

**Revised Code**  
**-of-**  
**Ordinances**  
**of**  
***Benton,***  
***Illinois***  
  
**2019**

**PREPARED BY:**  
**Illinois Codification Services**

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# **CITY OF BENTON**

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**ORDINANCE NO. \_\_\_\_\_**

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

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

**THIS 23<sup>RD</sup> DAY OF MAY, 2016**

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**Published in pamphlet form by authority of the City Commissioners of  
the City of Benton, Franklin County, Illinois this 23<sup>rd</sup> day of May, 2016.**

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ADOPTING A REVISED CODE OF ORDINANCES FOR THE CITY OF BENTON, FRANKLIN COUNTY, ILLINOIS.**

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

**SECTION 1: Adoption.** There is hereby adopted a "**Revised Code of Ordinances**" for the City of Benton, Franklin County, Illinois shall be as follows:

**[SEE EXHIBIT "A" FOLLOWING]**

**SECTION 2: Severability of Provisions.** Each section, paragraph, sentence, clause and provision of this Ordinance is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance, nor any part thereof, other than that part affected by such decision.

**SECTION 3: Conflicting Ordinances.** Any conflicting ordinances, code provisions or pertinent portions thereof in effect at the time this ordinance takes effect are hereby repealed.

**SECTION 4: Effective.** This Ordinance shall be in full force and effect ten (10) days from and after its passage, approval, and publication in pamphlet form as provided by law.

**SECTION 5:** Passed this 23<sup>rd</sup> day of May, 2016 by the Mayor and City Council of the City of Benton, Franklin County, Illinois, and deposited and filed in the office of the City Clerk in said City on that date.

\_\_\_\_\_  
BROOK CRAIG, CITY CLERK  
BENTON, ILLINOIS

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT
Ron Baumgarte					
Dennis Miller					
David Moore					
Don Wyant					
Fred Kondritz					

Signed by the Mayor of the City of Benton, Franklin County, Illinois, this 23<sup>rd</sup> day of May, 2016.

\_\_\_\_\_  
FRED KONDRITZ, MAYOR  
BENTON, ILLINOIS

ATTEST:

\_\_\_\_\_  
BROOK CRAIG, CITY CLERK  
BENTON, ILLINOIS

**(SEAL)**

## **CITY CLERK'S CERTIFICATE**

**STATE OF ILLINOIS  
COUNTY OF FRANKLIN  
CITY OF BENTON**

)  
) **ss. CITY CLERK'S OFFICE**  
)

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

In witness whereof, I have set my hand and affixed the Corporate Seal of the City of Benton, Illinois, this 23<sup>rd</sup> day of May, 2016.

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BROOK CRAIG, CITY CLERK  
BENTON, ILLINOIS

**(SEAL)**

## **CHAPTER TITLES**

<b>1.</b>	<b>Administration</b>	<b>1-1</b>
<b>2.</b>	<b>Airport Board</b>	<b>2-1</b>
<b>3.</b>	<b>Animals</b>	<b>3-1</b>
<b>4.</b>	<b>Boards and Commissions</b>	<b>4-1</b>
<b>6.</b>	<b>Building Regulations</b>	<b>6-1</b>
<b>7.</b>	<b>Business Code</b>	<b>7-1</b>
<b>8.</b>	<b>Cable Television</b>	<b>8-1</b>
<b>10.</b>	<b>Communications Regulations</b>	<b>10-1</b>
<b>12.</b>	<b>Employee Personnel Code</b>	<b>12-1</b>
<b>13.</b>	<b>Enterprise Zone</b>	<b>13-1</b>
<b>14.</b>	<b>Flood Plain Code</b>	<b>14-1</b>
<b>15.</b>	<b>Franchises</b>	<b>15-1</b>
<b>17.</b>	<b>Historic Preservation Code</b>	<b>17-1</b>
<b>21.</b>	<b>Liquor</b>	<b>21-1</b>
<b>22.</b>	<b>Mandated Policies</b>	<b>22-1</b>
<b>23.</b>	<b>Manufactured Housing Code</b>	<b>23-1</b>
<b>24.</b>	<b>Motor Vehicle Code</b>	<b>24-1</b>
<b>25.</b>	<b>Nuisances</b>	<b>25-1</b>
<b>27.</b>	<b>Offenses</b>	<b>27-1</b>
<b>28.</b>	<b>Oil and Gas Wells</b>	<b>28-1</b>
<b>29.</b>	<b>Property Maintenance Code</b>	<b>29-1</b>
<b>30.</b>	<b>Public Safety</b>	<b>30-1</b>
<b>33.</b>	<b>Street Regulations</b>	<b>33-1</b>
<b>34.</b>	<b>Subdivision Code</b>	<b>34-1</b>
<b>36.</b>	<b>Taxation</b>	<b>36-1</b>
<b>37.</b>	<b>Trash Franchise</b>	<b>37-1</b>
<b>38.</b>	<b>Utilities</b>	<b>38-1</b>
<b>40.</b>	<b>Zoning Code</b>	<b>40-1</b>

