

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 Commissioner of Streets and Public Improvements, the Superintendent, and the employees. The City Engineer shall serve as ex-officio officer.

33-1-2 **COMMISSIONER OF STREETS.** The Commissioner of Streets and Public Improvements 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 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 Superintendent to immediately report such fact to the Mayor or Public Works 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. **(See 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. **(See 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. **(See 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. **(See 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.** No person shall erect or maintain any sign, sign post, pole, pillar, banner, or flag, or to post any handbill or mark, stencil, or paint any advertisement or sign upon any utility pole, tree, post, curb, sidewalk, or other structure on, across, or extending into any public street sidewalk, alley, parkway, public planting strip, or other municipal property, except:

(A) The United States flag when securely fastened and properly displayed according to law;

(B) Legal notice posted according to law;

(C) Street names, traffic signs, and other directional signs erected by public authority having jurisdiction;

(D) Church and civic organization directory and designation signs when specifically authorized by the City Council and placed at the direction of the Street Committee;

(E) Signs advertising the business of the proprietor carried on in the premises to which the sign is attached and which may extend over the sidewalk area at not less than **twelve (12) feet** above the level of the sidewalk and when securely fastened; or

(F) Temporary signs and banners for special occasions when specifically authorized by the City Council upon reasonable terms and conditions deemed necessary to protect the public interest.

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 or curb while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement or curb, that is not fully cured or bridged properly.

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 **fifty (50) 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. **(See Zoning Code)**

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 **eight (8) inches**.

33-2-20 **PLAYING IN STREETS.** No person shall play any game or amusement or allow their children to play any game or amusement in any public street in the City, except small children may be allowed to play upon sidewalks in residential areas.

33-2-21 **HOUSE NUMBERING.** All residents and owners of dwellings and/or buildings in the City are required to conspicuously display a numbered address on all living units and businesses in accordance with the regulations of the 9-1-1 Board so that public safety vehicles and postal authorities may readily identify the location. The numbers shall be at least **three (3) inches** in height.

33-2-22 **BURNING ON PUBLIC STREETS.** It shall be unlawful for any person, firm or corporation to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City except that it shall be lawful to burn leaves in ditches adjacent to public streets and alleys. Open burning of leaves shall be permitted in ditches adjacent to public streets and alleys and on private property when permitted by the Illinois Environmental Protection Agency. **(Ord. No. 1217; 10-24-88)**

33-2-23 **VACATING OF STREETS AND ALLEYS.** When streets or alleys are vacated by the City Council on petition of residents, a fee of **Three Hundred Dollars (\$300.00)** plus the cost of processing the petition, including publications, title searches to verify ownership or any other necessary charges, shall be required for such transaction. The fee shall be payable prior to vacating. **(Ord. No. 96-24; 08-12-96)**

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.

(See 65 ILCS 5/11-80-2)

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.

"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 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.

"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 Common Ground Alliance 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 Common Ground Alliance 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 Common Ground Alliance, 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 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 Board'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.

(See 65 ILCS 5/11-80-1 et seq.)

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 Commissioner and the City Council. No one shall build a sidewalk unless it consist 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 obtaining permission from the Street Commissioner to do so.

(C) **Street Commissioner.** All such structures or improvements made in the City shall be made under and through the cooperation and direction of the Commissioner of Streets and Public Improvements, duly authorized and empowered by the Mayor and Council thereof.

(D) **Request for New Sidewalks.** Any owner of property who desires new sidewalks constructed upon City property adjoining his premises, if funds are available and the Commissioner approves the request, the property owner shall pay **one-half (1/2)** of the cost of materials and it will be constructed by the City. The applicant shall file a written request with the City Clerk, giving the location of the property and the dimensions of the sidewalks requested. **(Ord. No. 1414; 12-11-95)**

(E) **Subdivisions.** This Section is not applicable to new subdivisions. **(See 65 ILCS 5/11-80-13)**

33-5-2 CURBS AND GUTTERS.

