation of facilities around-the-clock for the diagnosis, treatment, or care for members of the general public suffering from disease, injury, or other abnormal physical conditions. The term "hospital" as used in this Code does not include institutions operating solely for the treatment of insane persons, drug addicts, and alcoholics, nor does it include convalescent or nursing homes.

**Hotel:** An establishment containing lodging accommodations designed for use by travelers or temporary guests. Facilities provided may include a general kitchen, maid service, desk service, meeting rooms, restaurants, cocktail lounges, and similar ancillary uses, but not cooking facilities in guest rooms.

**Immobilize:** As applied to a manufactured home, "immobilize" means to remove the wheels, tongue and hitch and place on a permanent foundation.

**Intensify:** To increase the level or degree of.

**Intersection:** The point at which two or more public rights-of-way (generally streets) meet.

**Junk Yard:** An open area of land and any accessory structures thereon that are used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition or parts thereof, and metals, glass, paper, plastics, rags, and rubber tires. A lot on which **three (3)** or more inoperable vehicles are stored shall be deemed a junk yard. A "junk yard" includes an automobile wrecking yard.

**Kennel:** Any structure or premises or portion thereof on which more than **three (3) dogs**, cats, or other household domestic animals, over **four (4) months** of age, are kept or on which more than **two (2)** such animals are maintained, boarded, bred, or cared for in return for remuneration or are kept for the purpose of sale.

**Landscape Fence:** A non-obstructive fence, no greater than **four (4) feet** in height, of approved design and materials. Picket, split-rail, and wrought iron fences are acceptable within this definition. Examples of unacceptable fence types include privacy, chain link, and welded wire.

**Loading Space:** An off-street space used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

**Lot:** A tract of land used or developed as a unit, under single ownership or under single control. A "lot" may or may not coincide with a "lot of record."

**Lot, Corner:** A lot having at least **two (2)** adjacent sides that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

**Lot, Through:** A lot having a pair of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

**Lot Area:** The area of a horizontal plane bounded by the front, side, and rear lines of a lot.

**Lot Coverage:** The portion of a lot that is occupied by buildings or structures, including accessory buildings or structures.

**Lot Depth:** The average horizontal distance between the front lot line and the rear lot line of a lot.

**Lot Line, Front:** The lot boundary abutting the street.

**Lot Line, Rear:** An interior lot line which is most distant from and most nearly parallel to the front lot line. The rear lot on corner lots shall be defined as the line most distant and most nearly parallel to either of the front lot lines as defined elsewhere in these definitions.

**Lot Line, Side:** Any boundary of a lot which is not a front lot line or a rear lot line.

**Lot of Record:** An area of land designated as a lot on a plat of subdivision recorded or registered with the County Recorder of Deeds, in accordance with State law.

**Lot Size Requirement:** Refers to the lot area, width, and depth requirements of the applicable district.

**Lot Size/Bulk Variance:** A relaxation of the strict application of the lot size and/or bulk requirements applicable to a particular lot or structure. A lot Size/Bulk Variance goes with the property.

**Lot Width:** The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; or the same distance measured at a point midway between the front lot line and the rear lot line; or at the rear line of the required front yard (building lines), especially on irregularly shaped lots.

**Maintenance:** The routine upkeep of a structure, premises, or equipment, including the replacement or modification of structural components to the extent necessary to keep a structure in sound condition.

**Mini-Warehouses:** A building, or part of one, for the storage of goods, merchandise, etc. for rent to individuals or businesses for a monthly fee.

**Mobile (Manufactured) Home:** A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term "manufactured home" shall only include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal "**National Manufactured Housing Construction and Safety Standards Act of 1974**". Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the manufactured home. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a "**manufactured home**", but shall be an "**immobilized manufactured home**". A manufactured home should not be confused with a "**camping trailer**" or "**recreational vehicle**". **(210 ILCS 115/2.10)**

**Manufactured Home, Dependent:** A manufactured home which does not have a toilet and bath or shower facilities. **(210 ILCS 115/2.3)**

**Manufactured Home, Double-Wide:** Consists of **two (2)** manufactured units joined at the site into a single home, but kept on their separate chassis for repeated transportation to a site.

**Manufactured Home, Immobilized:** Any manufactured home resting on a permanent foundation with wheels, tongue, and hitch permanently removed. The City Council establishes the following criteria to complete the immobilization of a manufactured home:

(A) The foundation shall extend into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the front line shall satisfy the requirement for a permanent foundation.

(B) As an alternative to paragraph (A) above, piers may be used, extending into the ground below the frost line and sufficient in number to properly support the manufactured home.

(C) To complete the immobilization, wheels, tongue, and hitch must be removed. Axles may be removed.

**Manufactured Home, Independent:** A manufactured home which has self-contained toilet and bath or shower facilities. **(210 ILCS 115/2.4)**

**Manufactured Home Lot:** A parcel of land for the placement of a manufactured home and the exclusive use of its occupants.

**Manufactured Home Pad:** That part of an individual manufactured home space or lot beneath the manufactured home, including the concrete portion of the pad.

**Manufactured Home Park:** A tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent manufactured homes for

permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home park if they are maintained and operated jointly. Neither an immobilized manufactured home nor a motorized recreational vehicle shall be construed as being a part of a manufactured home park. **(210 ILCS 115/2.5)**

**Manufactured Home Sales Area:** A parcel of land used for the display, sale and repair of new or used manufactured homes.

**Manufactured Home Space:** A portion of a manufactured home park designed for the use or occupancy of **one (1)** manufactured home.

**Manufactured Home Stand:** The part of a manufactured home space beneath the manufactured home that includes the concrete slab on which the home is placed and to which it is anchored.

**Manufactured Housing Unit:** Includes all forms of housing units listed in this Section and as regulated in this Code.

**Mobile or Portable Marquee:** A term used to describe any sign designed to be moved from place to place, including, but not limited to, signs attached to wood or metal frames designed to be self-supporting and movable; or paper, cardboard, or canvas signs wrapped around supporting poles.

**Modulars (Sectional Houses):** Built and transported in sections or two halves. A modular dwelling must have a yellow metal seal, shaped like the State of Illinois, mounted on the interior electrical panel. This will distinguish a modular from a manufactured home which has a 2-inch by 4-inch metal plate mounted on the tail light (rear) end of the manufactured home. Modular housing is similar in many ways to conventionally constructed housing including construction on a permanent foundation (see definition for permanent foundation). Modular housing as herein defined shall be considered as single family dwellings.

**Motel:** A motel for motorists, usually with blocks of rooms opening directly onto a parking area. Also called motor court.

**Nonconforming:** As applied to a lot, structure, or use, "nonconforming" means: (1) lawfully existing on the effective date of this Code, but (2) not in compliance with the applicable provisions thereof.

**Nuisance:** Any thing, condition, or conduct that endangers health, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life. **(See Chapter 25 of the Revised Code)**

**Nursery:** A tract of land on which trees, shrubs, and other plants are raised for transplanting and sale, and including any structure in which said activities are conducted.

**Nursery School:** An establishment for the part-time care and/or instruction (at any time of day) of **four (4)** or more unrelated children of predominantly pre-elementary or elementary school age.

**Nursing Home:** A building used as a medical care facility for persons who need long-term nursing care and medical service, but do not require intensive hospital care.

**Office:** Any building, or portion thereof, in which the business (usually clerical and administrative affairs) of a commercial/service enterprise or professional person is transacted.

**Official Map:** The portion of the master plan which designates land necessary for public facilities or uses. It shall include streets, alleys, public ways, parks, playgrounds, school sites and other public grounds and ways for public service facilities within the whole area included within the official comprehensive plan. It can



be one or more separate geographical or functional parts or include all or any part of the contiguous, unincorporated area under the planning jurisdiction of the City.

**Off-Street Parking Area:** Land that is improved and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An "off-street parking area," depending on the circumstances of its use, may either a principal use or an accessory use.

**Off-Street Parking Space:** An area at least **twenty (20) feet** long and **ten (10) feet** wide within an off-street parking area or garage, used for the storage of one passenger motor vehicle.

**Overlay District:** A zoning district superimposed over one or more standard (primary) zoning districts or portions thereof for the purpose of controlling developmental problems caused by such factors as steep slopes, wet soils, flooding, etc.

**Patio:** An at-grade -paved area without any walls usually adjacent to a building, and which is intended to be used as an outdoor lounging, dining, or entertaining area.

**Permanent Foundation:** A permanent support for buildings that are constructed of conventional foundation materials such as concrete or cement blocks. The foundation footing shall extend below the frost line.

**Permanent Habitation:** A period of **two (2)** or more months. **(210 ILCS 115/2.2)**

**Permitted Uses:** Any use which is or may be lawfully established in a particular district(s), provided it conforms with all the requirements applicable to said district(s).

**Person:** Any individual, firm, association, organization, or corporate body.

**Plan:** The geographical and topographical maps, engineering and architectural drawings and specifications, and other information indicating the location and nature of a development.

**Planned Development Project:** A residential or commercial development on a parcel of land in single ownership and consisting of **two (2)** or more buildings having any yard, court, parking or loading space in common.

**Porch:** A structure attached to a building to shelter an entrance or to serve as a semi-enclosed space, usually covered with a roof, generally open-sided, and usually large enough to allow seating devices.

**Premises:** A lot and all the structures and uses thereon.

**Principal Building/Structure/Use:** The main structure erected on or the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

**Private Street:** Any street providing access to abutting property that is not maintained by and dedicated to a unit of government.

**Public Buildings:** Any building owned, operated, constructed or maintained at the expense of the public or a building which provides a service or function necessary for the general health, welfare, and convenience of the public.

**Public Open Space:** Any publicly-owned open area, including, but not limited to the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

**Public Utilities:** Utilities which are either government-owned or owned by an established firm serving a wide geographical area and/or a substantial number of persons.

**Public Utility Services:** Means and includes facilities providing those services used for or in connection with the production, storage, transmission, sale, delivery or furnishing of heat, cold, power, electricity, water or light except when used solely for communications purposes. Public Utility Services does not mean and shall not include facilities designed or intended to be used for the transmission of telephone messages or any other form of telecommunications.

**Quick Shop:** Any small retail commercial or service establishment offering goods/services primarily to the residents of a particular multi-family complex, manufactured home park or similar development. No liquor or gasoline shall be sold in this shop.

**Reconstruct:** As applied to nonconforming structures, "reconstruct" means to rebuild after partial destruction.

**Recreational Vehicle (RV) Park:** See Camping Trailer Park.

**Refuse:** Garbage (food wastes) and trash, but not sewage or industrial wastes.

**Relocate:** To move to another portion of a lot or to a different lot.

**Repair:** To restore to sound condition, but not to reconstruct.

**Retail:** Refers to the sale of goods and services directly to the consumer rather than to another business.

**Right-of-Way, Public:** A strip of land which the owner/subdivider has dedicated to the City or to another unit of government for streets and alleys.

**Sanitary Landfill:** A tract of open land used for the permanent disposal of refuse in accordance with the requirements of the Illinois Environmental Protection Agency.

**Satellite Dish:** Any parabolic/dish-type apparatus, external to or attached to the exterior of a building or structure, capable of receiving, for the benefit of the principal use, television or radio signals. Satellite dishes are considered an accessory use.

**Screening:** Trees, shrubs, walls, solid fences, etc. used as a means of view and noise control.

**Semi-Finished Materials:** Materials which have been sufficiently processed at heavy industrial facilities so that they are no longer in their raw state, but are readily usable by light industry for assembly or manufacture into consumer goods.

**Service Station:** A building and premises or portion thereof designed and used for the retail sale of gasoline or other automotive fuel, oil, and automotive parts, supplies, and accessories. A service station may include facilities for washing vehicles and for making minor automotive repairs.

**Service Use/Establishment:** Any use or establishment where services are provided for remuneration either to individuals or to other firms.

**Setback:** The distance between the front lot line and the building line; or between a side or rear lot line and the side of the structure which faces such lot line; or between the appropriate lot line and the nearest boundary of the area of operation which is approximately parallel to such lot line.

**Sign:** Any object, device, display or structure or part thereof used to advertise, identify, display or attract attention to a person, establishment, product, service or event by any means including words, letters, figures, designs, symbols, fixtures, colors, illuminations, etc. The term "sign" includes, but is not limited to, every projecting sign, freestanding sign, awning, canopy, marquee sign; changeable copy sign, illuminated sign; moving sign, temporary sign; portable sign; or other display whether affixed to a building or erected

elsewhere on the premises. The term "sign" excludes features of a building which are an integral part of the building's design (e.g., the "castle-look" of a White Castle restaurant).

**Sign, Canopy/Marquee:** Any sign affixed to, painted on, or suspended from an awning, canopy, marquee or similar overhang.

**Sign, Flush-Mounted:** Any sign attached to or erected against a wall of a structure with the exposed face of the sign in a plane approximately parallel to the plane of the wall and not projecting more than **eighteen (18) inches**. A flush-mounted sign displays only messages associated with the building to which said sign is attached.

**Sign, Freestanding:** Any sign supported by **one (1)** or more uprights, poles, or braces placed in or upon the ground; or any sign supported by any structure erected primarily for the display and support of the sign; provided that a freestanding sign displays only messages associated with the structure to which it is attached.

**Sign, Projecting:** Any sign which is suspended from or supported by a wall, awning, canopy, marquee, etc., and which is approximately perpendicular thereto. A projecting sign displays only messages associated with the structure to which it is attached.

**Sign Area:** The entire area within a single, continuous perimeter enclosing the extreme limits of the message and the background thereof, calculated in accordance with the provisions of this Code.

**Sign Area Allowance:** The maximum total sign area of all signs that an establishment is permitted to display.

**Skirting:** The covering affixed to the bottom of the exterior walls of a manufactured home to conceal the underside thereof.

**Special Use:** A use that has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district, but which can be made compatible with the intended overall development within a district. Special uses commonly must meet special standards not necessarily applicable to permitted uses in the district, and are allowed only by permit. A special use permit shall not be transferable.

**Stable:** A structure, situated on the same lot as a dwelling, and designed or used for housing horses for the private use of occupants of the dwelling, but not for hire.

**Stoop:** A small porch which is usually not covered with a roof and which is primarily used to provide access to the adjoining building.

**Stop Order:** A type of corrective action order used by the Administrator to halt work in progress that is in violation of this Code.

**Street:** A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court, and similar designations, but excludes an alley or a way for pedestrian use only.

**Street Line:** The street right-of-way line abutting a lot line.

**Structure:** Anything constructed or erected on the ground, or attached to something having fixed location on the ground. All buildings are structures, but not all structures are buildings.

**Structure, Temporary:** Any structure that is not attached to a permanent foundation.

**Telecommuting:** Working in the home by using a computer terminal or other terminal connected by a telephone line or by other means to a central office or central computer.

**Temporary Use Permit:** A permit issued in accordance with the provisions of this Code and valid for not more than **one (1) year**, which allows the erection/occupation of a temporary structure or the operation of a temporary enterprise.

**Topography:** The relief features or surface configuration of an area.

**Trailer:** See "Camping Trailer."

**Use:** The purpose or activity for which land or a structure thereon is designed, arranged, intended, occupied, or maintained.

**Use Variance:** A type of amendment (not a variance) that allows a use in a district where said use would not be allowed under existing provisions of this Code.

**Utility Substation:** A secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, etc.

**Vacant** as applied to a lot, means that no structure is situated thereon.

**Variance:** A relaxation of the strict application of the lot size, setbacks, or other bulk requirements applicable to a particular lot or structure.