**CITY OF BENTON**

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
1157	Zoning	06/20/86	Chapter 40
1194	Zoning: Rezoning	11/09/87	Special Legislation
1235	Zoning: Rezoning	05/01/89	Special Legislation
1243	Zoning: Content	10/09/89	Chapter 40
1291	Zoning: Rezoning	08/26/91	Special Legislation
1328	Zoning: Rezoning	03/08/92	Special Legislation
1330	Zoning: Rezoning	04/07/93	Special Legislation
1332	Zoning: Rezoning	04/12/93	Special Legislation
1388	Zoning: Rezoning	02/22/95	Special Legislation
1398	Zoning: Rezoning	06/26/95	Special Legislation
1407	Zoning: Content	09/11/95	Chapter 40
96-05	Zoning: Rezoning	02/96	Special Legislation
96-18	Annexation	07/15/96	Special Legislation
96-19	Zoning: Rezoning	07/15/96	Special Legislation
96-31	Zoning: Rezoning	11/25/96	Special Legislation
97-04	Zoning: Content	02/24/97	Chapter 40
97-19	Zoning: Rezoning	05/27/97	Special Legislation
97-21	Zoning: Rezoning	06/09/97	Special Legislation
97-32	Zoning: Rezoning	08/25/97	Special Legislation
97-34	Zoning: Rezoning	09/22/97	Special Legislation
98-02	Motor Vehicles: No Parking	01/12/98	Section 24-5-5
98-06	Motor Vehicles: Stop Signs	02/23/98	Ch. 24; Schd. "A"
98-07	Motor Vehicles: Restricted Parking	02/23/98	Ch. 24; Schd. "G"
98-15	Naming of Street	05/11/98	Special Legislation
98-16	Motor Vehicles: Stop Signs	05/11/98	Ch. 24; Schd. "A"
98-22	Liquor: Hours	09/14/98	Section 21-3-1
98-29	Annexation	10/12/98	Special Legislation
98-31	Liquor: Licenses	12/18/98	Section 21-2-6
99-05	Zoning: Rezoning	04/23/99	Special Legislation
99-11	Employees: Residency	06/28/99	Section 12-1-4(A)(1)
99-12	Motor Vehicles: Parking	06/28/99	Ch. 24; Schd. "F"
99-16	Motor Vehicles: Parking	07/26/99	Ch. 24; Schd. "E"
99-17	Utilities: Deposits	07/26/99	Section 38-2-7
99-19	Utilities: Rates	07/26/99	Section 38-4-29
99-20	Utilities: Multi-Unit Buildings	07/26/99	Section 38-4-30
99-22	Employees: Regulations	09/13/99	Section 12-1-8(K)
99-23	Motor Vehicles: Stop Signs	09/13/99	Ch. 24; Schd. "A"
99-24	Motor Vehicles: Stop Signs	09/13/99	Ch. 24; Schd. "A"
99-25	Business: Transient Vendors, etc.	09/27/99	Ch. 7; Art. II
99-26	Motor Vehicles: Stop Signs	09/27/99	Ch. 24; Schd. "A"
99-29	Motor Vehicles: No Parking	11/08/99	Section 24-6-4(E)
99-30	Motor Vehicles: No Parking	11/11/99	Ch. 24; Schd. "M"
99-31	Employees: Regulations	11/08/99	Section 12-1-8(K)
99-34	Utilities: Insufficient Funds	11/08/99	Section 38-2-1(L)
99-35	Nuisances: Notice	11/08/99	Chapter 25
99-36	Motor Vehicles: Abandonment	11/08/99	Section 24-7-2