(A) **Request in Writing.** Any person owning property within the City who desires to have new curbs and gutters constructed, along with street adjoining his premises shall file a request with the City Clerk, giving the location of the property and the length of the curbs and gutters requested.

(B) **Cost to Owner.** If the funds are available and the City Council approves the request, the property owner shall pay **one-half (1/2)** of the cost of the construction, and thereafter, the curbs and gutters shall be maintained by the City. The cost of construction shall not include any engineering fees; these shall be paid by the City.

(C) **Approval by City Council.** The approval of the request for construction of curbs and gutters by the City Council shall be dependent upon the approval of funds, priority of projects and continuity of construction for the best benefit of the City as determined by the City Council.

(D) **Subdivisions.** This Section is not applicable to new subdivisions. **(See 65 ILCS 5/11-80-11)**

33-5-3 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 Street Commissioner 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 Street Commissioner 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.

(See 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 permission from the Street Commissioner.

33-6-3 **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 Commissioner. 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.

33-6-4 **COST OF INSTALLATION.** Any person installing or replacing a culvert shall, at his own expense, purchase the tile and the Street Department shall install the culvert.

(See 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 permission therefor from the Street Commissioner.

Requests for such permits shall be made to the Street Commissioner and shall be accompanied by the fee required.

Permission 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 Commissioner.

33-7-2 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.

33-7-3 SPECIFICATIONS. Driveways across sidewalks shall be constructed in compliance with the specifications required by the Street Commissioner.

33-7-4 REPAIR. It shall be the duty of the person maintaining the driveway to keep the same in good repair where it cross the sidewalk and free from obstruction and openings.

(See 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 except a Sunday, a National Holiday or State Holiday.

"BUSINESS HOURS" are the hours between **seven o'clock (7:00) A.M.** and **four o'clock (4:00) P.M.** on any business day.

"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.

33-8-2 **REMOVAL OF SNOW AND ICE FROM PUBLIC TRANSPORTATION SYSTEM.** Every person, partnership, corporation, joint-stock company, or syndicate operating a public transportation system within the City employing motor buses shall remove and clear away, or cause to be removed and cleared away, snow and ice from its passenger loading and unloading areas. Snow and ice shall be so removed from said loading and unloading areas within **twenty-four (24) hours** after cessation of any fall of snow, sleet or freezing rain, except in the event snow and ice on said loading and unloading zones have become so hard that it cannot be removed without likelihood of damage to said areas, the person or entity charged with its removal shall, within the time mentioned above, cause enough sand or other abrasive to be put on the loading and unloading areas to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, remove and clear away the passenger loading and unloading areas.

33-8-3 **DEPOSITING OF SNOW AND ICE RESTRICTED.** No person, partnership, corporation, joint-stock company, or syndicate 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 public roadways incident to the cleaning thereof or windrowed on curbs incident to the cleaning of sidewalks in business districts. **(See 65 ILCS 5/11-80-13)**

33-8-4 **MAYOR'S AUTHORITY.** The Mayor is hereby authorized on behalf of the City to cause sidewalks to be cleared upon the request of the person or entity charged with snow and ice removal, or upon failure to comply with this Article by any such person or entity charged with snow or ice removal. Any such person or entity whose sidewalk is cleared pursuant to this Section shall reimburse the City for the costs of such clearing. Failure to reimburse said City shall constitute a lien against the premises for said costs of removal pursuant to this Section.

33-8-5 **PARKING PROHIBITED ON EMERGENCY AND SECONDARY SNOW ROUTES.**

(A) The Mayor shall have the extraordinary power and authority, during a state of emergency to declare a snow emergency when and in the event he determines that the following standards exist:

- (1) Following snow, sleet, or freezing rain causing hazardous road conditions.
- (2) The necessity to use snow removal equipment to allow free flow of traffic.
- (3) An expected continuation of existing conditions.
- (4) If it is in the best interest of the public health, safety and welfare.