**Wholesale:** Refers to the sale of goods or services by one business to another business.

**Window Sign:** Any sign visible from the exterior of a building or structure which is painted directly on the surface of a window or affixed to or suspended immediately behind the window for the purpose of informing passersby of the identity of the proprietor or business, or of the product or service which can be obtained on the premises.

**Yard:** Open space that is unobstructed except as specifically permitted in this Code and that is located on the same lot as the principal building.

**Yard, Front:** A yard which is bounded by the side lot lines, front lot line and the building line.

**Yard, Rear:** A yard which is bounded by side lot lines, rear lot lines, and the rear yard line.

**Yard, Side:** A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

**Yard Line:** A line in a lot that is parallel to the lot line along which the applicable yard extends and which is not nearer to such lot line at any point than the required depth or width of said yard.

**Zero-Lot Line Dwelling:** A single family residential dwelling, the positioning of which is near or on top of a lot boundary, resulting in little or no space between a second zero lot line dwelling on a contiguous lot. The term "no space" may imply that two contiguous zero lot line dwelling may share a common wall. **(Ord. No. 03-13-2012-1)**

**Zoning Administrator; Zoning Official or Zoning Officer:** The Zoning Administrator of this municipality or his authorized representative.

**Zoning Map:** The map(s) and any amendments thereto designating zoning districts. The zoning map is incorporated into this Code.

## ARTICLE III - ZONING REGULATIONS

### DIVISION I - GENERAL REGULATIONS

**40-3-1 ESTABLISHMENT OF DISTRICTS.** In order to implement this Code, and to achieve the objectives in Article I, the entire municipality is hereby divided into the following zoning districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>	<u>MINIMUM AREA*</u>
Single Family Residence (Large)	R-1	5 acres
Single Family Residence (Small)	R-2	5 acres
Multi-Family Residence	MR-1	5 acres
Multi-Family Residence	MR-2	3 acres
Manufactured Housing	MH-1	3 acres
Downtown Business	B-1	2 acres
Highway Business	B-2	3 acres
Industrial	I-1	5 acres

\* The "minimum area" requirement (which is intended to prevent spot zoning) refers to the smallest total area of contiguous parcels that can properly be given the particular district classification. The minimum area requirement is not satisfied merely because the acreage of numerous noncontiguous parcels, when aggregated, happens to equal or exceed the minimum area indicated above.

**40-3-2 MAP - ANNUAL PUBLICATION.** The boundaries of the listed zoning districts are hereby established as shown on the zoning map of this municipality. The zoning map, including all notations and other information thereon, is hereby made a part of this Code by reference. Official copies of the zoning map shall be kept on file in the office of the Zoning Administrator or other appropriate official.

In accordance with State Law, the Administrator shall publish the City's zoning map not later than **March 31st** of each year. However, no map shall be published for any calendar year during which there have been no changes in zoning districts or regulations. **(65 ILCS 5/11-13-19)**

**NOTE: The map shall be published if there are any annexations.**

**40-3-3 DETERMINING TERRITORIAL LIMITS.** In determining with precision what territory is actually included within any zoning district, the Zoning Administrator shall apply the following rules:

(A) Where a district boundary as indicated on the zoning map approximately follows the features listed below on the left, the corresponding feature on the right shall be deemed the district boundary:

- |     |  |                                    |
|-----|--|------------------------------------|
| (1) | Center line of any street,<br>alley or highway | Such centerline.                   |
| (2) | Lot line                                       | Such lot line.                     |
| (3) | Railroad tracks                                | Right-of-way line of<br>such track |

(B) Whenever any street, alley or other public way is legally vacated, the zoning districts adjoining each side of such vacated public way shall automatically extend to the center of such way, and all territory included in the vacated way shall thereafter be subject to all regulations of the extended districts.

(C) All territory (including bodies of water) that lies within the zoning jurisdiction of this municipality, but which is not shown on the zoning map as being located within any district, shall comply with the zoning regulations of the most restrictive adjoining district.

**40-3-4      ANNEXED TERRITORY.** Any territory hereafter annexed to the municipality shall automatically be in the R-1, Single-Family Residence District until duly changed by an amendment to this Code; except that the City Council, with the advice of the Zoning Board, may annex any territory as any other zoning district or districts herein established if all legal requirements for zoning the property at the time of the annexation and the requirements for amending this Code by the extension of the zoning district provisions are met. **(See Sec. 40-10-30 for amendments)**

**40-3-5      GENERAL PROHIBITION.** No structure or part thereof shall be erected, used, occupied, enlarged, altered, relocated or reconstructed except in conformity with the provisions of this Code. Similarly, no lot or part thereof shall be used, occupied, or developed except in conformity with the provisions of this Code.

(A) **Agricultural Exemption.** The provisions of this Code shall not be interpreted or administered so as to restrict the erection, maintenance, alteration, or extension of buildings (including farmhouses) or structures used or intended to be used for agricultural purposes on agricultural land except that such buildings or structures shall be required to conform to applicable setback regulations. Whenever a portion of a tract of land ceases to be used primarily for agricultural purposes, all pertinent provisions of this Code shall apply to that portion.

**40-3-6      UNLISTED USES PROHIBITED.** Whenever any use is not specifically listed as permitted or special within a particular zoning district, such use shall be deemed prohibited in that district. However, if the Zoning Board, following consultation with the Zoning Administrator finds that the unlisted use is similar to and compatible with the listed uses, they may make a written ruling to that effect and classify the use as a use permitted by right. The Zoning Board's decision shall become a permanent public record.

**40-3-7      TEMPORARY USES.** Except as specifically provided otherwise in this Code, no temporary structure shall be used or occupied for any purpose, and no land shall be used for any temporary enterprise, whether for profit or not-for-profit, unless a temporary use permit has been obtained. Applications for temporary use permits shall be treated in the same way as applications for special use permits. A temporary use permit shall be valid for not more than **one (1) year** unless it is properly renewed **(See Section 40-10-29)**.

**40-3-8      MEETING MINIMUM REQUIREMENTS.** Except as specifically provided otherwise:

(A) Only one principal building or structure shall be permitted on any residential lot; and  
(B) No portion of any minimum area, minimum dimensions, or minimum yards required for any lot, structure, or use shall be counted to satisfy the minimum area, dimensions, or yards requirements for any other lot, structure or use. **(See Sec. 40-8-2)**

**40-3-9      ACCESS REQUIRED.** No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to, a public street or a private street.

**40-3-10      FRONT SETBACKS - CORNER/THROUGH LOTS.** Every lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage.

**40-3-11 FRONT SETBACKS IN CERTAIN BUILT-UP AREAS.** Except as specifically provided otherwise, in the Central Business district and in all residential zoning districts, where lots having **fifty percent (50%)** or more of the frontage on one side of a street between intersections (that is, in one block) are developed with buildings, and the front setbacks of those lots do not differ by more than **ten (10) feet**, the minimum required front setback on that block shall be the average of the existing front set-backs; provided however, that in any built-up area, no front setback shall be less than **fifteen (15) feet**, nor shall any front setback greater than **fifty (50) feet** be required.

**40-3-12 YARD INTRUSIONS.** To the extent indicated below, the following features of principal buildings may intrude into yards without thereby violating the minimum setback requirements:

<u>FEATURES</u>	<u>MAXIMUM INTRUSIONS</u>
(A) Cornices, chimneys, planters or similar architectural features	Two (2) feet.
(B) Fire escapes	Four (4) feet.
(C) Patios	Ten (10) feet.
(D) Balconies, decks, porches	Ten (10) feet.
(E) Canopies, roof overhangs	Ten (10) feet.

**40-3-13 HEIGHT - EXCEPTIONS.**  
 (A) **Necessary appurtenances.** Chimneys, church spires, parapet walls, cooling towers, elevator bulkheads, fire towers, antennas, or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations for the district in which they are located if they comply with all other pertinent ordinances of the City.

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by the street lines and a line joining these street lines at points **thirty (30) feet** from the point of intersection, no obstruction, whether natural or man-made, shall intrude into the air space that is between **two (2)** and **ten (10) feet** above the level of the adjacent street. **(See Figure 1 at the end of this Code.)**

**40-3-14 RESERVED.**

**40-3-15 ACCESSORY USES - PERMITTED.**  
 (A) Any accessory use shall be deemed permitted in a particular zoning district if such use:  
 (1) meets the definitions of "accessory use" found in **Section 40-2-2**;  
 (2) is accessory to a principal structure or use that is allowed in a particular zoning district as permitted or special use; and  
 (3) is in compliance with restrictions set forth in **Section 40-3-16**.  
 (B) If an accessory structure is attached to a principal structure, it shall be considered part of such structure. **(See Definition of "Attached" in Section 40-2-2)**

**40-3-16 ACCESSORY USE RESTRICTIONS.**  
 (A) **Height.** No accessory use shall be higher than **twenty-five (25) feet** in any Zoning District.  
 (B) **Schedule.** No accessory use in any zoning district shall be located in any part of any yard (front, side or rear) that is required because of the setback regulations of such district; as provided in **Section 40-3-17** at the conclusion of the Code.  
 (C) **Yard Coverage.** The principal building and all accessory structures shall not exceed **thirty percent (30%)** lot coverage.

- (D) **Use As Dwelling.** Use of any accessory structure as a dwelling is strictly prohibited throughout the City.
- (E) No accessory building shall extend into a required front yard.

**40-3-17** **AREA BULK REGULATIONS.** To facilitate public understanding of this Code, the area-bulk regulation schedule is hereby adopted and declared to be an integral part of this Code and it may be amended in the same manner as any other part of this Code. The Schedule is found at the conclusion of this Code.

**40-3-18 - 40-3-19** **RESERVED.**

**DIVISION II - PLANNED DEVELOPMENTS**

**40-3-20** **PLANNED DEVELOPMENT DEFINED.** As used in this Division, the term "planned development" or "PD" means a development wherein, in accordance with an approved development plan:

- (A) common open space is reserved;
- (B) various housing types and other structures and uses may be mixed and/or
- (C) overall average density does not exceed the usual zoning district limit.

**40-3-21** **OBJECTIVES.** This Section authorizes development of Planned Developments and establishes procedures in order to achieve the objectives enumerated in **Section 40-1-2** and the following objectives:

- (A) to provide a regulatory mechanism whereby the City can be assured that upon completion, approved development projects will substantially conform to the plans or models which constituted the basis for the issuance of the necessary zoning and subdivision permits;
- (B) to permit development of a wide variety of housing types and other structures and uses in a single comprehensively planned project;
- (C) to preserve the natural topography, scenic features, mature trees and historic structures existing on sites proposed for development;
- (D) to encourage innovative site layouts and coordinated architectural treatment of different housing types and other structures;
- (E) to ensure the provision of usable, common, open space in planned developments, and to spur installation of various amenities therein;
- (F) to facilitate the economical installation of standard streets, sewers, utilities, and other improvements.

**40-3-22** **COMPLIANCE WITH REGULATIONS GENERALLY REQUIRED.** Except as specifically provided otherwise in this Code, planned developments--including all structures and uses therein--shall, at a minimum, be built in conformity with all applicable codes and ordinances, including the Zoning code and the Subdivision Code.

**40-3-23** **DISTRICTS WHERE ALLOWED.** Planned Developments may be built in any Zoning District, but only upon the issuance of a special-use permit by the City Council after a hearing before the Zoning Board of Appeals. **(See Sec. 40-10-26)**



**40-3-24**      **PERMISSIBLE DEVIATION FROM CODE REQUIREMENTS.**      The Planned Development concept is intended to afford both the developer and the City considerable flexibility in formulating development proposals. Consequently, to the extent indicated in this Section, Planned Developments may deviate from generally applicable Code requirements without a variance. Any proposed deviation not listed below, however, shall require a variance.

(A)      **Mixed Uses.** Planned Developments may include all types of residential structures and any other uses approved by the Zoning Board of Appeals, provided that in approving such mixed uses, the Zoning Board of Appeals may attach any conditions necessary to protect the public welfare.

(B)      **Lot and Structure Requirements.** In Planned Developments, the Zoning Board of Appeals may approve any reasonable deviation from the lot and structure requirements of the particular zoning district so long as the different uses within the PD are appropriately interrelated and property abutting the PD is adequately protected from any potential adverse impacts of the development. "Lot and structure requirements" means minimum individual lot area, width and depth; minimum setbacks; and maximum structure height.

(C)      **Accessory Uses.** In PDs the Zoning Board of Appeals may allow the developer to disregard the usual restrictions on accessory uses other than the prohibition against using an accessory structure as a dwelling.

(D)      **Location of Parking/Loading Spaces.** By permission of the Zoning Board of Appeals, off-street parking and loading spaces in PDs need not be located in accordance with generally applicable requirements. The minimum number of such spaces, however, shall not be less than the number required as per **Article V** of this Code.

**40-3-25**      **PROCEDURES FOR PLANNED DEVELOPMENTS.** Every applicant for Planned Development approval shall comply with the procedural requirements of this Section. The required procedures are as follows:

- (A)      Filing development plan with the Zoning Administrator;
  - (B)      Review of plans by Plan Commission;
  - (C)      Provision by the developer of adequate assurance for the completion of required improvements as per the development plan and subdivision regulations;
  - (D)      Recommendation by Plan Commission; if any;
  - (E)      Public hearing by the Zoning Board of Appeals as per the requirements of **Article X**
- Administration;**
- (F)      Recommendation of the Zoning Board of Appeals regarding approval/rejection of the development plan;
  - (G)      Recording of development plan with the County Recorder of Deeds;
  - (H)      Approval of City Council.

**40-3-26**      **APPLICATION; INFORMATION REQUIRED.** Every applicant for approval of a development plan shall submit to the Administrator, in narrative and/or graphic form, the items of information listed below:

- 40-3-26.1**      **WRITTEN DOCUMENTS.**
- (A)      Legal description of the total site proposed for development;
  - (B)      Names and addresses of all owners of property within or adjacent to the proposed Planned Development;
  - (C)      Statement of the planning objectives to be achieved by the PD through the particular approach proposed by the applicant, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
  - (D)      Development schedule indicating the approximate date when construction of the PD or stages of the PD can be expected to begin and to be completed;
  - (E)      Statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PD, such as land areas, dwelling units, etc.

- (F) Data indicating:
- (1) total number and type of proposed dwelling units;
  - (2) gross and net acreage of parcel;
  - (3) acreage of gross and usable open space; and
  - (4) area of any commercial uses.

**40-3-26.2 GRAPHIC MATERIALS.**

- (A) Existing site conditions, including contours at **ten (10) foot** intervals and locations of watercourses, flood plains, unique natural features, and wooded areas;
- (B) Proposed lot lines and plot designs;
- (C) Proposed location, size in square feet and general appearance of all existing and proposed buildings (both residential and non-residential) and other structures and facilities;
- (D) Location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public uses;
- (E) Existing and proposed vehicular circulation system, including off-street parking and loading areas and major points of ingress and egress to the development (notations of proposed ownership--public or private--should be included where appropriate);
- (F) Existing and proposed pedestrian circulation system, including its relationship to the vehicular circulation system and proposed treatments of points of conflict;
- (G) Existing and proposed utility systems, including sanitary sewers, storm sewers, and water, electric, gas and telephone lines;
- (H) General landscape plan indicating the treatment of both private and common open spaces and the location of required buffer strips;
- (I) Enough information on land areas adjacent to the proposed PD to indicate the relationship between the proposed development and existing and proposed adjacent areas;
- (J) Any additional information required by the City to evaluate the character and impact of the proposed PD.
- (K) Appropriate seals of the licensed surveyor, engineer or architect.