99-37

Housing: Yards

11/08/99

Section 18-3-12

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
99-38	Nuisances: Weeds	11/08/99	Section 25-2-2
99-39	Business: Garage & Yard Sales	11/22/99	Chapter 7
99-41	Offenses: Burning Materials	11/22/99	Section 27-2-31
99-42	Public Safety: Fire Department	11/22/99	Section 30-3-9
99-43	Offenses: Disturbing Police/Fire	11/22/99	Section 27-2-1
99-44	Nuisances: Violations	11/22/99	Secs. 25-2-1 – 25-2-3
99-45	Nuisances: Notices	11/22/99	Chapter 25
99-46	Offenses: Wild Game Sanctuary	11/22/99	Section 27-2-32
99-47	Streets: Campground Stay Limit	12/27/99	Section 33-2-20
00-01	Public Safety: Fire Dept. Treasurer	01/10/00	Ch. 30; Art. III
00-02	Administration: Director of Public Works	02/28/00	Chapter 1
00-03	Offenses: Litter	02/28/00	Ch. 27; Art. V
00-09	Motor Vehicles: Limited Parking	04/24/00	Ch. 24; Schd. "F"
00-10	Zoning: Content	05/09/00	Chapter 40
00-13	Nuisances: Weeds	2000	Section 25-2-8
00-14	Motor Vehicles: Limited Parking	07/17/00	Ch. 24; Schd. "F"
00-15	Vacation of Alley	07/17/00	Special Legislation
00-17	Zoning	07/24/00	Chapter 40
00-18	Zoning: Content	07/24/00	Chapter 40
00-20	Fair Housing Code	08/03/00	Chapter 22
00-21	Administration: Departments	08/28/00	Secs. 1-2-10; 1-2-11; 1-2-13; 1-2-47; 1-2-69; 1-2-81; 1-3-2(A)
00-22	Motor Vehicles: Stop Signs	2000	Ch. 24; Schd. "A"
00-23	Motor Vehicles: Parking	08/28/00	Ch. 24; Schd. "F"
00-24	Employees	09/11/00	Chapter 12
00-25	Oil Wells	09/11/00	Section 28-1-11
00-27	Motor Vehicles: Speed Limits	10/10/00	Ch. 24; Schd. "D"
00-29	Zoning: Rezoning	10/09/00	Special Legislation
00-32	Motor Vehicles: Stop Signs	12/11/00	Ch. 24; Schd. "A"
01-06	Wireless Communications Facilities	04/23/01	
01-08	Zoning: Classifications	04/23/01	Chapter 40
01-10	Motor Vehicles: Abandonment	05/14/01	Section 24-7-2
01-11	Buildings: Inspections	05/14/01	Chapter 6
01-14	Nuisances: Weeds	06/11/01	Chapter 25
01-15	Motor Vehicles: Handicapped Parking	06/11/01	Ch. 24; Schd. "H"
01-17	Vacation of Alley	06/25/01	Special Legislation
01-18	Zoning: Rezoning	06/25/01	Special Legislation
01-19	Motor Vehicles: Stop Signs	07/16/01	Ch. 24; Schd. "A"
01-20	Motor Vehicles: Speed Limits	07/16/01	Ch. 24; Schd. "D"
01-22	Motor Vehicles: Stop Signs	09/17/01	Ch. 24; Schd. "A"
01-24	Motor Vehicles: Stop Signs	10/08/01	Ch. 24; Schd. "A"
01-25	Motor Vehicles: Stop Signs	10/08/01	Ch. 24; Schd. "A"
01-26	Zoning: Rezoning: 1304 E Anna	10/22/01	Special Legislation
01-27	Business: Soliciting	11/13/01	Chapter 7
01-30	Motor Vehicles: Restricted Parking	12/10/01	Ch. 24; Schd. "G"
02-01	Motor Vehicles: Stop Signs	01/28/02	Ch. 24; Schd. "A"
02-02	Utilities: Deposits	02/11/02	Section 38-2-7
02-03	Motor Vehicles: Parking	03/25/02	Chapter 24
02-06	Administration: Violations	04/08/02	Chapter 1