(B) A snow emergency declared by the Mayor shall be in effect until terminated by announcement of the Mayor. Advance notice shall be given prior to the time the snow emergency shall be in effect by means of public announcements over local news media.

(C) During a snow emergency, parking on any portion of such streets or roadways designated and permanently marked as emergency snow routes or secondary snow routes is prohibited after proper notice or obvious indications that clearing operations are in progress.

(D) Once in effect, a parking prohibition under this Article shall remain in effect until the snow emergency is terminated by announcement of the Mayor, except that any street or roadway which has become substantially clear of snow and ice from curb to curb for the length of the entire block shall be automatically excluded therefrom. Nothing in this Article shall be construed to permit parking at any time or place where it is otherwise prohibited by law. Streets designated as emergency snow routes and secondary snow routes shall have priority in that order for clearing operations.

(E) The Commissioner of Streets is hereby directed to post or cause to be posted signs as follows:

- (1) On each street designated as an emergency snow route, special signs will be posted at intervals not exceeding **one hundred seventy-five (175) feet** with the wording: **"Snow Route"**.
- (2) On each street designated as a secondary snow route, special signs will be posted at intervals not exceeding **one hundred seventy-five (175) feet** with the wording: **"Snow Route"**.

(F) In any prosecution with regard to a vehicle parked or left or in a condition in violation of any provisions of this Article, proof that the particular vehicle described in the complaint was parked or left in violation hereof, together with proof that the defendant named in the complaint was at the time the registered owner of such vehicle shall constitute prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this Article.

33-8-6 DESIGNATED EMERGENCY SNOW ROUTES. The streets listed below are hereby designated as "Emergency Snow Routes":

- Public Square
- West Main to DuQuoin
- North Main to Bailey Lane
- East Main to City Limits
- South Main to City Limits
- Bailey Lane to North McLeansboro
- North Maple to West Washington

33-8-7 SECONDARY SNOW ROUTES. The streets listed below are hereby designated as "Secondary Snow Routes":

- North McLeansboro - Rt. 14 to Rt. 34
- South McLeansboro - Rt. 34 to Wastena
- Joplin - North Main to North McLeansboro
- West Washington - North Main to North DuQuoin
- North DuQuoin - West Main to City Limits
- South DuQuoin - West Main to Smith Street

33-8-8 MAYOR'S AUTHORITY. In addition to the above provisions of this Article, the Mayor, in the event he determines that a snow emergency does exist, shall, if the public would best be served, restrict the flow of traffic upon the streets of the City, except for emergency vehicles performing emergency functions. In the event the Mayor shall declare a state of snow emergency, he shall immediately set forth his findings in writing and the statement of the facts substantiating his findings and file same with the Clerk of the City, as soon as is practical.

(Unless Otherwise Noted, this Article Ord. No. 1031; 10-22-79)

ARTICLE IX - MOVING BUILDINGS

33-9-1 **PERMIT REQUIRED.** It shall be unlawful for any person to move or cause to be moved, any building in, into, through, or from the City without first obtaining a permit therefor from the City Clerk. Such permit shall be known as a **"House Moving Permit"**.

33-9-2 **APPLICATION FOR PERMIT.** Any person desiring such a permit shall file with the City Clerk an application therefor in writing on a form to be furnished by the Zoning Administrator for that purpose. Such application shall specify the following:

- (A) The character and size of the building to be moved;
- (B) The reason for such moving;
- (C) The use, purpose and occupancy for which said building or structure is to be used;
- (D) The location from which and to which said building is to be moved;
- (E) A plot plan showing the proposed location of the building upon the property to which said building is to be moved, provided said location is in the City;
- (F) The streets on, over or through which it is desired to move said building;
- (G) Whether the building conforms to the Zoning Code or other applicable regulations in the location to which it is to be moved.

33-9-3 **INVESTIGATION.** Upon the filing of the application, the Zoning Administrator, or other authorized representative of the City, shall investigate the building.