**40-3-27 CRITERIA CONSIDERED.** The Zoning Board of Appeals shall compile a written report which either accepts or rejects the Development Plan. In making their recommendation, the Zoning Board of Appeals shall consider the following criteria:

- (A) The extent to which the proposed development is consistent with the Comprehensive Plan and with the purposes of this Code and of all other applicable codes and ordinances;
- (B) The extent to which the proposed development deviates from the regulations that are generally applicable to the property (including, but not limited to, the use, lot and building regulations of the district), and the apparent merits, if any, of said deviations.
- (C) Whether the proposed design of the PD makes adequate provisions for vehicular and pedestrian circulation, off-street parking and loading, separation of residential and commercial uses, open space, recreational facilities, preservation of natural features, and so forth;
- (D) The compatibility of the proposed PD with adjacent properties and surrounding area; and
- (E) Any other reasonable criteria that the Zoning Board of Appeals may devise.

**40-3-28 DECISION BY ZONING BOARD.** The Zoning Board of Appeals shall not recommend any PD unless:

- (A) The developer has posted a performance bond or deposited funds in escrow in the amount of the City Engineer deems sufficient to guarantee the satisfactory completion of all required improvements; and
- (B) The City Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory; and

(C) The proposed PD, as evidenced by the Development Plan, complies with all applicable codes, regulations and ordinances. (Deviations to the extent permitted under **Section 40-3-27** shall not be deemed as noncomplying.)

**40-3-29 CHANGES IN APPROVED PLANS.** No changes shall be made to any approved PD Development Plan, except as follows:

(A) **Minor** changes, if required by engineering or other circumstances not foreseen at the time the final development plan was approved.

(B) All other changes shall require a public hearing before the Zoning Board of Appeals.

(C) No approved change shall have any effect until it is recorded with the County Recorder of Deeds as an amendment to the recorded copy of the Development Plan. **(See Article X - Division V)**

**40-3-30 FAILURE TO BEGIN DEVELOPMENT.** If a substantial amount of construction has not begun within the time stated in the approved construction schedule, the Development Plan shall lapse upon written notice to the applicant from the Zoning Administrator and shall be of no further effect. However, in his discretion and for good cause, the Zoning Administrator may extend for a reasonable time the period for the beginning of construction. If a final Development Plan lapses as per this Section, the following shall be applicable:

(A) The special-use permit shall be automatically revoked; and

(B) any zoning permits shall automatically become null and void; and

(C) all regulations applicable before the PD was approved shall automatically be in full effect.

**40-3-31 MUNICIPAL EXEMPTION.** In conjunction with any existing or proposed development, the City shall be exempt from all of the provisions of this Section.

## ARTICLE IV - REGULATIONS FOR SPECIFIC DISTRICTS

### DIVISION I - SINGLE-FAMILY DISTRICTS

**40-4-1      "SR-1" - SINGLE-FAMILY RESIDENCE DISTRICT (LARGE LOT).** In the "SR-1", Single-Family Residence District, land is principally used for or is best suited for detached, single-family dwellings and related educational, religious and recreational facilities. The regulations for this district are intended to stabilize and preserve sound existing single-family neighborhoods, and to promote the development of subdivisions offering a range of new conventionally constructed single-family housing. Other types of residences (manufactured homes, manufactured mobile homes, duplexes, apartments, etc.) are prohibited uses in this district.

**40-4-2      SPECIAL RESTRICTIONS.** In the "SR-1" District, only **one (1)** principal building (single-family) shall be situated on any **one (1)** lot.

**40-4-3      LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "SR-1" District shall conform to the following requirements:

(A)	Minimum Lot Area	10,000 sq. ft.
(B)	Minimum Lot Width at the established building line	80 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
(1)	From front lot line	25 feet
(2)	Total for both side yard lines	20 feet
(3)	From either side lot line	10 feet
(4)	From rear lot line	30 feet
(5)	From side yard abutting street	25 feet
(6)	For Accessory Building Setbacks, see Exhibit "A" attached to this Code.	

**(Ord. No. 11-12-01-1) (Ord. No. 05-14-2012-2)**

(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking <u>Per Dwelling Unit</u>	2 spaces
(G)	Maximum Percent Coverage Per Lot Including Accessory Buildings	30%

**40-4-4      PERMITTED USES.** The following uses shall be permitted in the **"SR-1" - Single-family Residential District**:

Single-family dwellings.  
Accessory uses in accordance with **Section 40-3-16**.  
Government uses of this municipality.

**40-4-5      SPECIAL USES.** The following special uses may be allowed by special-use permit in accordance with **Section 40-10-24** of this Code in the **"SR-1" District**:

Churches and other places of formal worship.  
Government uses other than those of the municipality.  
Group homes.  
Home occupations. **(See Section 40-5-7)**  
Modular or manufactured homes. **(See Section 40-2-2)**  
Schools.  
Utility substations.

**40-4-6 - 40-4-15      RESERVED.**

## **DIVISION II - SINGLE-FAMILY DISTRICT (SR-2)**

**40-4-16      "SR-2" - SINGLE-FAMILY DISTRICT (SMALL LOT).** The "SR-2", Single-Family Residence District encompasses areas suitable for single-family dwellings as well as related educational, religious and recreational facilities. The regulations for this district are intended to stabilize and preserve sound existing subdivision offering a range of new single-family housing. Other types of residences (mobile homes, manufactured homes, duplexes, apartments, etc.) are permitted in this district by special-use.

**40-4-17      SPECIAL RESTRICTIONS.** In the "SR-2" District, only **one (1) principal building** (single-family) shall be situated on any **one (1) lot**.

**40-4-18      LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "SR-2" District shall conform to the following requirements:

(A)	Minimum Lot Area	6,000 sq. ft.
(B)	Minimum Lot Width at the established building line	50 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) For both side yard lines	12 feet
	(3) From either side lot line	6 feet
	(4) From rear lot line	30 feet
	(5) From side yard abutting street	25 feet
	(6) For Accessory Building Setbacks, see Exhibit "A" attached to this Code.	

**(Ord. No. 11-12-01-1)**

(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking <u>Per Dwelling Unit</u>	2 spaces
(G)	Maximum Percent Coverage Per Lot	30%

**40-4-19      PERMITTED USES.** The following uses shall be permitted in the **"SR-2" - Single-family Residential District**:

Single-family dwellings.  
Accessory uses in accordance with **Section 40-3-16**.  
Government uses of this municipality.

**40-4-20      SPECIAL USES.** The following uses may be allowed in the **"SR-2" District** by special-use permit in accordance with Section 40-10-24, to-wit:

Churches and other places of formal worship.  
Government uses other than those of the municipality.  
Group homes.  
Home occupations. **(See Section 40-5-7)**  
Modular homes.  
Manufactured homes. **(See Section 40-2-2)**  
Schools.  
Utility substations.

**40-4-21 - 40-4-30      RESERVED.**

### **DIVISION III - MULTIPLE-FAMILY DISTRICTS (MR-1)**

**40-4-31      "MR-1" - MULTIPLE-FAMILY RESIDENCE DISTRICT.** The "MR-1", Multiple-Family Residence District is established to stabilize and conserve existing neighborhoods that predominantly consist of single-family and multiple-family dwellings and to promote the development of comparable new areas in order to accommodate all persons desiring this type of residential environment.

**40-4-32      LOT AND BUILDING REQUIREMENTS.** There shall only be **one (1) principal building** per lot. Every principal building in the "MR-1" District shall conform to the requirements indicated below:

**NOTE:** Detached single-family and two-family dwellings erected in the "MR-1" District shall comply with all applicable regulations of the "MR-1" District.

(A)	Minimum Lot Area	10,000 sq. ft. 4,500 sq. ft. per unit, which- ever is greater.
(B)	Minimum Lot Width at the established building line	80 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) For both side yard lines	20 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	30 feet
	(5) From side yard abutting street	25 feet
	(6) For contiguous zero lot line dwellings, the setback from the common boundary shall be <b>zero (0) feet</b> and the setback for the remaining side yard line shall be <b>fifteen (15) feet.</b> (Ord. No. 03-13-2012-1)	
	(7) For accessory building setbacks see Exhibit "B" attached to this Code. (Ord. No. 03-13-2012-1)	
(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking Per Dwelling Unit	2 spaces
(G)	Maximum Percent Coverage Per Lot	30%

**40-4-33      PERMITTED USES.** The following uses shall be permitted in the **"MR-1" - Multiple-Family Residential District:**

Any use permitted in the **"SR-1" District.** (Section 40-4-10)  
Duplex (two-family dwellings).  
Zero lot line dwellings. (03-13-2012-1)

**40-4-34      SPECIAL USES.** The following uses may be allowed in the **"MR-1" District** by special-use permit in accordance with **Section 40-10-24:**

Any special-use in the **"SR-1" District.** (See Section 40-4-11)  
Day care center.  
Nursing homes.  
Utility substations.

**40-4-35 - 40-4-36      RESERVED.**

## **DIVISION IV - MULTIPLE-FAMILY DISTRICTS (MR-2)**

**40-4-37      "MR-2" - MULTIPLE-FAMILY RESIDENCE DISTRICT.** The "MR-2", Multiple-Family Residence District is established to stabilize and conserve existing neighborhoods that predominantly consist of multiple-family dwellings and to promote the development of comparable new areas in order to accommodate all persons desiring this type of residential environment.

**40-4-38      LOT AND BUILDING REQUIREMENTS.** There shall only be **one (1) principal building** per lot. Every principal building in the "MR-2" District shall conform to the requirements indicated below:

**NOTE:** Detached single-family and two-family dwellings erected in the "MR-2" District shall comply with all applicable regulations of the "MR-2" District.

(A)	Minimum Lot Area	10,000 sq. ft. 2,500 sq. ft. per unit, which- ever is greater.
(B)	Minimum Lot Width at the established building line	80 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) For both side yard lines	20 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	30 feet
	(5) From side yard abutting street	25 feet
	(6) For contiguous zero lot line dwellings, the setback from the common boundary shall be <b>zero (0) feet</b> and the setback for the remaining side yard line shall be <b>fifteen (15) feet.</b> (Ord. No. 03-13-2012-1)	
	(7) For accessory building setbacks see Exhibit "B" attached to this Code. (Ord. No. 03-13-2012-1)	
(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking Per Dwelling Unit	2 spaces
(G)	Maximum Percent Coverage Per Lot	30%

**40-4-39      PERMITTED USES.** The following uses shall be permitted in the **"MR-2" - Multiple-Family Residential District:**

Any use permitted in the **"MR-1" District.** (Section 40-4-33)  
Multiple-family dwellings.

**40-4-40      SPECIAL USES.** The following uses may be allowed in the **"MR-2" District** by special-use permit in accordance with **Section 40-10-24:**

Any use permitted as a special-use in **Section 40-4-34.**  
Convenience shops and quick shops (e.g., small drugstore, food store, laundromat).

**40-4-41 - 40-4-45      RESERVED.**

## **DIVISION V - MANUFACTURED HOUSING DISTRICT (MH-1)**

**40-4-46      "MH-1" - MANUFACTURED HOUSING DISTRICT.** The "MH-1", Manufactured Housing District is primarily intended to provide areas suitable for the placement of manufactured homes or modular homes on individual lots and for the establishment of manufactured home parks. This district is intended to preserve other residential districts for conventionally constructed single-family dwellings.

**40-4-47      MANUFACTURED HOUSING LOT OWNERSHIP.** All manufactured housing or modular units located outside an approved manufactured home park shall be located on property owned by the owner of the housing unit.

All units shall meet the Housing and Urban Development Federal Code known as the "**National Manufactured Home Construction and Safety Standards**" or the "**Illinois Manufactured Home and Manufactured Housing Safety Act**". All units shall meet all local property maintenance codes.

### **40-4-48      LOT AND BUILDING REQUIREMENTS, GENERALLY.**

**NOTE:** Special lot and building requirements are applicable to manufactured home parks. **(See Section 40-4-51)**

(A)	Minimum Lot Area	6,000 sq. ft.
(B)	Minimum Lot Width at the established building line	50 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) Total for both side yard lines	12 feet
	(3) From either side lot line	6 feet
	(4) From rear lot line	30 feet
	(5) From side yard abutting street	25 feet
	(6) For contiguous zero lot line dwellings, the setback from the common boundary shall be <b>zero (0) feet</b> and the setback for the remaining side yard line shall be <b>fifteen (15) feet.</b> <b>(Ord. No. 03-13-2012-1)</b>	
	(7) For accessory building setbacks see Exhibit "B" attached to this Code. <b>(Ord. No. 03-13-2012-1)</b>	
(E)	Maximum Building Height	35 feet
(F)	Maximum Percent Coverage Per Lot	30%
(G)	Minimum Off-Street Parking Per Unit	2 spaces

**40-4-49      PERMITTED USES.** The following uses shall be permitted in the "**MH-1**" - **Manufactured Housing District:**

Any use permitted in the "**MR-1**" District. **(See Section 40-4-33)**

Manufactured homes on individual lots and modular homes, provided said units conform to all applicable requirements of the Revised Code. **(See Chapter 23)**

**40-4-50      SPECIAL USES.** The following special uses may be permitted in the "**MH-1**" District by special-use permit in accordance with **Section 40-10-24:**

Churches and related religious facilities.

Convenience stores and quick shops.

Government uses other than those of the municipality.

Home occupations, but only in conformity with the requirements of **Section 40-5-7.**

Manufactured home parks in conformity with all applicable requirements of this Code.



Multiple-family dwellings.  
Nursing homes.  
Schools.  
Utility substations.

**40-4-51      MANUFACTURED HOME PARKS.** No manufactured home park shall be established except in conformity with the requirements of this Section:

(A) **Minimum Lot Size, Setback Requirements.**

- (1) **Minimum Lot Area.** No manufactured home park shall be located on a tract less than **three (3) acres** in area.
- (2) **Minimum Dimensions.** No manufactured home park shall be developed on any tract that is less than **two hundred fifty (250) feet** in both width or depth.
- (3) **Minimum Setbacks.** No part of any manufactured home or other structure in any manufactured home park shall be situated closer than **twenty-five (25) feet** to any boundary line of the park.
- (4) **Maximum Height.** No structure in any manufactured home park shall be more than **thirty-five (35) feet** in height.

(B) **Spacing of Manufactured Homes.**

- (1) Every manufactured home space shall meet the following requirements:
  - (a) Minimum Area 4,000 square feet
  - (b) Minimum Width 40 feet
  - (c) Minimum Depth 100 feet
- (2) Manufactured homes within any park shall be placed so that no part of any manufactured home is closer than:
  - (a) 10 feet to any park street;
  - (b) 25 feet to any boundary line of the park; or
  - (c) 20 feet to any part of any other manufactured home or structure.

**40-4-52 - 40-4-62      RESERVED.**

**DIVISION VI - CENTRAL BUSINESS DISTRICT (B-1)**

**40-4-63      DESCRIPTION.** The "B-1", Central Business District encompasses the concentrated pedestrian-oriented commercial area of this municipality. Stores and other facilities providing a wide range of retail goods and services to the general public may be located within this district.