02-08

Zoning: Rezoning: 10353 N Main

04/22/02

Special Legislation

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
02-10	Motor Vehicles: Stop Signs	07/22/02	Ch. 24; Schd. "A"
02-11	Zoning: Variance: 306 Charles St	08/26/02	Special Legislation
02-16	Motor Vehicles: Speed Limits	12/23/02	Ch. 24; Schd. "D"
03-05	Motor Vehicles: Speed Limits	05/27/03	Ch. 24; Schd. "D"
03-07	Liquor: Special Use	06/23/03	Section 21-3-1(F)
03-08	Nuisances: Weeds	06/09/03	Ch. 25; Art. II
03-09	Streets: Breaking Pavement	06/23/03	Section 33-4-18
03-10	Motor Vehicles: No Parking	06/23/03	Ch. 24; Schd. "E"
03-14A		07/14/03	
03-14B		07/14/03	
03-16	Utilities	08/15/03	Section 38-2-1
03-17	Motor Vehicles: Parking	09/08/03	Ch. 24; Schd. "E" & "F"
03-18	Motor Vehicles: Parking	09/22/03	Ch. 24; Schd. "E"
03-19	Motor Vehicles: Stop Signs	10/13/03	Ch. 24; Schd. "A"
03-20	Motor Vehicles: No Parking	10/13/03	Ch. 24; Schd. "E"
03-21	Zoning: Rezoning	10/27/03	Special Legislation
03-23	Liquor: Licenses	10/27/03	Section 21-3-1
03-25	Motor Vehicles: Parking	12/08/03	Ch. 24; Schd. "F"
03-26	Garbage and Trash	12/08/03	Chapter 16
04-01	Motor Vehicles: Parking	01/26/04	Ch. 24; Schd. "F"
04-02	Utilities: Use of Groundwater	01/26/04	Chapter 38
04-04	Motor Vehicles: Stop Signs	03/22/04	Ch. 24; Schd. "A"
04-05	Motor Vehicles: Stop Signs	03/22/04	Ch. 24; Schd. "A"
04-06	Motor Vehicles: Stop Signs	03/22/04	Ch. 24; Schd. "A"
04-07	Garbage and Trash	03/22/04	Chapter 16
04-09	Utilities: Deposits	04/12/04	Section 38-2-7
04-10	Utilities: Excessive Use of Water	04/12/04	Section 38-2-4
04-11	Mandated Policies: Ethics	05/10/04	Chapter 22
04-11A	Business: Raffles	05/10/04	Section 7-7-9
04-12	Business: Taxicabs	05/10/04	Section 7-6-19
04-13	Business: Junk Dealers	05/10/04	Section 7-5-7
04-14	Business: Coin-Operated Vendors	05/10/04	Section 7-4-5
04-15	Business: Peddlers	05/10/04	Section 7-3-12
04-16	Liquor: Delinquent Payment	05/10/04	Section 21-2-5
04-17	Business: Delinquent Payment	05/10/04	Section 7-1-5
04-19	Motor Vehicles: Stop Signs	06/14/04	Ch. 24; Schd. "A"
04-20	Utilities	07/12/04	Chapter 38
04-20A	Motor Vehicles: Parking	07/26/04	Ch. 24; Schd. "E"
04-21	Liquor: Outside Cafes	07/26/04	Chapter 21
04-24	Motor Vehicles: One-Way Streets	09/13/04	Ch. 24; Schd. "B"
04-25	Motor Vehicles: Stop Signs	10/11/04	Ch. 24; Schd. "A"
04-26	Motor Vehicles: Stop Signs	11/22/04	Ch. 24; Schd. "A"
04-27		11/22/04	
04-33	Motor Vehicles: Stop Signs	12/27/04	Ch. 24; Schd. "A"
04-34	Offenses: Grass Mowing	12/27/04	Chapter 27
05-02	Buildings: Hazardous	02/14/05	Chapter 6
05-04	Taxation: Retailer's Occupation Tax	02/28/05	Ch. 36; Art. VII
05-05	Utilities	03/14/05	Chapter 38
05-06	Motor Vehicles: Speed Limit	03/28/05	Ch. 24; Schd. "D"
05-08	Motor Vehicles: Speed Limit	04/11/05	Ch. 24; Schd. "D"
05-11	Mandated Policies: Ethics Advisor	05/09/05	Chapter 22