33-9-4 **DENIAL OF PERMIT.** No person shall be issued to move any building or structure which, in the opinion of the Zoning Administrator:

- (A) Is so constructed or in such condition as to be dangerous;
- (B) Is infested with pests or unsanitary;
- (C) If it is a dwelling or habitation, is unfit for human habitation;
- (D) Is so dilapidated, defective, unsightly, or in such a condition of deterioration or disrepair that its relocation at the proposed site would cause appreciable harm to or be materially detrimental to the property or improvements in the district within a radius of **one thousand (1,000) feet** from the proposed site;
- (E) If the proposed use is prohibited by the Zoning laws of the City;
- (F) If the structure is of a type prohibited at the proposed location by any ordinance of the City; or
- (G) If the moving of the building or structure causes unreasonable damage to the trees, plants and/or shrubs on and along the public streets.

Provided, however, that if the condition of the building or structure, in the judgment of the Zoning Administrator, is of practicable and effective repair, permission may be issued upon the terms and conditions as set forth herein.

33-9-5 **TERMS AND CONDITIONS OF PERMISSION.** When a house moving permission is granted such terms and conditions as may be deemed reasonable and proper may be imposed, including, but not limited to the public streets or other public property in the City on, over, or through which the building or structure shall be moved, and the requirements of changes, alterations, additions or repairs to be made to or upon the building or structure, to the end that the relocation thereof will not be materially detrimental or injurious to public safety or to public welfare or to the property and improvements, or either, in the district to which it is to be moved. Such terms and conditions shall be written upon the permit or appended in writing thereto.

33-9-6 **ESTIMATE OF COST AND DEPOSIT.** The applicant shall also deposit with the City Clerk a cash deposit sufficient to cover the cost to the City as estimated by the Street Commissioner of trimming, moving, removing or replanting of trees or shrubs, and of moving, removing and displacing any pole or other structure, supporting any wires, cables or other equipment belonging to the City or the cutting, displacing or changing the location of any wire, cable or other equipment upon said poles or structures belonging to the City.

33-9-7 **LIABILITY INSURANCE.** Every person moving a building in the City shall file with the City Clerk a liability insurance policy issued by the solvent corporation holding a certificate of authority to do insurance business in the State, which policy shall conform in all respects to the requirements of this Section.

In lieu of filing the insurance policy herein referred to, a certificate of insurance issued by an insurance corporation may be filed. The certificate must show that a policy meeting the requirements of this Section has been issued, and shall set forth the expiration date of said policy.

The liability policy required under this Section shall insure the person moving a building against loss from the liability imposed by law for injury to, or death of any person, or damage to any property growing out of the moving of such building to the amount or limit of **Fifty Thousand Dollars (\$50,000.00)** exclusive of interest and costs, on account of injury to or death of any **one (1) person**, of **One Hundred Thousand Dollars (\$100,000.00)** exclusive of interest and costs, on account of moving any **one (1) building** resulting in injury to or death of more than **one (1) person**, and of **Twenty-Five Thousand Dollars (\$25,000.00)** for damage to property of others, resulting from moving any **one (1) building**.

33-9-8 **OWNER'S COMPLETION BOND.** Prior to the issuance of a permit to move a building, the owner or lessee of the property upon which the building is to be located shall file with the Zoning Administrator or other authorized representative of the City, a corporate surety bond, conditioned as follows:

That all of the work required to be done to complete the relocation, alteration and reconstruction of the building pursuant to the conditions of the permit shall be fully performed and completed within a reasonable time to be specified in the permit by the Zoning Administrator, or other authorized representative of the City. Such bond shall be in principal amount equal to the estimated cost of the work proposed to be done, plus **ten percent (10%)** thereof, and shall name the City as obligee, and shall be in a form approved by the City Attorney.

In lieu of furnishing such a corporate surety bond, the owner or lessee may post a cash deposit in the amount of said bond.

An extension of time for the completion may be granted in writing by the Zoning Administrator or other authorized representative of the City when, in his discretion, circumstances shall so justify, but no such extension shall release any surety or other security.