**40-4-64      USE RESTRICTIONS.** The following use restrictions shall apply:

- (A) **Retail Only.** Every commercial or service establishment located in this district shall deal directly with consumers.
- (B) **Processing Incidental.** Any processing or treatment of goods on any premises must be clearly incidental to the retail business conducted on such premises.
- (C) **Unenclosed Activities--Special-Use Permit.** In this district, a special use permit is required to conduct any commercial, service or storage activities outside a completely enclosed building.
- (D) **Drive-Ins--Special-Use Permit.** In this district, a special use permit is required to conduct any commercial, service or storage activities outside a completely enclosed building.
- (E) **Refuse Containers.** All refuse generated by any establishment located within this district shall be stored in tightly-covered containers placed in visually-screened areas.

(F) **Screening.** Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence, or closely-planted shrubbery) at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property shall be installed.

(H) **Signs.** See Article VI.

**40-4-65 LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "B-1" Central Business District shall conform to the requirements indicated below:

(A)	Minimum Lot Area	None
(B)	Minimum Lot Width at established building line	30 feet
(C)	Minimum Lot Depth	None
(D)	Minimum Setbacks	For accessory building setbacks see Exhibit "B"

attached to this Code, otherwise generally none required except as necessary to achieve compliance with applicable off-street parking and loading requirements. (See Article VII) However, any lot abutting a residential district shall conform to the front and side setback requirements of such district.

**(Ord. No. 03-13-2012-1)**

(E)	Maximum Building Height	60 feet
(F)	Rear Yard Depth	5 feet <b>(Ord. No. 5-14-2012-02)</b>

**40-4-66 PERMITTED USES.** Provided all the use restrictions of this district **(See Section 40-4-64)** are observed, the following uses are permitted:

Auditoriums, meeting rooms, and other places of assembly.

Clubs and lodges.

Commercial establishments, except those listed in **Section 40-4-67**.

Government uses of this municipality.

Libraries, museums.

Offices.

Service establishments, except those listed in **Section 40-4-67**.

Accessory uses in accordance with Section **40-3-16**.

**40-4-67 SPECIAL USES.** Provided all the use restrictions of this district **(See Section 40-4-53)** are observed, the following uses may be allowed by special-use permit.

Any use that involves commercial, service or storage activities conducted outside completely enclosed buildings.

Any use, such as drive-in restaurants, drive-in banks, service stations, etc., that offers goods or services directly to customers waiting in parked vehicles, or that sells food or beverages for consumption on the premises in parked motor vehicles.

Churches and other places of formal worship.

Dwelling units, if located above the first story.

Governmental uses other than those of this municipality.

Group homes.

Medical/dental clinics.

Nursing homes.

Taverns.

Utility substations.

**40-4-68 - 40-4-69 RESERVED.**

## **DIVISION VII - HIGHWAY BUSINESS DISTRICT (B-2)**

**40-4-70**      **DESCRIPTION.** The "B-2" Highway Business District is intended to accommodate and regulate strip commercial developments and compatible uses. Since such businesses--both retail and wholesale--draw their patrons primarily from the motoring public, they typically require direct access to major streets and large lots for off-street parking and loading.

**40-4-71**      **USE RESTRICTIONS.**

(A)      **Repairs Indoors.** All repair and maintenance services shall be conducted within completely enclosed structures. Storage areas may be open to the sky, but shall be enclosed by walls or solid fences at least **eight (8) feet** high.

(B)      **Refuse Containers.** All refuse generated by facilities located within this district shall be stored in tightly-covered containers placed in visually-screened areas.

(C)      **Screening.** Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence, or closely-planted shrubbery) at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property shall be installed.

(D)      **Parking. See Article VII.**

(E)      **Signs. See Article VI.**

**40-4-72**      **LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "B-2" Highway Business District shall conform to the requirements indicated below:

(A)	Minimum Lot Area	20,000 sq. ft.
(B)	Minimum Lot Width at established building line	125 feet
(C)	Minimum Lot Depth	150 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) Total for both side yard lines	40 feet
	(3) From either side lot line	20 feet
	(4) From rear lot line	5 feet
	(5) From side yard abutting street	25 feet
	(6) For Accessory building setbacks see Exhibit "B" attached to this Code.	

**(Ord. No. 03-13-2012-1)**

(E)      Maximum Building Height      45 feet

(F)      Maximum Percent Coverage Per Lot      50%

**(Ord. No. 11-12-01-1)**

**40-4-73**      **PERMITTED USES.** Provided all the use restrictions of this district (**See Section 40-4-71**) are observed, the following uses are permitted:

Any use permitted in the "B-1" district.

Churches and other places of formal worship.

Clubs and lodges.

Commercial establishments, any type, including drive-in facilities. Such uses as the following are especially appropriate in this district:

- bowling alleys
- furniture and appliance sales
- greenhouses
- lumber and building supplies sales
- miniature golf courses
- manufactured home and recreational vehicles sales
- motor vehicles sales.

Government uses of this municipality.

Offices.

Service establishments, any type, including drive-in facilities. Such uses as the following are especially appropriate in this district:

- animal hospitals
- banks and other financial institutions
- motels
- motor vehicles services
- restaurants
- service stations **(See Sec. 40-5-4)**

Accessory uses in accordance with Section **40-3-16**.

**40-4-74      SPECIAL USES.** Provided all the use restrictions of this district are observed, the following uses may be allowed by special-use permit:

Freight and bus terminals, and related transportation facilities.

Governmental uses other than those of this municipality.

Research and development facilities not involving explosives, flammable gases, or liquids, or live animals.

Utility substations. **(See Section 40-5-10)**

Warehousing and wholesaling of any goods except explosives, flammable gases, or liquids, or live animals.

**40-4-75      RESERVED.**

## **DIVISION VIII - INDUSTRIAL DISTRICT**

**40-4-76      "I-1" - INDUSTRIAL DISTRICT.** The "I-1", Industrial District is intended to provide for areas where light industry, research facilities, warehouses, and wholesale businesses may locate without detriment to the remainder of the community. In these areas, a satisfactory correlation of factors required by such uses exists or can be readily achieved.

**40-4-77      USE RESTRICTION.**

(A) **Nuisances Prohibited.** No production, processing, cleaning, servicing, testing, repair, sale, or storage of goods, materials or equipment shall unreasonably interfere with the use, occupancy, or enjoyment of neighboring properties or the community as a whole. Unreasonable interferences include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive emission of smoke, emission of toxic gases, excessive glare, and noxious odors.

(B) **Activities Enclosed.** All production, processing, cleaning, servicing, testing or repair activities shall be conducted within completely enclosed buildings. **(Ord. No. 2-09-2004-13)**

(C) **Buffer Strips.** Wherever any industrial use located in this district abuts any other district, a **twenty (20) foot** wide view and noise control buffer strip shall be installed. Such buffer strip shall consist of densely planted shrubbery that is at least **five (5) feet** high when planted and that can be expected to reach a height of **ten (10) feet** when full grown.

(D) **Parking.** See Article VII.

(E) **Signs.** See Article VI.

**40-4-78      LOT AND STRUCTURE REQUIREMENTS.**

(A)	Minimum Lot Area	20,000 sq. ft.
(B)	Minimum Lot Width at the established building line	125 feet
(C)	Minimum Lot Depth	150 feet
(D)	Minimum Setbacks	
(1)	From front lot line	25 feet
(2)	From any side lot line	25 feet
(3)	From rear lot line	25 feet
(4)	From side yard abutting street	50 feet
(5)	For accessory building setbacks see Exhibit "B" attached to this Code.	

**(Ord. No. 03-13-2012-1)**

(E)	Total Depth of Both Side Yards	50 feet <b>(Ord. No. 11-12-01-1)</b>
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**(05-14-2012-2)**

(F)	Maximum Structure Height	60 feet
(G)	Maximum Percent Coverage Per Lot	40%

**40-4-79      PERMITTED USES.** Provided all the use restrictions of the "**I-1**" **Industrial District** are observed, the following uses are permitted: **(See Section 40-4-77)**

Assembly, manufacturing or processing of any commodity from semi-finished materials, provided explosives or live animals are not involved.

Freight and bus terminals and related mass transportation facilities.

Government uses of this municipality.

Research and development facilities not involving explosives, or flammable gases or liquids.

Service stations. **(See Section 40-5-4)**

Towers, structures and other facilities designed or intended to be used for the support, enclosure, shelter or protection of distribution equipment utilized by entities engaged in the transmission of telephone messages including but not limited to cellular, personal communications services, special mobile radio transmitters and any other personal wireless service.

Warehousing or wholesaling of goods, except explosives, flammable gases or liquids, or live animals.

Utility substations. **(See Section 40-5-10)**

Accessory uses in accordance with **Section 40-3-16.**

**40-4-80      SPECIAL USES.** The following uses may be permitted as special-uses in this District by special-use permit in accordance with **Section 40-10-24**, to-wit:

Any permitted use in the "**B-1**" or "**B-2**" **District. (See Sections 40-4-66 and 40-4-73)**

Assembly, manufacturing, processing, warehousing, or wholesaling involving explosives, flammable gases, or liquids, or live animals.

Government uses other than those of this Municipality.

Junk Yards. **(See Section 40-5-6)**

Research and development facilities involving explosives, or flammable liquids or gases.

**40-4-81 - 40-4-83      RESERVED.**

**DIVISION IX – AGRICULTURAL DISTRICT (A)**

**40-4-84      PURPOSE.** The Agriculture Zone is established as a zone in which agricultural and certain related uses are encouraged as the principal uses of land.

**40-4-85** **PERMITTED USES.** The following uses shall be permitted only on a **ten (10) acre** minimum tract size:

- (A) Farming, including the usual buildings and structures used for agricultural purposes.
- (B) Truck and flower gardening, nurseries, orchards, and greenhouses.
- (C) Single family dwellings.
- (D) Public elementary and high schools, or private schools with a curriculum the same as ordinarily given in public elementary and high schools.
- (E) Roadside stands offering for sale only farm products which are produced on the premises.
- (F) The usual accessory structures including buildings for seasonal or temporary storage of grain whenever such elevator and temporary storage are located upon or adjacent to a railroad right-of-way.
- (G) Home occupation.
- (H) Accessory buildings and uses customarily incidental to any of the above uses. A farm may contain dwelling for workers employed on the premises or direct relatives of farm owner but no more than **one (1) dwelling unit** per **ten (10) acres** of tillable land.

**40-4-86** **SPECIAL USES.** Country clubs, golf courses, miniature golf courses, and driving tees.

**40-4-87** **YARD AND SETBACK REGULATIONS.** Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:

- (A) **Minimum Front and Corner Side Yard.**
  - (1) Not less than **thirty (30) feet** for a local street, **thirty-five (35) feet** for a collector.
  - (2) Not less than **twenty-five (25) feet** from an interior side lot line abutting residential use or district.
- (B) **Minimum Rear Yards.**
  - (1) Not less than **ten (10) feet** from a rear lot line abutting a non-residential use or district.
  - (2) Not less than **twenty-five (25) feet** from a rear lot line abutting residential use or district.

**40-4-88** **STRUCTURE HEIGHT.**

- (A) **Permitted Uses.** Not more than **forty-five (45) feet** in height.
- (B) **Special Uses.** Maximum height limitations shall be specified with the granting of a special use permit.

**40-4-89 - 40-4-90** **RESERVED.**

**(Ord. No. 04-14-2008-3)**

## **DIVISION X - FLOOD PLAIN DISTRICT**

**40-4-91** **"O-FP" - FLOOD PLAIN OVERLAY DISTRICT.** The "O-FP", Flood Plain Overlay District delineates areas in the vicinity of watercourses and tributaries in the Municipality subject to special requirements.

In the absence of flood protection measures, these areas are subject to periodic flooding which may result in injury to or loss of life and property, disruption of private and governmental services, impairment of

the municipal tax base, and the need for extraordinary relief measures. The regulations of this Section are intended to restrict permitted development in flood plains to:

- (A) Uses which inherently have low flood damage potential and
- (B) to other uses allowed in the primary zoning districts provided appropriate protective measures have been taken.

**40-4-92 PERMITTED AND/OR SPECIAL USES.** This overlay district has no effect on the classification, whether permitted, special, or prohibited, of uses in the primary zoning districts. Rather, this overlay district imposes additional restrictions on both permitted and special uses.

**40-4-93 ADDITIONAL RESTRICTIONS.** All uses, whether permitted or special, that are located in the area covered by the **"O-FP", Overlay District** shall not only meet all the applicable requirements of the primary district, but shall also be adequately protected against flood damage. To assure such protection, the Administrator, following consultation with technically-qualified persons, may require as necessary:

- (A) Anchorage or addition of weight to structures to resist flotation;
- (B) installation of watertight doors and bulkheads;
- (C) use of special paints, membranes, mortars so as to reduce seepage through walls.
- (D) installation of pumps to lower water levels in structures or to relieve external foundation wall flood pressure;
- (E) reinforcement of walls to resist rupture or collapse caused by water pressure or floating debris;
- (F) installation of valves or controls on sanitary and storm drains so that the drains can be closed to prevent backup of sewage or storm runoff into structures;
- (G) location of electrical equipment and appliances above the level of the regulatory flood elevation;
- (H) location of storage facilities for chemicals, explosives, flammable liquids, toxic substances, etc., above the regulatory flood elevation;
- (I) filling and earth-moving to raise the level of proposed building site above the regulatory flood elevation; and/or
- (J) any other reasonable flood protection measures.

In no case shall the Zoning Administrator approve any proposed flood protection measure which would result in an increase in the volume or velocity of floodwater leaving the lot in question.

**(See Chapter 14 for Flood Plain Code)**

## ARTICLE V - SUPPLEMENTARY ZONING REGULATIONS

**40-5-1      APPLICABILITY OF ARTICLE.** This Article establishes lot and structure requirements, design standards, and use limitations for specific, potentially troublesome, structures, and uses. These regulations apply in every zoning district where the specific structure or use is permitted or allowed by special use permit. But if more stringent regulations are applicable in any particular district, such regulations shall prevail.

**40-5-2      RECREATIONAL VEHICLES.** The regulations of this Section do not apply to travel trailers or other recreational vehicles parked in a permitted travel-trailer park that conforms to the requirements of this Code and the City Code. The requirements of paragraphs (A), (C), and (D) do not apply to travel trailers or other recreational vehicles parked on a permitted recreational vehicle sales lot.

(A)            Not more than **one (1)** travel trailer or recreational vehicle shall be parked on any lot. They shall not be parked on a street.

(B)            No travel trailer or other recreational vehicle shall be used as a dwelling.

(C)            No travel trailer or other recreational vehicle shall be used as an office or for any other commercial purpose.

(D)            Travel trailers or recreational vehicles shall be required to have setbacks as required for accessory buildings.

(E)            No travel trailer or other recreational vehicle shall be parked on any front yard.

(F)            No unlicensed manufactured home may be located in a travel trailer or recreational vehicle park.

**40-5-3      FENCES, WALLS.**  
(A)            No barbed wire or electrically charged fence shall be erected or maintained anywhere in the City, unless a special-use permit is granted.  
(B)            No fence, wall, or other obstruction shall be erected within any public right-of-way or utility easement, except by written permission of the Zoning Administrator.  
(C)            No fence, wall or other obstruction shall be erected in violation of the **Illinois Drainage Code, Illinois Compiled Statutes, Chapter 70, Sections 605/2-1 through 2-13**, as amended from time to time.