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
05-14	Taxation: Retailer's Occupation Tax	05/23/05	Ch. 36; Art. VII
05-15	Offenses: Receptacles	06/13/05	Section 27-5-4
05-16	Utilities: Use of Groundwater	06/27/05	Chapter 38
05-18	Nuisances	07/11/05	Chapter 25
05-19	Buildings	09/25/05	Chapter 6
05-20	Liquor	2005	Section 21-2-11
05-21	Motor Vehicles: Vehicles in Criminal Offenses	07/25/05	Chapter 24
05-23	Motor Vehicles: Stop Signs	10/05	Ch. 24; Schd. "A"
05-24	Motor Vehicles: Jake Braking	10/24/05	Section 24-4-10
05-25	Motor Vehicles: No Parking	10/24/05	Ch. 24; Schd. "E"
05-26	Motor Vehicles: Jake Braking	11/25/05	Section 24-4-10
05-27	Streets: Burying Cable	11/28/05	Section 33-4-29
06-03	Utilities: Multi-Unit Buildings	01/23/06	Section 38-4-30
06-04	Utilities: Rates	01/23/06	Section 38-4-29
06-05	Utilities: Water Rates	01/23/06	Section 38-4-13
06-11	Motor Vehicles: No Parking	02/27/06	Ch. 24; Schd. "E"
06-18	Zoning: Rezoning	03/27/06	Special Legislation
06-23	Utilities: Water Tap-In Fees	04/24/06	Section 38-4-10
06-27	Motor Vehicles: Stop Signs	05/08/06	Ch. 24; Schd. "A"
06-36	Motor Vehicles: Stop Signs	07/24/06	Ch. 24; Schd. "A"
06-37	Motor Vehicles: Stop Signs	07/24/06	Ch. 24; Schd. "A"
06-38	Employees: Sick Leave	07/24/06	Chapter 12
06-58	Motor Vehicles: Stop Signs	09/25/06	Ch. 24; Schd. "A"
06-65	Public Safety: Fire Department Fees	09/25/06	Chapter 30
06-69	Administration: Salaries	10/23/06	Section 1-3-1
06-77	Liquor: Hours	12/11/06	Section 21-3-1
07-02	Public Safety: Auxiliary Police	02/26/07	Section 30-2-23
07-04	Zoning: Rezoning	03/12/07	Special Legislation
07-05	Zoning: Rezoning	03/26/07	Special Legislation
07-06	Zoning: Rezoning	03/26/07	Special Legislation
07-07	Zoning: Rezoning	03/26/07	Special Legislation
07-09	Motor Vehicles: One-Way Streets	03/26/07	Ch. 24; Schd. "B"
07-11	Liquor: Underaged	04/23/07	Section 21-3-21
07-12	Motor Vehicles: One-Way Streets	04/23/07	Ch. 24; Schd. "B"
07-14	Motor Vehicles	05/29/07	Chapter 24
07-24	Administration: Salaries	06/11/07	Section 1-3-2(A)
07-25	Motor Vehicles: No Parking	06/11/07	Ch. 24; Schd. "E"
07-26	Public Safety: Auxiliary Police	06/11/07	Section 30-2-23
07-42	Liquor: Persons Selling Liquor	08/13/07	Section 21-3-20
07-61	Utilities: Excessive Use of Water	10/08/07	Chapter 38
07-62	Offenses: Burning Materials	10/22/07	Section 27-2-31
07-64	Motor Vehicles: Stop Signs	11/26/07	Ch. 24; Schd. "A"
07-65	Mandated Policies: Smoke Free Air Code	12/10/07	Chapter 22
08-03	Motor Vehicles: Limited Parking	04/28/08	Ch. 24; Schd. "F"
08-06	Utilities: Tap-On Fee	05/14/08	Chapter 38
08-09	Nuisances: Lien	07/28/08	Section 25-2-6
08-30	Employees: FMLA	08/25/08	Section 12-1-6(F)
08-31	Motor Vehicles: Stop Signs	09/08/08	Ch. 24; Schd. "A"
08-32	Motor Vehicles: Limited Parking	09/22/08	Ch. 24; Schd. "F"

09-05

Motor Vehicles: Speed Limit

04/13/09

Ch. 24; Schd. "D"