33-9-9 **CLEARANCE OF SITE AND SAFETY MEASURES REQUIRED.** Prior to the issuance of a permit to move a building, the owner or lessee of the property from which the building is to be moved shall file with the City Clerk a bond or other form of security in favor of the City, conditioned as follows:

(A) Before any work is started on a building or structure, the permittee or his authorized agent shall notify the appropriate utilities in order that all gas, water and oil pipelines that are to be disconnected from the building may be securely capped and sealed.

(B) Immediately, after the moving of any building or structure, the permittee or his authorized agent shall securely barricade all basement excavations and other holes or openings.

(C) Within **ten (10) days** after the moving of any building or structure, the permittee or his authorized agent shall complete the following work:

- (1) Securely close and seal any sanitary piping located on the property.
- (2) Fill with dirt or sand any septic tanks or cesspools located on the property.
- (3) Fill any openings, excavations or basements remaining on the land with dirt or sand to street level or the natural level of adjoining property, unless otherwise directed by the Zoning Administrator.
- (4) Remove any buried underground tanks formerly used for storage of flammable liquids.
- (5) Removal all refuse, debris and waste materials from the property.

The bond required by this Section shall be an amount equal to the cost of the work proposed to be done, as estimated by the Zoning Administrator.

The bond may be in the form of a corporate surety bond, cash deposit, savings and loan certificate, or an instrument of credit.

An extension of time for completion of the work required by this Section may be granted by the Zoning Administrator when, in his discretion, circumstances justify such an extension; but no such extension shall release any bond or other security furnished pursuant to this Section.

33-9-10 **INSPECTION FEE AND PERMIT FEE.** An inspection fee in the sum of **Fifteen Dollars (\$15.00)** shall be paid to the City Clerk upon filing of each application for a house moving permit.

A permit fee in the sum of **Ten Dollars (\$10.00)** shall be paid to the City Clerk upon the issuance of each house moving permit.

33-9-11 **ISSUANCE OF PERMIT.** The Street Superintendent shall approve the issuance of a house moving permit when all the necessary requirements and conditions of this Article have been complied with. It shall then be the duty of the City Clerk to issue the permit.

33-9-12 **SUSPENSION OR REVOCATION OF PERMIT.** The Street Superintendent, at any time, and for sufficient cause, may revoke or suspend any permit granted under this Article.

33-9-13 **CONTROL AND SUPERVISION.** Every building which is moved on, over, or through any public street, way or park in the City shall be under the control of the Street Superintendent and every such building shall be moved in a careful manner and the work shall be prosecuted with diligence and to the satisfaction and approval of the Street Superintendent. This Section in no way relieves the person having charge of the moving of any building of his obligation to furnish proper supervision.

33-9-14 **NOTICE REQUIRED.** Notice must be given to both the Street Department and the Police Department of the City by the person or his representative to whom the permit is issued not less than **forty-eight (48) hours** nor more than **seventy-two (72) hours** before the actual work of moving a building or structure is to commence.

33-9-15 **DEFAULT IN PERFORMANCE OF CONDITIONS.** Whenever a default has occurred in the performance of any term or condition of any permit, written notice thereof shall be given to the permittee by the Street Superintendent; said notice to state the work to be done, the estimated cost thereof, and the period of time deemed to be reasonably necessary to complete such work. After receipt of such notice, the permittee must, within the time therein specified, either cause the work to be done, or pay over to the City Clerk the estimated cost of doing the work, as set forth in the notice, plus

ten percent (10%) of said estimated cost. Upon receipt of notice from the City Clerk that the permittee has deposited such money, the Street Superintendent shall cause the required work to be performed and completed.

If the permittee defaults, the City shall have the option in lieu of completing the work required to demolish the building or structure and to clear, clean and restore the site or sites.

33-9-16 APPROVAL OF ROUTE. The streets over which any building or structure is to be moved must be recommended by the Street Commissioner and the Chief of Police to the City Council for approval.