(D)            Every fence, wall or other obstruction shall conform to the special height restrictions applicable in areas near intersections. **(See Section 40-3-11(B).)** No landscape fence, wall or other obstructions in any required front yard area shall exceed **four (4) feet** in height or in any required rear or side yard exceed **eight (8) feet** in height. **(See Section 40-2-2)**

**40-5-4      SERVICE STATIONS.**  
(A)            All gasoline pumps and other service facilities shall be located at least **twenty-five (25) feet** from any street right-of-way line, side lot line, or rear lot line.

(B)            Every access way shall be located at least **two hundred (200) feet** from the principal building of any fire station, school, public library, church, park, or playground, and at least **thirty (30) feet** from any intersection of public streets.

(C)            Every device for dispensing or selling milk, ice, soft drinks, snacks, and similar products shall be located within or adjacent to the principal building.

(D)            Whenever the use of a service station has been discontinued for **twelve (12) consecutive months** or for **eighteen (18) months** during any **three (3) year** period, the Administrator shall order that all underground storage tanks be removed or filled with material approved by the Fire Chief.

(E)            A permanent curb of at least **four (4) inches** in height shall be provided between the public sidewalk and the gasoline pump island, parallel to and extending the complete length of the pump island.



**40-5-5**

**NURSING HOMES AND GROUP HOMES.**

(A) The lot on which any group home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **two (2) acres**.

(B) The lot on which any nursing home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **one and one-half (1.5) acres**.

**40-5-6**

**JUNK YARDS.**

(A) No part of any junk yard--which includes any lot on which any **three (3)** or more inoperable vehicles are stored--shall be located closer than **five hundred (500) feet** to the boundary of any residential district.

(B) All vehicles, parts, and equipment shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence, or closely-planted shrubbery at least **eight (8) feet** high and of sufficient density to block the view from adjacent property.

**40-5-7**

**HOME OCCUPATIONS.**

(A) **Limitations on Use.** A home occupation shall be considered a special-use in any residence district, provided the home occupation is subject to the following limitations.

- (1) The use shall be conducted entirely within a dwelling or permitted accessory building and carried on by the inhabitants living there.
- (2) The use shall be clearly incidental and secondary to the use of the dwelling and dwelling purposes and shall not change the character of use as a dwelling.
- (3) The total area used for the home occupation shall not exceed **one-half (1/2)** the floor area of the user's living unit.
- (4) There shall be no exterior advertising other than identification of the home occupation by a sign which shall be attached to the dwelling or the accessory building and shall not exceed **two (2) square feet** in area and which shall not be illuminated.
- (5) There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation.
- (6) There shall be no offensive noise nor shall there be vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- (7) There shall be no storage or use of toxic, explosive or other dangerous or hazardous materials upon the premises.
- (8) A home occupation, including studios or rooms for instruction, shall provide off-street parking area adequate to accommodate needs created by the home occupation.
- (9) The use must be in conformance with all valid covenants and agreements recorded with the County Recorder of Deeds, covering the land underlying the dwelling.
- (10) A home occupation permit may be issued for any use allowed by the Zoning code, providing all other criteria for issuance of a home occupation permit are met. No home occupation permit shall be issued for any other use.

(B) **Permit Required.** A home occupation shall not be permitted without a special-use permit being recommended by the Zoning Board of Appeals and approved by the City Council, which shall determine whether or not the proposed home occupation complies with all applicable laws and ordinances.

- (1) The applicant for a home occupation permit shall be responsible for providing a list of surrounding landowners and tenants. **(See Sec. 40-10-26)**
- (2) A hearing upon the application shall be held in accordance with the rules and regulations of the Zoning Board of Appeals.

(C) **Activities Not Covered.** No home occupation permit shall be required for activities such as telecommuting, involving no outside sign, little or no increase in traffic, and with only occasional visits by members of the public to the home. As used in this Section, "telecommuting" means working in the home by using a computer terminal connected by the telephone line to a central office or central computer.

(D) **Parking.** (See Section 40-7-8)

(E) **Signs.** (See Section 40-6-10)

**40-5-8 SCHOOLS.**

(A) The lot on which any school is situated shall have the minimum area indicated below:

<b><u>Type of School</u></b>	<b><u>Minimum Lot Area</u></b>
Nursery, Day Care Center	<b>One hundred (100) square feet</b> of fenced outdoor play area per child.
Other (elementary, junior high, senior high)	As required by State law <b>(105 ILCS 5/35-8)</b> -- normally <b>four (4) acres</b> , plus <b>one (1)</b> additional acre for every <b>one hundred fifty (150) students</b> in excess of <b>two hundred (200)</b> .
(B)	The principal building of any school shall be located at least <b>twenty-five (25) feet</b> from all lot lines.

**40-5-9 SWIMMING POOLS.**

(A) Every in-ground swimming pool, whether public or private, shall be enclosed by a wall or fence at least **four (4) feet** in height and shall have a gate that shall be locked when the pool is not in use. An above-the-ground pool, **four (4) feet** or higher, need not have a fence with a gate, so long as the ladder is removed when not in use.

(B) No private swimming pool shall be located in any front yard or closer than **five (5) feet** to any side or rear lot line.

(C) All lights used to illuminate any swimming pool shall be arranged or shielded so as to confine direct light rays within the lot lines to the greatest extent possible.

**40-5-10 UTILITY SUBSTATIONS.** Every electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, water storage facility, or similar facility shall be deemed a special use, and shall conform to the following regulations:

(A) Every lot on which any such facility is situated shall meet the minimum area and dimension requirements of the district in which it is located. Every part of any such facility shall be located at least **twenty-five (25) feet** from all lot lines, or shall meet the district setback requirements, whichever is greater.

(B) In any residential district, the structure housing any such facility shall be designed and constructed to be compatible with the residential character of the area.

(C) Furthermore, if the Administrator determines that the facility poses a safety hazard (for example, if there are exposed transformers), he shall require that a secure fence at least **eight (8) feet** in height be installed.

**40-5-11 KENNELS.** Kennels shall not be permitted.

**40-5-12      AGRICULTURAL ACTIVITIES.**

(A)      **Farm Equipment/Commodities.** No agricultural equipment or commodities (including, but not limited to, baled crops, fertilizer, pesticides/herbicides) shall be stored outdoors closer than **three hundred (300) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. If said equipment/commodities are stored within a completely enclosed structure, said structure shall be located at least **one hundred (100) feet** from any lot line of residential property.

(B)      **Barbed Wire/Electrical Fences.** (See Section 40-5-3(A).)

(C)      No farm animals allowed in the City.

**40-5-13      LIGHTING CONTROLS.** Any light used for the illumination of signs, swimming pools, or for any other purpose shall be arranged so as to confine the direct light rays away from neighboring residential properties and away from the vision of passing motorist.

**40-5-14      PUBLIC BUILDINGS.** In any district where municipally owned or other publicly owned buildings are permitted, the following additional requirements shall be met:

(A)      In any residential district, all municipal or other publicly-owned buildings shall conform to the district setbacks.

**40-5-15      CHURCHES AND HOUSES OF FORMAL WORSHIP.** The following restrictions shall apply to churches no matter if they are permitted uses or special-uses:

(A)      **Lot Size.** The minimum size of the lot or tract shall have a minimum frontage on a public street at the building line of **one hundred fifty (150) feet**.

(B)      **Commercial and Residential Uses.** No part of a church or building for religious worship or accessory building shall be used for commercial or residential purposes, except that **one (1) parsonage** may be permitted on the same lot or tract provided the parsonage is located no more than **seventy-five (75) feet** from the principal building for religious worship.

(C)      **Property Lines.** Each principal building shall conform to district setbacks, and shall meet all other applicable requirements of the Zoning Code.

(D)      **Accessory Buildings.** Accessory buildings shall meet all applicable requirements of the Zone District.

(E)      **Accessory Uses.** Permitted accessory uses and functions shall be directly related to and an integral part of the customary religious worship activities except as otherwise provided by applicable provisions. **(805 ILCS 110/0.01 et seq.)**

## ARTICLE VI - SIGN REGULATIONS

**40-6-1            GENERAL PROHIBITION.** Any sign not expressly permitted in this Article shall be deemed prohibited.

**40-6-2            COMPUTATION OF SIGN AREA ALLOWANCE.** Within the limitations and restrictions as further provided in this Article, the total area of all signs which an establishment is permitted to display shall be computed according to the following formula:

**One (1) square foot of sign area per one (1) foot of street frontage or two (2) square feet of sign for each lineal foot of the front width of the business.**

provided, however, that no establishment in any district shall display more than **three hundred (300) square feet** of sign on any street front.

**40-6-3            DEFINITION OF SIGN AREA.** As used in this Article, the term "sign area" means the area of the one imaginary square or rectangle which would completely enclose all the letters, parts, or symbols of a sign. **(See Figures 3 and 4 at End of Code)**

**40-6-4            SPECIAL SITUATIONS.**

(A) Except as specifically provided otherwise in this Article, if an establishment has frontage on **two (2)** or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this Article. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any **one (1) frontage** a greater area of signs than would be permitted by application of the formula set forth above.

(B) The side of an establishment adjacent to an off-street parking area shall not be deemed frontage unless the establishment has no other frontage.

**40-6-5            SIGNS TO BE NON-HAZARDOUS, WELL-MAINTAINED.**

(A) No sign shall be erected, relocated or maintained so as to prevent free access or egress from any door, window, fire escape, or driveway.

(B) No sign shall be erected or maintained in such a manner that it interferes with, obstructs the view of, or is likely to be confused with any authorized traffic control device.

(C) Every sign shall be designed and constructed in conformity with any applicable provisions of the adopted Building Code, if any.

(D) Every sign and appurtenance shall be maintained in a neat and attractive condition by its owner. The sign supports shall be kept painted to prevent rust or deterioration.

**40-6-6            ILLUMINATION.** Illumination of signs is permitted, subject to the following requirements:

(A) No sign shall employ red, yellow, or green lights in such a manner as to confuse or interfere with vehicular traffic.

(B) No sign other than those providing time and temperature information shall have blinking, flashing, or fluttering lights or any other illuminating device which has a changing light intensity, brightness, or color; provided, however, that this provision shall not apply to any message on any electronically-operated, changeable sign.

(C) The light from any illuminated sign shall be shaded, shielded, or directed so that it creates neither a nuisance to adjacent property nor a traffic hazard.

**40-6-7            NONCONFORMING SIGNS.** A nonconforming sign means any lawfully erected sign or billboard that does not conform to one or more provisions of this Article or any amendment thereto.

**40-6-8            RESTRICTIONS.** Any nonconforming sign as defined in **Section 40-6-5** that does not pose an imminent peril to life or property may lawfully remain subject to all the restrictions on the enlargement, alteration, or relocation, or reconstruction of nonconforming structures set forth in **Article VIII** of this Code; provided as follows:

(A)                Merely changing the message displayed on a nonconforming sign shall not be construed as a prohibited alteration;

(B)                Whenever any sign is nonconforming solely because it is appurtenant to a nonconforming commercial/industrial use located in any residential district, said sign shall be treated in the same manner as it would be if it were appurtenant to a commercial/industrial use located in any Business District or in the Industrial District.

**40-6-9            STRICTLY PROHIBITED SIGNS.** Except as specifically noted otherwise, henceforth, the following signs and street graphics are strictly prohibited throughout the City:

(A)                Mobile/Portable Marquees; except that they may be permitted as a temporary sign.

(B)                Signs attached to trees, fences or public utility poles, other than warning signs posted by government officials or public utilities.

(C)                Defunct Signs, including the posts or other supports therefor that advertise or identify an activity, business, product, or service no longer conducted on the premises where such sign is located for **six (6) months** or longer.

(D)                Roof-mounted signs, that project or protrude above the highest point of the roof.  
**(See Sec. 40-6-11)**

**40-6-10           SIGNS PERMITTED IN ANY DISTRICT.** Any sign or other street graphic enumerated below that complies with the indicated requirements is permitted in any district of the City. Such signs or street graphics shall not be debited against the displaying establishment's sign area allowance. **(See Sec. 40-6-2)**

(A)                **Construction Signs** identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building, but not advertising any product: Such signs shall not exceed **thirty-two (32) square feet** in area, shall be confined to the site of the construction, and shall be removed within **fourteen (14) days** after the intended use of the project has begun.

(B)                **Real Estate Signs**, indicating the sale, rental, or lease of the premises on which they are located: Such signs on residential property shall not exceed **six (6) square feet**; on other property, such signs shall not exceed **sixteen (16) square feet**. Not more than **one (1)** real estate sign per street front shall be erected on any lot. Such signs shall be removed within **seven (7) days** of the sale, rental or lease.

(C)                **Political Signs**, announcing candidates seeking public/political office and/or political issues and other pertinent information: In any Residential District, political signs shall not exceed **eight (8) square feet**; in other districts, such signs shall not exceed **thirty-two (32) square feet**. Political signs shall be removed within **seven (7) days** after the election to which they pertain, by the party responsible for their erection.

(D)                **Garage Sale Signs**, advertising a garage or yard sale to be held on private residential property: Such signs shall not exceed **four (4) square feet**, and shall not be posted for longer than **five (5) days**.

(E)                **Public Interest Signs and Street Banners**, publicizing a charitable or non-profit event of general public interest: In any Residential District, public interest signs shall not exceed **thirty-two (32) square feet**. Public interest signs and street banners shall be permitted only for **sixty (60) days** before and **seven (7) days** after the event.

(F) **Governmental, Public, and Directional Signs:** Such as traffic control signs; railroad crossing signs; legal notices; signs indicating the location of underground cables; no trespassing signs; no parking signs; signs indicating the entrances and exits of parking lots; signs indicating the location of public telephones; restrooms, and so forth.

(G) **Institutional Signs** identifying a public, charitable, or religious institution: Such signs shall be located on the premises of such institution, shall not obstruct the vision of motorists, and shall not exceed **thirty-two (32) square feet**.

(H) **Integral Signs** carved into stone or inlaid so as to become part of the building, and containing such information as date of erection, name of building, and memorial tributes.

(I) **Home Occupation Signs,** identifying only the name and occupation of the residents: Home occupation signs shall not be illuminated, and shall not exceed **four (4) square feet**.

(J) **Subdivision Entrance Signs,** identifying a residential subdivision or apartment complex: Such signs shall contain no commercial advertising, and shall not exceed **twenty (20) square feet**.

(K) **Permanent House Numbers and/or Permanent Name of Occupant Signs** located on the lot to which the sign applies: such signs shall not exceed **two (2) square feet** for single-family dwelling, nor **six (6) square feet** for multiple-family dwellings.

(L) **Signs Located in the Interior of Any Building** or within an enclosed lobby or court of any building or group of buildings, provided such signs are designed and located to be viewed exclusively by the patrons or residents of such buildings.

**40-6-11 RESIDENTIAL DISTRICTS.** No sign other than those listed in **Section 40-6-10** shall be erected in any Residential District.

**40-6-12 BUSINESS; INDUSTRIAL DISTRICTS.** No establishment located in any Business District or in the Industrial District shall display on any street front a total area of sign in excess of the allowance derived by application of the formula set forth in **Section 40-6-2** and **40-6-10**.

Additionally, signs in any Business District or in the Industrial District shall conform to the requirements indicated in the subsections below:

(A) **Flush-Mounted Signs.** No flush-mounted (wall) sign shall:

- (1) Project more than **eighteen (18) inches** from the wall or surface to which it is attached; or
- (2) Extend above the roof line of the building to which it is attached.