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
09-07	Boards: Youth Center Board	04/27/09	Secs. 4-5-1; 4-5-2
09-08	Airport Board	04/27/09	Section 2-1-1
09-09	Liquor: Licenses	04/27/09	Section 21-2-6(G)
09-11	Zoning: Rezoning	04/27/09	Special Legislation
09-22	Public Safety: Fire Department	05/11/09	Chapter 30
09-37	Flood Plain Code	11/09/09	Chapter 15
09-38	Boards: Firefighter's Pension Fund	11/23/09	Section 4-4-2
09-40	Business: Taxicabs	12/14/09	Ch. 7; Art. VI
09-41	Liquor: Licenses	12/28/09	Section 21-2-6(B)
10-14	Liquor: Licenses	04/12/10	Section 21-2-6
10-17	Motor Vehicles: No Parking	06/28/10	Ch. 24; Schd. "E"
10-22	Liquor: Special Use Permit	07/26/10	Section 21-3-1(F)
10-23	Motor Vehicles: Speed Limits	08/23/10	Ch. 24; Schd. "D"
10-26	Zoning: Rezoning	10/11/10	Special Legislation
10-27	Motor Vehicles: Stop Signs	10/25/10	Ch. 24; Schd. "A"
10-29	Administration: Contracts	11/08/10	Section 1-2-34(B)
10-30	Vacation of Alley	12/13/10	Special Legislation
11-13	Offenses: Synthetic Cocaine	03/28/11	Chapter 27
11-20	Public Safety: Part-Time Officers	06/13/11	Section 30-2-8
11-22	Business: Adult Entertainment	07/25/11	Ch. 7; Art. VIII
11-23	Motor Vehicles: Stop Signs	09/26/11	Ch. 24; Schd. "A"
11-24	Motor Vehicles: One-Way Streets	10/10/11	Ch. 24; Schd. "B"
11-26	Vacation of Alley	11/14/11	Special Legislation
11-29	Motor Vehicles: Stop Signs	11/28/11	Ch. 24; Schd. "A"
12-01	Employees: Rights of Employer	01/23/12	Section 12-1-10(G)
12-02	Employees: Regulations	02/27/12	Section 12-1-8(H)
12-06	Motor Vehicles: No Parking	03/26/12	Ch. 24; Schd. "E"
12-07	Vacating Alley: Hayes Addition	03/26/12	Special Legislation
12-08	Motor Vehicles: No Parking	03/26/12	Ch. 24; Schd. "E"
12-10	Administration: Qualifications	04/09/12	Section 1-2-28(B)(1)
12-11	Employees: Residency	04/09/12	Section 12-1-4(A)(1)
12-13	Public Safety: Part-Time Officers	05/14/12	Section 30-2-8
12-15	Business: Coin-Operated Machines	07/09/12	Ch. 7; Art. IV
12-16	Motor Vehicles: Stop Signs	08/13/12	Ch. 24; Schd. "A"
12-39	Motor Vehicles: Stop Signs	11/13/12	Ch. 24; Schd. "A"
13-13	Motor Vehicles: Stop Signs	02/11/13	Ch. 24; Schd. "A"
13-14	Liquor: Hours	02/11/13	Section 21-3-1
13-16	Motor Vehicles: Stop Signs	04/22/13	Ch. 24; Schd. "A"
13-17	Motor Vehicles: Stop Signs	05/13/13	Ch. 24; Schd. "A"
13-18	Motor Vehicles: Stop Signs	05/13/13	Ch. 24; Schd. "A"
13-19	Motor Vehicles: Stop Signs	05/28/13	Ch. 24; Schd. "A"
13-20	Motor Vehicles: Speed Limits	05/28/13	Ch. 24; Schd. "D"
13-21	Administration: Depositories	06/10/13	Section 1-2-78
13-22	Employees: Regulations	06/10/13	Section 12-1-8
13-24	Utilities: Water Rates	06/24/13	Section 38-4-13
13-25	Utilities: Sewer Rates	06/24/13	Section 38-4-29
13-26	Utilities: Multi-Unit Buildings	06/24/13	Section 38-4-30
13-27	Motor Vehicles: Stop Signs	06/24/13	Ch. 24; Schd. "A"
13-29	Motor Vehicles: Speed Limits	07/22/13	Ch. 24; Schd. "D"
13-30	Motor Vehicles: Stop Signs	07/22/13	Ch. 24; Schd. "A"