33-9-17 OBSTRUCTING STREETS. No person owning or having charge of the moving of any building into, on, over, through, or from any public streets, ways or parks in the City shall permit said building to remain in any one location on any such street, way or park for a period longer than **twenty-four (24) hours**, except by written permission obtained from the Chief of Police, or to obstruct traffic on any railroad.

33-9-18 LIGHTS AND BARRICADES. The person having charge of the moving of any structure shall maintain proper lights and barricades whenever such structure is on any public street, way or park during the hours of darkness.

33-9-19 WIRES AND STRUCTURAL SUPPORTS. In the event that the moving of any building for which a permit shall have been granted hereunder makes it necessary to move, remove or displace any pole or other structure supporting the wires, cables or other equipment of any public utility or of the City, or to cut, displace or change the location of any wire, cable or other equipment upon said pole or structure, the person to whom such permit has been granted, or his authorized representative, shall obtain permission in writing from the owner or owners of such pole, structure or wires, cables or other equipment thereon, and shall notify such owner or owners at least **seventy-two (72) hours** prior to the time that the moving of such building will necessitate the removal of such obstructions.

The person to whom the permit is granted shall not, at the expiration of said time of notice or at any time, cut, move or in any way disturb such public utility or City property; and such work shall be done only by the authorized workmen of the utility or the City, whichever is the owner.

The person to whom the permit is granted shall pay to the public utility, or to the City, as the case may be, any and all costs or expense for the removal, rearrangement or replacement of any pole or structural support of wires, cables or equipment thereon or of any damage to such property.

33-9-20 TREES, PLANTS AND SHRUBS. In the event that the moving of any building for which a permit shall have been granted hereunder makes it necessary to trim, move, remove or replant any tree, plant or shrub belonging to or under the control of the City, the person to whom such permit has been granted or his authorized representative shall notify the Street Commissioner at least **seventy-two (72) hours** prior to the time that the moving of such building will necessitate the removal of such obstructions.

The person to whom the permit is granted shall not, at the expiration of the time of notice, or at any time, trim, move, remove, replant, or otherwise disturb such trees, plants or shrubs; and such work shall be done only by the authorized workmen of the City unless otherwise approved and so ordered by the Street Commissioner.

The person to whom the permit is granted shall pay to the City, any and all costs or expenses for the trimming, moving, removing or replanting of any trees, plants or shrubs or of any damage thereto.

33-9-21 REPAIRS TO PUBLIC PROPERTY. In the event that the moving of any building for which permission shall have been granted hereunder causes damage to the public streets or other public property, in addition to any other remedies the City may have, the Street Commissioner may cause such damage to be repaired and the cost thereof shall be deducted from the deposit required herein, or he may require the person to whom such a permit has been granted, or his authorized representative, upon written notification from the Street Commissioner to make all necessary repairs to such streets or property; provided, however, that should the person to whom the permit has been granted and to whom the notice has been given, or his authorized representative, fails to make the necessary repairs within the period of time designated in the written notice, the Street Superintendent may cause such necessary repairs to be made and the cost thereof deducted from the deposit required herein.

33-9-22 REFUNDING OF DEPOSITS. When the moving of any building for which permission has been granted is completed, and all damage to public streets or other public property has been repaired to the satisfaction of the Street Commissioner, and all costs of repairing damages or performing other work as provided herein have been paid and the deposit as required by **Section 33-9-6**, or such portion thereof then remaining unused under the provisions of this Article, shall be refunded upon surrender of the deposit receipt representing the money so deposited. However, should the cost of repairing damages and/or performing other work, as in this Article provided, exceed the total amount of money deposited, the person to whom the permit was granted shall be held liable for the amount of damage and/or other costs which are in excess of the amount deposited. It shall be the duty of the City Clerk, upon receipt of the request from the Street Superintendent, to collect such part of the claim which is in excess of the deposit from the person to whom the permit was granted.