(B) **Window Signs.** Signs permanently mounted in display windows shall not be debited against the sign area allowance of the particular establishment.

(C) **Projecting Signs.** No establishment shall display more than **one (1)** projecting sign on any street front. No projecting sign shall:

- (1) Project above the roof line of the building to which it is attached; or
- (2) Extend below a point **eight (8) feet** above the ground or pavement; or
- (3) Project over a driveway or beyond the curbline of any public street; or
- (4) Project more than **four (4) feet** from the building to which it is attached; or
- (5) Extend to a point above **twelve (12) feet**.

(D) **Canopy or Marquee Signs.** Signs mounted flush on any canopy or marquee shall be considered flush-mounted (wall) signs, and shall meet the requirements of **Section 40-6-12(A)**. Signs suspended beneath a canopy or marquee shall be considered projecting signs, and shall meet the requirements of **Section 40-6-12(C)**.

(E) **Freestanding Signs.** No establishment shall display more than **one (1)** freestanding sign on any street front. Freestanding signs, whether mounted on the ground or post-mounted, shall comply with the following regulations:

- (1) No part of any freestanding sign shall intrude into any public right-of-way.  
No part of any freestanding sign that extends below a point **ten (10) feet**

above the ground or pavement shall be located closer than **ten (10) feet** from the public right-of-way line.

- (2) The area of any freestanding sign, calculated in accordance with **Section 40-6-3** shall not exceed **one hundred (100) square feet**.
- (3) When attached to its structural supports, no part of any freestanding sign shall extend more than **twenty (20) feet** above the ground or pavement.
- (4) The length or width of any freestanding sign shall not exceed **twelve (12) feet**.

(F)

**Billboards.**

- (1) Billboards and other off-premises advertising signs are strictly prohibited in every district except Highway Business and Industrial Districts.
- (2) **Calculation of Billboard Dimensions.** The following shall control the computation of billboard area and height:
  - (a) If a billboard is enclosed by a box, circle, triangle, or other type of outline, the total area (including the background) within that outline shall be deemed the billboard area;
  - (b) If a billboard consists of individual letters, parts, or symbols, the area of the one imaginary shape that would completely enclose all the letters, parts, or symbols shall be deemed the billboard area;
  - (c) Only **one (1) side** of any double-faced billboard shall be counted in determining the total billboard area;
  - (d) The area of billboards with multiple faces or unusual shapes shall be calculated by taking **one-half (1/2)** of the total of the exposed surfaces as the billboard area;
  - (e) The height of a billboard shall be computed as the distance from the base of the billboard at normal grade to the top of the highest attached component of the billboard. Normal grade shall be construed to be the lower of (1) existing grade prior to construction of the billboard or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the billboard.
- (3) **Billboard Construction.** Information regarding the construction of the billboard must be submitted to the Administrator before a sign permit will be issued. Any billboard that is erected shall comply with the following guidelines:
  - (a) No billboard shall be stacked on top of another billboard;
  - (b) No billboard shall be located closer than **twenty (20) feet** to any public right-of-way;
  - (c) No billboard will be located closer than **five hundred (500) feet** to any other billboard on the same side of the roadway;
  - (d) Extend more than **thirty-five (35) feet** above the ground or pavement;
  - (e) Exceed **three hundred (300) square feet** in area.
  - (f) All billboards will comply with the applicable height restrictions except as follows:
    - (i) Any freestanding billboards will comply within **two hundred (200) feet** of a controlled freeway including entrances.
    - (ii) The principal purpose of such signs must be to address freeway traffic.
  - (g) Any person erecting or maintaining a billboard or billboards shall obtain a license therefore. Each license application shall be filed with the City Clerk, and shall list the location or locations of the billboard on a form provided for that purpose.
  - (h) Only white light is permitted.

- (i) No red, yellow, green or other colored light shall be used at any location in such a manner as to confuse or interfere with vehicular traffic;
  - (j) No billboard shall have blinking, flashing, or fluttering lights or other illuminating devices which have a changing light intensity, brightness, or color. Billboards that exhibit moving pictures, lettering, graphics or graphic components are strictly prohibited. No billboard shall revolve, rotate, or mechanically move in any manner.
  - (k) This provision shall not apply to any message on any electronically-operated changeable copy sign, an animated sign, or a time-temperature sign on a retail business premises, advertising that business. Beacon lights and illumination by flame are prohibited;
  - (l) The light from any illuminated sign shall be shaded, shielded, or directed so as to avoid the creation or continuation of any nuisance or traffic hazard;
  - (m) No exposed reflective type bulb or incandescent lamp shall be used on the exterior surface of any sign in such a manner as to expose the face of the bulb, light, or lamp, to any public street or to any adjacent property.
  - (n) No sign shall be erected in such a manner that it interferes with, obstructs the view of, or is likely to be confused with any authorized traffic sign, signal, or device. Accordingly, no sign shall contain the words "stop", "go", "caution", "danger", "warning", or similar words.
  - (o) All persons involved in the maintenance, installation, alteration, or relocation of signs near or upon any public right-of-way of property shall agree to hold harmless and indemnify the City, its officers, agents and employees, against any and all claims of negligence resulting from such work insofar as this Article has not specifically directed the placement of a sign.
- (4) **Structural and Maintenance Requirements.**
- (a) Every sign shall be designed and constructed in conformity with the applicable provisions of the Building Code, and shall be free of any exposed extra bracing, angle iron, guy wires, cables, etc.
  - (b) The electrical component of any illuminated sign shall conform to the applicable requirements of the National Electrical Code.
  - (c) Every sign shall be maintained in a neat and attractive condition by its owner. The sign supports shall be kept painted/treated to prevent rust or deterioration. The Administrator shall have the right to order the repair or removal of any sign that is defective, damaged, or substantially deteriorated.
- (5) **Billboard Permit Fees.** Billboard permit fee is **One Hundred Dollars (\$100.00)** per billboard.
- (6) The number of permits shall be limited to **one (1)** within the municipal limits.

**(Ord. No. 10-08-2007-2)**

**40-6-13      TEMPORARY SIGNS.** Temporary signs shall not remain in place for a period of more than **thirty (30) days** except when the Zoning Administrator extends the time period for an additional **thirty (30) days**. Any further time extension shall thereafter be applied for through Zoning Board of Appeals and the Board may grant such time extension as seems reasonable and necessary in compliance with this Article. A permit is required for all temporary signs. **(See Sections 40-3-7 and 40-10-29)**



## ARTICLE VII - SUPPLEMENTARY OFF-STREET PARKING AND LOADING REGULATIONS

**40-7-1            APPLICABILITY OF ARTICLE.** Off-street parking and loading shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Code.

- 40-7-2            EXISTING PARKING/LOADING FACILITIES.**
- (A) Existing off-street parking or loading facilities located on the same lot as the use served shall not be reduced below, or if already less than, shall not be further reduced below the requirements and standards for similar new structures or uses.
- (B) When an existing structure or use is damaged or destroyed and subsequently repaired or rebuilt, additional off-street parking and loading facilities need not be provided, but parking/loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored.
- (C) Whenever the use of any structure or premises is intensified through addition of dwelling units, gross floor area, seating capacity, etc., additional parking and loading facilities commensurate with such increase in use-intensity shall be provided.
- (D) Whenever the existing use of a structure is changed to a different use, parking or loading facilities shall be provided as required herein for such new use.

- 40-7-3            PARKING DESIGN AND MAINTENANCE STANDARDS.**
- (A) **Spaces.**
- (1) Each required parking space shall be at least **ten (10) feet** wide and **twenty (20) feet** long, and shall have at least **seven (7) feet** of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public right-of-way.
- (2) For multi-family, business and industrial uses, markings shall be laid and restored as often as necessary to clearly delineate each parking space.
- (B) **Interior Aisles.** Aisles within parking lots in Business and Industrial Districts shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles, and into and out of parking spaces. Aisles designed for two-way traffic shall be at least **twenty-two (22) feet** wide. One-way aisles designed for **sixty (60) degree** parking shall be at least **eighteen (18) feet** wide.
- (C) **Access Way.**
- (1) Parking areas in the Business and Industrial Districts shall be designed so that ingress to and egress from a parking space is from an aisle or driveway, not directly from the public right-of-way.
- (2) No access way to any parking area shall be located within **thirty (30) feet** of any corner formed by the intersection of the rights-of-way of **two (2)** or more streets. At intersections where traffic control devices are installed, the Administrator may increase this requirement as necessary to prevent traffic hazards.
- (3) Parking lot access ways (as well as residential driveways) and public streets shall be aligned to form, as closely as feasible, right angles.
- (4) The access way to every parking lot located in any business and industrial zoning district shall be at least **twenty-four (24) feet** wide unless two one-way drives, each **twelve (12) feet** wide, are provided.
- (5) The access way to every parking area located in any residential zoning district shall be at least **twelve (12) feet** wide; but if the parking area contains more than **eight (8) parking spaces** or if the access way is longer than **one hundred (100) feet**, access shall be provided either by

one 2-way drive at least **twenty (20) feet** wide or by two 1-way drives, each at least **twelve (12) feet** wide.

(D) **Surfacing.** Parking lots shall be graded and improved with a compacted stone base at least **seven (7) inches** thick, surfaced with at least **two (2) inches** of asphaltic concrete or approved comparable material. Parking lots used exclusively for employees are hereby exempt from these requirements, but shall be constructed of an approved dustless surface. These requirements shall not apply to single-family residential.

(E) **Lighting.** Any light(s) used to illuminate any parking lot shall be arranged or shielded so as to confine direct light rays within the lot lines of the parking lot to the greatest extent possible and in no case, shall the light(s) shine on or into nearby residences.

#### **40-7-4            RESERVED.**

**40-7-5            LOCATION OF PARKING.** All off-street parking shall be located in conformity with the following requirements:

(A) **For Dwellings.**

- (1) Parking spaces accessory to dwellings located in any residential zoning district shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard except in the driveway, but may be located in the side or rear yards. Each parking space accessory to a multi-family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area.
- (2) All parking spaces accessory to permitted non-dwelling uses located in the residential zoning district generally shall be located on the same lot as the use served. However, by special use permit, such parking facilities may be located on another parcel within **two hundred (200) feet** of the use served. No commercial vehicle exceeding one ton cargo capacity shall be parked anywhere in a residential district (except in the driveway as for normal loading, unloading, and service call), unless a special use permit has been obtained. No vehicle repair work shall be permitted on any parking lot located in any residential district.

(B) **Business And Industrial Districts.**

- (1) Parking spaces accessory to any dwelling located in any business district shall be located within **two hundred (200) feet** of the dwelling. Parking spaces accessory to any other conforming use located in any business or industrial district shall be located within **five hundred (500) feet** of the use served.
- (2) No parking space accessory to any use located in business or industrial district shall be located in any residential district except by special use permit; and in no case shall any such parking areas extend more than **five hundred (500) feet** into a residential district.
- (3) In any business or industrial district, off-street parking facilities for different buildings or uses may be provided collectively if the total number of spaces so located together is not less than the sum of the separate requirements for each use, and if all regulations governing location of parking spaces in relation to the use served are observed.

**40-7-6            DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES.** All off-street loading facilities shall conform to the minimum standards indicated below:

(A) **Size Of Space.** Every required off-street loading space shall be at least **twelve (12) feet** wide and **forty-five (45) feet** long exclusive of aisle and maneuver space, and shall have

vertical clearance of at least **fourteen (14) feet**. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

(B) **Access Way.** Every off-street loading space shall have a safe means of vehicular access to a street or alley. Such access way shall be at least **twelve (12) feet** wide.

(C) **Surfacing.** Every off-street loading area shall be improved with a compacted stone base at least **seven (7) inches** thick, surfaced with at least **two (2) inches** of asphaltic concrete or approved comparable material.

(D) **Buffer Strips.** No loading space or area for vehicles over **two (2) ton** cargo capacity shall be developed closer than **fifty (50) feet** to the lot line of any lot located in any residential district unless such space/area is completely enclosed by walls, a solid fence, or closely planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from residential property.

(E) **Location.** Every off-street loading space shall be located on the same parcel of land as the use served, and not closer than **fifty (50) feet** to the intersection of the rights-of-way of **two (2)** or more streets, and not on any required front yard.

**40-7-7 COMPUTATION OF REQUIRED PARKING/LOADING SPACES.** In computing the number of parking spaces required by this Code, the Zoning Administrator shall apply the following rules:

(A) In computing parking space requirements based on the number of employees, the maximum number of employees on the premises at any period of the day shall be used. **"Employee parking" means one (1) parking space shall be required per one and one-half (1.5) employees"**, unless otherwise stated.

(B) In computing parking or loading space requirements on the basis of building floor area, the **gross** floor area shall be used.

(C) Whenever it is necessary to translate gross parking lot area into number of parking spaces, **three hundred fifty (350) square feet** of gross area shall be deemed **one (1)** parking space.

(D) If computation of the number of parking or loading spaces required by this Code results in a fractional space, any fraction of **one-half (.5)** or more shall be counted as **one (1) space**.

(E) No space or portion thereof needed to satisfy the minimum applicable requirement for number of off-street parking or loading spaces shall be counted as part of the off-street parking or loading spaces required for another structure or use.

**40-7-8 NUMBER OF PARKING AND LOADING SPACES REQUIRED.** Off-street parking and loading spaces shall be provided as indicated in tabular form below. For any use that is not listed in the table, the same amount of parking and loading space shall be provided as is required for the most similar listed use. The Zoning Administrator shall make the determination of similarity:

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
(A) <u>Dwellings, Lodgings:</u>		
Motels, Boarding houses	1 space per lodging unit, plus employee parking	1 space if the use has 20,000 sq. ft. or more of floor area
Manufactured homes & Immobilized homes	2 spaces per unit	Not Applicable
Multi-family dwellings	3 spaces per dwelling unit	Not Applicable
Single-family & two- family dwellings	2 spaces per dwelling unit	Not Applicable
Manufactured Home	2 spaces per dwelling unit	Not Applicable

(B) Educational, Institutional, Recreational:

Churches, assembly halls	1 space per 4 seats in the largest seating area	Not Applicable
Libraries, museums	1 space per 500 sq. ft. of	On review by the Administrator
Nursing Homes	1 space per 5 beds plus 1.5 spaces per employee on the major shift	To 50,000 sq. ft. of floor area...1 space; 50,001-100,000 sq. ft...2 spaces
Schools Elementary and Junior High	1 space for every 20 students that the building is designed to accommodate, plus employee parking.	On review by the Administrator
Senior High	a space for every 4 students that the building is designed to accommodate, plus employee parking.	On review by the Administrator

(C) Commercial, Office, Service:

Note: All commercial and service uses, unless specifically indicated otherwise below.	1 space per 300 sq. ft. of floor area	To 10,000 sq. ft. of floor area...1 space; more than 10,000 sq. ft...1 space plus 1 additional space per 50,000 sq. ft. of floor area in excess of 10,000 sq. ft.
Financial Institutions Walk-in	1 space per 300 sq. ft. of floor area, plus employee parking	(Both walk-in and drive-in): To 30,000 sq. ft. of floor area...none required; 30,001 to 100,000 sq. ft...1 space
Drive-in	5 spaces per teller window	
Beauty and Barber shops	2 spaces per chair, plus employee parking	Not Applicable
Bowling Alleys	4 spaces per bowling lane plus additional spaces as required herein for affiliated uses such as restaurants and taverns	Not Applicable, except as required for affiliated uses
Car Wash	3 spaces per wash lane	Not Applicable

Furniture and appliance stores	1 space per 600 sq. ft. of floor area	To 25,000 sq. ft. of floor area...2 spaces; more than 25,000 sq. ft. of floor area... 2 spaces, plus 1 additional space per 25,000 sq. ft. of floor area in excess of 25,000 sq. ft.
Home occupations	1 space per 150 sq. ft. of floor area devoted to the home occupation in addition to the parking requirements for the dwelling	Not Applicable
Offices generally, but not medical/dental offices	1 space per 300 sq. ft. of floor area	To 30,000 sq. ft. of floor area...none required. 30,001-100,000 sq. ft...1 space
Offices, medical/dental	1 space per 200 sq. ft. of floor area or 3 spaces per professional, whichever is greater.	Not Applicable
Mortuaries	1 space per 5 seats plus 1 space per funeral vehicle, but not less than 20 spaces per chapel or state room	1 space per 10,000 sq. ft. or more of floor area
Restaurants; refreshment stands		(Both sit-down and drive-in):
Sit-down	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more floor area
Drive-in	1 space per 25 sq. ft. of floor area	
Service stations	2 spaces per service stall, plus employee parking	Not Applicable
Taverns	1 space per 2 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more of floor area
Theaters		Not Applicable
Indoor	1 space per 4 seats	
Drive-In	On review by the Administrator	
Vehicle sales (autos, boats, trailers, etc.)	1 space per 600 sq. ft. of enclosed floor area plus: Up to 10,000 sq. ft. of open lot area devoted to sale/display of vehicles...1 space per 2,500 sq. ft. of open lot area. Above 10,000 sq. ft...4 spaces plus 1 additional space per 5,000 sq. ft. of open lot area in excess of 10,000 sq. ft.	To 25,000 sq. ft. of floor area and open lot area...2 More than 25,000 sq. ft. of floor area and open lot area... 2 spaces, plus 1 additional space per 25,000 sq. ft. in excess of 25,000 sq. ft.