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
13-31	Administration: Depositories	07/22/13	Section 1-2-78
13-34	Motor Vehicles: No Parking	09/09/13	Ch. 24; Schd. "E"
13-36	Motor Vehicles: No Parking	09/23/13	Ch. 24; Schd. "E"
13-56	Motor Vehicles: Stop Signs	12/23/13	Ch. 24; Schd. "A"
13-57	Motor Vehicles: Stop Signs	12/23/13	Ch. 24; Schd. "A"
13-58	Motor Vehicles: Restricted Parking	12/23/13	Ch. 24; Schd. "G"
14-03	Vacation of Alley	07/14/14	Special Legislation
14-04	Motor Vehicles: Stop Signs	08/11/14	Ch. 24; Schd. "A"
14-05	Motor Vehicles: Speed Limits	08/11/14	Ch. 24; Schd. "D"
14-06	Motor Vehicles: Speed Limits	08/11/14	Ch. 24; Schd. "D"
14-07	Utilities: Sewer Rates	09/08/14	Section 38-4-29
14-09	Administration: Salaries	10/13/14	Section 1-3-1
14-10	Motor Vehicles: Stop Signs	10/27/14	Ch. 24; Schd. "A"
14-11	Motor Vehicles: Speed Limits	10/27/14	Ch. 24; Schd. "D"
14-14	Motor Vehicles: Stop Signs	12/22/14	Ch. 24; Schd. "A"
15-01	Sale of Property	01/26/15	Special Legislation
15-02	Motor Vehicles: No Passing Zone	01/26/15	Ch. 24; Schd. "K"
15-03	Motor Vehicles: No Parking	01/26/15	Ch. 24; Schd. "G"
15-04	Motor Vehicles: No Passing – Kenneth St.	01/26/15	Ch. 24; Schd. "K"
15-05	Liquor: Classes	02/23/15	Section 21-2-6
15-06	Motor Vehicles: No Passing – E. Forest	03/09/15	Ch. 24; Schd. "K"
15-07	Liquor: Classes	03/09/15	Section 21-2-6
15-08	Zoning: Map; B-6 – B-2	2015	Special Legislation
15-09	Motor Vehicles: Stop Sign	05/11/15	Ch. 24; Schd. "A"
15-10	Annual Budget	2015	Special Legislation
15-11	Vacating Orchard View Alley	2015	Special Legislation
15-12	Motor Vehicles: Stop Sign	06/22/15	Ch. 24; Schd. "A"
15-13	Motor Vehicles: Speed Limit - Huddelston	07/13/15	Ch. 24; Schd. "D"
15-14	Prevailing Wage	07/13/15	Special Legislation
15-15	Motor Vehicles: Speed Limit – Petroff	08/10/15	Ch. 24; Schd. "D"
15-16	Motor Vehicles: Speed Limit – Sugar Creek	08/10/15	Ch. 24; Schd. "D"
15-17	Motor Vehicles: Speed Limit – Skylane	08/10/15	Ch. 24; Schd. "D"
15-18	Vacating Alley	2015	Special Legislation
15-19	Motor Vehicles: Golf Carts, Etc.	08/27/15	Ch. 24; Art. XI
15-20	Utilities: Sewer Rate	09/14/15	Section 38-4-29
15-21	Motor Vehicles: Speed Limit – Webster	09/14/15	Ch. 24; Schd. "D"
15-22	Administration: Meetings	09/28/15	Section 1-2-3
15-23	Motor Vehicles: Limited Parking – Public Square	09/28/15	Ch. 24; Schd. "F"
15-24	Motor Vehicles: Loading Zones	09/28/15	Ch. 24; Schd. "G"
15-25	Motor Vehicles: No Parking Zone	09/28/15	Ch. 24; Schd. "E"
15-26	Motor Vehicles: Limited Parking	09/28/15	Ch. 24; Schd. "F"
15-27	Nazerene Church Alley Closed	2015	Special Legislation
15-28	Motor Vehicles: Stop Sign – 3-way	10/26/15	Ch. 24; Schd. "A"
15-29	Tax Levy	10/26/16	Special Legislation
15-30	Motor Vehicles: Golf Carts	11/12/15	Chapter 24
15-31	Motor Vehicles: Parking	11/23/15	Ch. 24; Schd. "M"
15-32	Public Safety: MABAS	12/14/15	Chapter 30
15-33	Purchase of City Hall	12/14/15	Special Legislation
16-01	Motor Vehicles: Loading Zone	02/08/16	Ch. 24; Schd. "J"
16-02	Motor Vehicles: Parking Ticket Penalty	02/08/16	Chapter 24