(D) Industrial:

Any manufacturing,  
warehousing, or other  
industrial use

Employee parking of 1 space  
per 1.5 employee; plus 1  
space per company vehicle,  
plus 1 visitor space per  
employees on the major shift

To 20,000 sq. ft. of floor  
area...1 space; 20,001-50,000  
sq. ft...2 spaces; 50,001-  
90,000 sq. ft...3 spaces; above  
90,000 sq. ft...3 spaces plus 1  
additional space per 50,000  
sq. ft. of floor area in excess  
of 90,000 sq. ft.

## ARTICLE VIII - NONCONFORMITIES

**40-8-1**      **PURPOSE OF ARTICLE.** The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located tend to impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaking of parking facilities, the creation of nuisances, and/or the lowering of property values. The regulations in this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.

**40-8-2**      **NONCONFORMING LOTS.** If the Zoning Board of Appeals recommends and the City Council approves a variance for any vacant lot that does not conform to **one (1)** or more of the lot size (area dimensions) requirements of the district in which it is located, that lot may, nonetheless, be developed for any use permitted in that district if such vacant lot:

- (A)              was recorded in the office of the County Recorder of Deeds prior to the effective date of this Code (or pertinent amendment thereto);
- (B)              has continuously remained in separate ownership from abutting tracts of land throughout the entire period during which the creation of such lot was prohibited by the applicable zoning code or other ordinances; and
- (C)              is at least **fifty (50) feet** wide.

**40-8-2.1**      **RESIDENTIAL DISTRICTS.** In the residential district, one single-family dwelling and related accessory structure, but no other use, may be erected on any vacant nonconforming lot of the type described above provided all the bulk regulations of the particular district are observed.

**40-8-2.2**      **COMMERCIAL AND INDUSTRIAL DISTRICTS.** In the Industrial District and in any commercial district, any structure permitted in the particular district may be erected on any vacant nonconforming lot of the type described above if the bulk requirements of that district are met.

**40-8-2.3**      **TWO OR MORE LOTS IN COMMON OWNERSHIP.** If **two (2)** or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership on the effective date of this Code, and if **one (1)** or more of those lots does not meet the minimum lot width, depth, and area requirements of the district in which it is located, the land involved shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Code. **(See Section 40-3-8)**

**40-8-3**      **NONCONFORMING STRUCTURES.** Any otherwise lawful structure which exists on the effective date of this Code, but which could not be erected under the terms of this Code because of requirements/restrictions concerning lot size, height, setbacks, or other characteristics of the structure or its location on the lot, may lawfully remain, subject to the following provisions:

- (A)              **Maintenance.** A nonconforming structure may be maintained by ordinary repairs.
- (B)              **Enlargement, Alterations.** A nonconforming structure shall not be enlarged or altered in any way which increases its nonconformity.
- (C)              **Relocation.** A nonconforming structure shall not be moved unless, after relocation, it will conform to all the regulations of the district in which it is situated.
- (D)              **Reconstruction.** No structure which is destroyed or damaged by any means shall be reconstructed if the Administrator determines that the cost of such reconstruction exceeds **fifty percent**

(50%) of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Administrator determines the estimated cost of reconstruction is less than **fifty percent (50%)** of the structure's market value at the time of loss, repairs or reconstruction shall be permitted, provided such work starts within **six (6) months** from the date the damage occurred and is diligently prosecuted to completion.

The Administrator may require that the reconstruction cost estimate be made by a bona fide construction contractor, and that the structure's market value at the time of loss be determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Administrator.

As an alternative, the market value may be determined by the Administrator by using the **"state equalized assessed value"** multiplied by the number **three (3)**.

**40-8-4 NONCONFORMING USES OCCUPYING A STRUCTURE.** If any lawful use occupying a structure exists on the effective date of this Code, such use may lawfully continue, subject to the following provisions:

(A) **Maintenance.** Any structure housing a nonconforming use may be maintained through ordinary repairs.

(B) **Enlargement, Alteration, Reconstruction, Relocation.** No structure housing a nonconforming use shall be enlarged, structurally altered, reconstructed or relocated unless the use of the structure is changed to a permitted use.

(C) **Extension of Use.** No nonconforming use may be extended to any part(s) of the structure not intended or designed for such use, nor shall the nonconforming use be extended to occupy any land outside such structure.

(D) **Change of Use.** A nonconforming use occupying a structure may be changed to a similar use, to a more restrictive use, or to a conforming use. Such use shall not thereafter be changed to a less restrictive use.

(E) **Discontinuance of Use.** When a nonconforming use of a structure or of a structure and premises in combination is discontinued for **twelve (12)** consecutive months or for **eighteen (18) months** during any **three (3) year** period, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

**40-8-5 NONCONFORMING USE OF LAND.** Any lawful use of land existing on the effective date of this Code that would not be permitted under the terms of this Code may lawfully continue, subject to the following provisions:

(A) **Intensification or Extension of Use.** A nonconforming use of land shall not be intensified, or extended to occupy a greater area of land than was occupied by such use on the effective date of this Code.

(B) **Relocation.** No nonconforming use of land shall be moved, in whole or in part, unless such use, upon relocation, will conform to all pertinent regulations of the district in which it is proposed to be located.

(C) **Change of Use.** Whenever a nonconforming use of a building has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.

(D) **Discontinuance.** When a nonconforming use of land is discontinued for a period of **twelve (12)** consecutive months or for **eighteen (18) months** during any **three (3) year** period, it shall not thereafter be resumed, and any subsequent use of such land shall conform to the applicable district regulations. Any discontinuance caused by government action and without any contributing fault by the owner or operator shall not be counted in calculating the length of discontinuance.

**40-8-6 NONCONFORMITIES UNDER PERMIT AUTHORITY.** The regulations of this Article shall not apply to any change in an existing structure or to any change in the use of a structure or of land for which a permit was issued prior to effective date of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is completed within a reasonable time.



## ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

**40-9-1      ZONING ADMINISTRATOR.** The office of Zoning Administrator of this municipality is hereby established. He shall be appointed by the Mayor with the advice and consent of the City Council for a term of **one (1) year**. The Zoning Administrator shall be the executive head of this office.

**40-9-2      DUTIES.** The Zoning Administrator is hereby authorized and directed to diligently administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following duties:

- (A) To review applications pertaining to land, structures and the uses of land and/or structures;
- (B) To issue or deny initial and final certificates of zoning compliance;
- (C) To supervise inspections of land, structures, and the uses of land and/or structures to determine compliance with this Code, and where there are violations, to initiate appropriate action to secure compliance;
- (D) To receive, file and forward to the Zoning Board of Appeals all applications for variances and appeals;
- (E) To receive and file all applications for amendments and special use permits;
- (F) To maintain up-to-date records of this Code including, but not limited to, district maps, certificates of zoning compliance, special-use permits, variances, interpretative decisions of the Board of Appeals, amendments and all applications related to any of these matters;
- (G) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the City Council at least once each year;
- (H) To cause copies of this Code (including the district map) and any amendments thereto to be printed from time to time, as necessary; and
- (I) To provide information to the general public on topics related to this Code; and
- (J) To republish the zoning district map not later than March 31st if any rezonings or annexations have been approved during the preceding calendar year. (See Sec. 40-3-3)**

**40-9-3      INITIAL CERTIFICATES OF ZONING COMPLIANCE.** Upon the effective date of this Code, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until an initial certificate of zoning compliance has been issued. The Administrator shall not issue an initial certificate of zoning compliance unless he determines that the proposed activity conforms to the applicable provisions of this Code.

**40-9-4      ZONING APPLICATION.** Every applicant for an initial certificate of zoning compliance shall submit to the Administrator, in graphic and/or narrative form, all the items of information listed below that are applicable to the particular project. The Administrator shall decide which items are applicable. **(NOTE: Filing fee required in Section 40-9-14.)**

### **ITEMS OF INFORMATION:**

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed lot, structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operations, number of occupants or employees, and similar matters;
- (D) Location of the proposed use or structures, and its relationship to existing adjacent uses or structures;

- (E) Area and dimensions of the site for the proposed structure or use;
- (F) Existing topography of the site (USGS 10-foot contour data is acceptable), and proposed finished grade;
- (G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) Height, setbacks, and lot coverage of the proposed structures;
- (I) Number and size of proposed dwelling units, if any;
- (J) Location and number of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing and proposed utilities, whether public or private; and/or
- (L) Location and square footage of existing and proposed signs by type and class.

**40-9-5 DURATION OF CERTIFICATE.** Initial certificates of zoning compliance shall be valid for **one (1) year**, or until revoked for failure to abide by a corrective action order. The Administrator may renew initial certificates of zoning compliance for successive **one (1) year** periods upon written request, provided the applicant is making a good faith effort to complete the authorized work. **(See Sec. 40-9-7)**

**40-9-6 RELATIONSHIP TO BUILDING PERMITS.** Upon the effective date of this Code, no building permit for the erection, enlargement, extension, alteration, or reconstruction of any structure shall be issued until the applicant for such permit has properly obtained an initial certificate of zoning compliance pertaining to such work.

The City in compliance with the **Illinois Architecture Practice Act of 1989** and effective **January 1, 1992 (225 ILCS 305/1 et seq.)** requires that all new construction and structural renovations of buildings used by the general public, including multiple housing, but excluding one and two family residences, shall require architectural plans with an architect's seal from a licensed architect.

**40-9-7 FINAL CERTIFICATES OF ZONING COMPLIANCE.** No lot or part thereof that has been recorded or developed after the effective date of this Code, and no structure or use, or part thereof, that has been erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used, occupied or put into operation until a certificate of zoning compliance has been issued. The Administrator shall not issue a final certificate of zoning compliance until it has been determined, **by inspection**, that the work authorized by the initial certificate of zoning compliance has been completed in accordance with approved plans. Failure to obtain a final certificate of zoning compliance shall constitute a separate violation of this Code.

**40-9-8 CORRECTIVE ACTION ORDERS.** Whenever the Zoning Administrator finds, by inspection or otherwise, that any lot, structure, or use, or work thereon is in violation of this Code, he shall so notify the responsible party, and shall institute appropriate measures to secure compliance.

**40-9-9 CONTENTS OF ORDER.** The order to take corrective action shall be in writing and shall include:

- (A) A description of the premises sufficient for identification;
- (B) A statement indicating the nature of the violation;
- (C) A statement of the remedial action necessary to effect compliance;
- (D) The date by which the violation must be corrected;
- (E) A statement that the alleged violator is entitled to a conference with the Administrator if he so desires;
- (F) The date by which an appeal of the correction order must be filed, and a statement of the procedure for so filing; and

(G) A statement that failure to obey a corrective action order shall result in revocation of the certificate of zoning compliance and may result in the imposition of fines.

**40-9-10 SERVICE OF ORDER.** A corrective action order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is:

- (A) Served upon him personally;
- (B) Sent by certified mail to his last known address; or
- (C) Posted in a conspicuous place on or about the affected premises.

**40-9-11 STOP ORDERS.** Whenever any work being done in violation of an initial certificate of zoning compliance, the Administrator's corrective action order may state that the violation be stopped immediately. In such case, the corrective action order is equivalent to a stop order. **(See Sec. 40-9-9(D))**

**40-9-12 EMERGENCY MEASURES.** Notwithstanding any other provisions of this Code, whenever the Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

**40-9-13 COMPLAINTS.** Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

**40-9-14 FEES.** The City Council establishes the following schedule of fees for the various permits and procedures listed in this Code. The fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid in advance by the applicant to the City Clerk as follows:

<b>(A) Building Permit Fees:</b>	
Single-Family Dwelling	\$25.00 or \$.10 per sq. ft. (whichever is greater)
Multi-Family Dwelling	\$25.00 per unit or \$.10 per sq. ft. (whichever is greater)
Commercial or Business Structure	\$25.00 or \$.10 per sq. ft.; (whichever is greater)
Industrial Structure	\$100.00 or \$.10 per sq. ft.; (whichever is greater)
Manufactured Home Unit/Manufactured Home/Immobilized	\$25.00 or \$.10 per sq. ft.; (whichever is greater)
Accessory Building (100 sq. ft. or smaller)	No fee required
Accessory Building (larger than 100 sq. ft.)	\$25.00 per building or \$.05 per sq. ft.; (whichever is greater)
Structural Additions	\$10.00 or \$.10 per sq. ft.; (whichever is greater)
Plan Development	\$500.00 or \$.04 per sq. ft.; (whichever is greater, plus engineering cost, if any)
Manufactured Home Park Permit	\$500.00 or \$25.00 per pad; (whichever is greater, plus engineering costs, if any.)

All fees for the above projects that are started prior to obtaining the Zoning Occupancy Permit and/or paying the fees shall be doubled.

**(Ord. No. 03-13-2012-1)**

(B)	<b><u>Zoning Board of Appeals Fees:</u></b>	
Interpretation of Code (Appeal)		\$100.00 and publication costs
Special-Use Permit		\$100.00 and publication costs
Variance Permit		\$100.00 and publication costs
Amendments		\$100.00 and publication costs

**40-9-15      PENALTIES.**  
 (A) Any person who is convicted of a violation of this Code shall be fined not less than **Seventy-Five Dollars (\$75.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)**, plus costs. Each day on which a violation continues shall be considered a separate offense.

(B) Nothing contained in this Section shall prevent the City from taking any other lawful action that may be necessary to secure compliance with this Code.

## ARTICLE X - SPECIAL PROCEDURES AND PERMITS

### DIVISION I - BOARD OF APPEALS

**40-10-1      ZONING BOARD OF APPEALS.** The Zoning Board of Appeals is hereby established in accordance with Illinois law. **(65 ILCS 5/11-13-3)**

**40-10-2      MEMBERSHIP, APPOINTMENT, COMPENSATION.** The Zoning Board of Appeals shall consist of **seven (7) members**, all of whom shall reside within the City. Each Board member shall be appointed by the Mayor with the advice and consent of the City Council. **One (1)** of the members so appointed shall be named as Chairman at the time of his appointment. The Zoning Board shall select **one (1)** of its members to be the vice-chairman and **one (1)** the secretary. Each Board member shall receive compensation as established by the City Council.

**40-10-3      TERM OF OFFICE - VACANCIES.** Every member of the Zoning Board of Appeals, which was established pursuant to the former Zoning Code shall be entitled to serve on the Zoning Board of Appeals established by this Section until the date his term of office would have expired if the former Zoning Code had remained in effect. Any person appointed to the Zoning Board of Appeals on or after the effective date of this Code shall hold office for **five (5) years** from the date of his appointment, and until his successor has been selected and qualified.

With the advice and consent of the City Council, the Mayor may remove any member of the Zoning Board of Appeals for cause after a public hearing. Vacancies on the Zoning Board of Appeals shall be filled for the unexpired term of the member whose place has become vacant in the same manner as provided for the appointment of new members.

**40-10-4      MEETING--QUORUM.** All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as the Board may determine. All Board meetings shall be open to the public. The Board may adopt their own rules of meeting procedures consistent with this Code and the applicable Illinois Statutes. The Board may select such officers as it deems necessary. The Chairman, or in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. **Four (4) members** of the Board shall constitute a quorum, and the affirmative vote of at least **four (4) members** shall be necessary to authorize any Board action. **(See Sec. 40-10-6 for vote on decisions of Board.)**

**40-10-5      RECORDS.** The Board shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order or recommendation of the Board shall be filed immediately with the City Clerk and shall be a public record.

**40-10-6      DECISIONS.** The concurring vote of **four (4) members** of the Zoning Board of Appeals shall be necessary to recommend a variance or special-use permit or to recommend an amendment to the City Council. The recommendation of the Zoning Board of Appeals shall be by written letter and shall contain its findings of fact. A copy shall be sent to the City Council.

**40-10-7      PERIOD OF VALIDITY.** No decision by the City Council granting a variance or special-use permit shall be valid for a period longer than **twelve (12) months** from the date of such decision unless (1) an application for a zoning certificate is obtained within such period and construction, moving, remodeling, or reconstruction is started, or (2) an occupancy certificate is obtained and a use is commenced. However, the City Council may grant additional extensions of time not exceeding **one**

**hundred eighty (180) days**, each upon written application made within the initial **twelve (12) month** period without further notice or hearing, but said right to so extend said time shall not include the right to grant additional relief by expanding the scope of the variation.

**40-10-8      FINALITY OF DECISIONS OF THE CITY COUNCIL.** All decisions of the City Council, shall in all instances be the final administrative determination and shall be subject to review by a court in the manner provided by applicable Illinois Compiled Statutes. No applicant shall apply for the same or identical request for a period of one (1) year unless the facts and/or request have substantially changed.

**[ED. NOTE: The City Council will need to pass an ordinance each time it takes action on a special-use permit, variance or amendment.]**

**40-10-9      OFFICE OF THE SECRETARY OF THE BOARD OF APPEALS.** The Secretary of the Board of Appeals shall be appointed by the Zoning Board to serve until a successor is appointed. The Secretary shall record the minutes of the Board's proceedings and actions, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact. The Secretary shall perform such other duties as may be assigned from time to time by the Zoning Board.

**40-10-10 - 40-10-11      RESERVED.**

## **DIVISION II - APPEALS**

**40-10-12      NATURE OF AN APPEAL.** Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Zoning Board of Appeals on a prescribed form. Every such appeal shall be made and treated in accordance with Illinois law and the provisions of this Division. **(65 ILCS 5/11-13-12)**

**40-10-13      FILING, RECORD TRANSMITTAL.** Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Administrator and the Zoning Board of Appeals a written notice specifying the grounds for appeal. Appeals may also be filed with the **Soil and Water Conservation District** pursuant to State law. Not more than **five (5)** working days after the notice of appeal has been filed, the Administrator shall transmit to the Zoning Board of Appeals all records pertinent to the case. **(65 ILCS 5/11-13-12) (70 ILCS 405/22.02A)**

**40-10-14      STAY OF FURTHER PROCEEDINGS.** An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Zoning Board of Appeals after the notice of appeal has been filed with him, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Zoning Board of Appeals or the Circuit Court grants a restraining order for due cause and so notifies the Administrator. **(65 ILCS 5/11-13-12)**

**40-10-15      PUBLIC HEARING, NOTICE.** The Zoning Board of Appeals shall hold a public hearing on every appeal within a reasonable time after the filing of the appeal notice. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and briefly describing the issue to be decided shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

(A) By publication in a newspaper of general circulation within this municipality; and

- (B) By certified mail to the applicant; and,  
(C) By first-class mail to all owners of property contiguous to any property affected by the appeal.  
**(65 ILCS 5/11-13-12)**

**40-10-16**      **DECISION BY BOARD OF APPEALS.** The Board of Appeals shall render a decision on the appeal within **thirty (30) days** after the hearing therein. The Board of Appeals may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from the extent and in the manner that they deem appropriate. In so doing, the Board of Appeals has all the power of the Administrator. **(65 ILCS 5/11-13-3 and 5/11-13-12)**

**ED. NOTE: The Board of Appeals is delegated the task of hearing appeals from the decisions of the zoning administrator or other official charged with enforcement of an ordinance passed pursuant to the Zoning Enabling Act. This may, for example, entail determining whether there has been a discontinuance of a nonconforming use. It is important for the applicant to note the appeal process because of the requirement of exhaustion of administrative remedies before suit is filed as well as the more obvious reason of using a less expensive administrative process for correcting a mistake or error which may have been made by the zoning administrator. (65 ILCS 5/11-13-3)**

**40-10-17**      **RESERVED.**

### **DIVISION III - VARIANCES**

**40-10-18**      **VARIANCES.**

- (A) A variance is a relaxation of the requirements of this Code that are applicable to a particular lot or structure.  
(B) A so-called "use variance" (which would allow a use that is neither permitted nor special in the district in question) is not a variance, it is an amendment, and should be granted only as provided for in **Section 40-10-30**.

**40-10-19**      **APPLICATION.** Every application for a variance shall be filed with the Administrator on a prescribed form. Variance applications may also be filed with the **Soil and Water Conservation District** as per State law. The Administrator shall promptly transmit said application, together with any device he might wish to offer, to the Zoning Board of Appeals. The application shall contain sufficient information to allow the Zoning Board of Appeals to make an informed decision and shall include, at a minimum, the following: **(NOTE: Filing fee required.) [70 ILCS 405/22.02(A)]**

- (A) Name and address of the applicant;  
(B) Location of the structure/use for which the variance is sought;  
(C) Brief description of adjacent lots, structures, and/or uses;  
(D) Brief description of the problems/circumstances engendering the variance request;  
(E) Brief, but specific, explanation of the desired variance;  
(F) Specific section(s) of this Code containing the regulations which, if strictly applied, would cause a serious problem; and  
(G) Any other pertinent information that the Administrator may require.

**40-10-20      PUBLIC HEARING, NOTICE.** The Zoning Board of Appeals shall hold a public hearing on each variance request within **sixty (60) days** after the variance application is submitted to them. At the hearing any interested party may appear and testify either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed variance shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing;

(A) By certified mail to the applicant and  
(B) By publication in a newspaper of general circulation within the municipality and,  
(C) In its discretion, the City may provide notice by first-class mail to all owners of property contiguous to the property affected by the proposed variance. A property owner is considered immediately contiguous notwithstanding separation by public rights of way from the property for which the variance is requested. **(Ord. No. 9-11-06-3)**

**40-10-21      STANDARDS FOR VARIANCES.** The Zoning Board of Appeals shall not recommend any variance unless they find that the proposed variance is consistent with the general purposes of this Code, and that the strict application of the district requirements would result in great practical difficulties of hardship to the applicant. More specifically the Board shall not decide upon a variance unless they determine, based upon the evidence presented to them, that:

(A) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone; and  
(B) The plight of the owner is due to peculiar circumstances; and  
(C) The peculiar circumstances engendering the variance request are not applicable to other property within the district, and therefore, that a variance would be a more appropriate remedy than an amendment (rezoning); and  
(D) The variance, if granted, will not alter the essential character of the area where the premises in question are located, nor materially frustrate implementation of this municipality's comprehensive plan. **(65 ILCS 5/11-13-5)**

**40-10-22      DECISION BY BOARD OF APPEALS.** The Zoning Board shall be required to submit an advisory report on all applications within **thirty (30) days** after the final hearing thereon. A copy of the Zoning Board's report shall be transmitted to the applicant or appellant and to the Zoning Administrator. The Zoning Board shall specify the terms of relief recommended (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Zoning Board's reasons for recommending or denying any requested variance.

**40-10-23      ACTION BY CITY COUNCIL.** The City Council shall act on every proposed variance at their next regularly scheduled meeting following submission of the advisory report of the Board of Appeals. Without further public hearing, the City Council may approve or disapprove any proposed variance by simply majority vote of all the members then holding office. Such decision shall be binding upon the Zoning Administrator and observed by him. The Administrator shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Zoning Board.



## **DIVISION IV - SPECIAL USES**

**40-10-24      SPECIAL-USE PERMITS.** This Code divides the City into various districts, and permits in each district as a matter of right only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation and other factors. Such "special uses" require careful case-by-case review, and may be allowed only after review and approval by the Zoning Board of Appeals.

**40-10-25      APPLICATION.** Every applicant for a special-use permit shall submit to the Zoning Administrator in narrative and/or graphic form, the items of information enumerated below that are applicable to the particular project. The Administrator shall decide which items are applicable. The Administrator shall promptly transmit the completed application, together with any comments or recommendation he might have, to the Zoning Board of Appeals for further consideration. **(NOTE: Filing fee required in Section 40-9-14)**

### **ITEMS OF INFORMATION:**

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;
- (D) Location of the proposed use or structure, and its relationship to existing uses of structures on adjacent lots;
- (E) Area and dimensions of the site for the proposed structure or use;
- (F) Existing topography of the site and proposed finished grade;
- (G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) Height and setbacks of the proposed structure;
- (I) Number and size of the proposed dwelling units, if any;
- (J) Number and location of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing or proposed utilities, whether public or private; and/or
- (L) Any other pertinent information that the Administrator may require;
- (M) Location of any signs.

**40-10-26      PUBLIC HEARING, NOTICE.** The Zoning Board of Appeals shall hold a public hearing on every special-use permit application within **sixty (60) days** after the application is submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed special-use shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

- (A) By certified mail to the applicant; and,
- (B) By publication in a newspaper of general circulation within this municipality.
- (C) In its discretion, the City shall provide notice by first-class mail to all owners of property contiguous to the property affected by the proposed special-use request. **(65 ILCS 5/11-13-7) (Ord. No. 9-11-06-3)**

**40-10-27      ADVISORY REPORT, FACTORS CONSIDERED.** Within **thirty (30) days** after the public hearing, the Zoning Board of Appeals shall prepare an advisory report. In deciding the recommendation the Zoning Board of Appeals shall consider the following factors:

(A) Whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety, and welfare, and the physical environment;

(B) Whether the proposed special-use is consistent with this municipality's comprehensive plan, if any;

(C) The effect the proposed special-use would have on the value of neighboring property and on this municipality's overall tax base;

(D) The effect the proposed special-use would have on the public utilities and on the traffic circulation on nearby streets; and

(E) Whether there are any facilities near the proposed special-use (such as schools or hospitals) that require special protection.

**40-10-28      ACTION BY CITY COUNCIL.** The City Council shall act on every request for a special-use permit at their next regularly scheduled meeting following submission of the advisory report by the Zoning Board of Appeals. Without further public hearing, the City Council may approve or disapprove the special-use permit by an ordinance passed by simple majority vote of all members then holding office. In a separate statement accompanying any such ordinance, the City Council shall state their findings of fact, and indicate their reasons for a special-use permit. **(65 ILCS 5/11-13-1)**

**40-10-29      TEMPORARY USE PERMITS: PROCEDURE FOR.** As set forth at **Section 40-3-7**, requests for temporary use permits shall be treated in the same manner as requests for special use permits. The Zoning Board shall issue no temporary use permit for a period longer than **one (1) year** but may renew any such permit as they see fit.

## **DIVISION V - AMENDMENTS**

**40-10-30      AMENDMENTS.** The City Council may amend this Code in accordance with State law and the provisions of this Section. Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, special, prohibited) shall be deemed proposed amendments. Amendments may be proposed by the City Council, the Zoning Board, the Plan Commission, the Zoning Administrator or any party in interest. **(65 ILCS 5/11-13-14)**

**40-10-31      FILING.** Every proposal to amend this Code shall be filed with the Zoning Administrator on a prescribed form. Amendment proposals may also be filed with the **Soil and Water Conservation District** pursuant to State law. The Administrator shall promptly transmit the proposal, together with any comments or recommendations he might wish to make to the Board of Appeals for a public hearing. **(NOTE: Filing fee required.)**

**40-10-32      PUBLIC HEARING - NOTICE.** The Board of Appeals shall hold a public hearing on every amendment proposal within **sixty (60) days** after said proposal has been submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

(A) By certified mail to the applicant; and,

(B) By publication in a newspaper of general circulation within the municipality.

(C) In its discretion, the City shall provide notice by first-class mail to all owners of property contiguous to the property affected by the proposed amendment. **(65 ILCS 5/11-13-14) (Ord. No. 9-11-06-3)**

**40-10-33** **ADVISORY REPORT - FINDINGS OF FACT.** Within **thirty (30) days** after the public hearing, the Board of Appeals shall submit their advisory report to the City Council. The report shall state the recommendations of the Board of Appeals regarding adoption of the proposed amendment and their reasons therefor. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the Board of Appeals shall include in their advisory report findings of fact concerning each of the following matters:

- (A) Existing use and zoning of the property in question;
- (B) Existing uses and zoning of other lots in the vicinity of the property in question;
- (C) Suitability of the property in question for uses already permitted under existing regulations;
- (D) Suitability of the property in question for the proposed use;
- (E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since that property was initially zoned or last rezoned.

**40-10-34** **ACTION BY CITY COUNCIL.** The City Council shall act on every proposed amendment at their next regularly scheduled meeting following submission of the advisory report of the Zoning Board of Appeals. Without further public hearing, the City Council may approve or disapprove any proposed amendment or may refer it back to the Board of Appeals for further consideration by simple majority vote of all the members then holding office.

**40-10-35** **WHEN TWO-THIRDS MAJORITY VOTE IS REQUIRED.** The favorable vote of at least **two-thirds (2/3)** of the members of the City Council is required to pass an amendment to this Code in each of the following instances:

- (A) When passage would be contrary to the recommendation of the Board of Appeals.
- (B) When the amendment is opposed, in writing, by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across an alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered.

**40-10-36** **NOTICE TO APPLICANT OF WRITTEN PROTEST.** In cases of written opposition to an amendment of this Code as prescribed in **Section 40-10-35**, a copy of the written protest shall be served by the protester or protesters on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

**(65 ILCS 5/11-13-14)**