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
16-03	Building Codes	02/08/16	Chapter 5
16-04	Mandated Policies: Ethics		Chapter 22
16-05	Boards: Plan & Zoning Commission	02/22/16	Chapter 40
16-06	Zoning: Content	02/22/16	Chapter 40
16-07	Boards and Commissions: Tourism Board	02/22/16	Chapter 4
16-08	Appropriation	04/25/16	Special Legislation
16-09	Motor Vehicles: Stops	05/09/16	Ch. 24; Schd. "A"
16-10	Motor Vehicles: Stops	05/09/16	Ch. 24; Schd. "A"
16-11	Motor Vehicles: Speed Limit	05/09/16	Ch. 24; Schd. "D"
16-12	Motor Vehicles: Speed Limit	05/09/16	Ch. 24; Schd. "D"
16-13	Taxation: Simplified Telecommunications	05/23/16	Chapter 36
16-14	Taxation: Gas Tax	05/23/16	Ch. 36; Art. IV
16-15	Taxation: Electric Tax	05/23/16	Ch. 36; Art. V
16-16	Cable TV: Service Provider Fee	05/23/16	Chapter 8
16-17	Cable TV: Protection Law	05/23/16	Chapter 8
16-17	Mandated Policies: Sexual Harassment	11/12/17	Chapter 22
16-18	Revised Code Adopted	05/28/16	New Code
16-19	Prevailing Wage	06/27/16	Special Legislation
16-20	Loan Agreement	07/11/16	Special Legislation
16-21	Motor Vehicles: No Parking/Tow Away	07/25/16	Ch. 24; Schd. "E"
16-22	Taxation: Electric	09/26/16	Section 36-3-4
16-23	Vacation of Alley	10/24/16	Special Legislation
16-24	Motor Vehicles: Stops	11/28/16	Ch. 24; Schd. "A"
16-25	RL Hays Addition Alley Closure	11/28/16	Special Legislation
16-26	Tedrow Johnson Alley Closure	11/28/16	Special Legislation
16-27	Business: Video Poker	11/28/16	Section 7-4-5
16-28	Liquor: License Fees	11/28/16	Section 21-2-6
16-29	Liquor: Hours	11/28/16	Section 21-3-1
16-30	Nuisances: Buildings	11/28/16	Section 25-5-2
16-31	Motor Vehicles: Golf Cart Stickers	12/27/16	Section 24-11-4(A)
16-32	Tax Levy	12/27/16	Special Legislation
17-01	Motor Vehicles: Two-Way Stop	02/27/17	Ch. 24; Schd. "A"
17-02	Motor Vehicles: Three-Way Stop	02/27/17	Ch. 24; Schd. "A"
17-03	Motor Vehicles: Four-Way Stop	02/27/17	Ch. 24; Schd. "A"
17-04	Utilities: Water Rates	03/13/17	Section 38-4-13
17-05	Budget	04/10/17	Special Legislation
17-06	Motor Vehicles: No Parking	05/08/17	Ch. 24; Schd. "E"
17-07	Motor Vehicles: No Parking	05/08/17	Ch. 24; Schd. "E"
17-08	Motor Vehicles: No Parking	06/26/17	Ch. 24; Schd. "A"
17-09	Prevailing Wage	06/26/17	Special Legislation
17-10	Vacation of Alley/Street	07/10/17	Special Legislation
17-11	Public Safety: Ambulance Fees	07/24/17	Ch. 30; Art. III; Div. V
17-12	Boards: Youth Board	07/24/17	Ch. 4; Art. IV
17-13	Mutual Aid	08/14/17	Special Legislation
17-14	Prevailing Wage	08/14/17	Special Legislation
17-15	Motor Vehicles: No Parking	10/23/17	Ch. 24; Schd. "E"
17-16	Liquor: Class "A" Licenses	10/23/17	Section 21-2-6
17-17	Boards: Airport Advisory Board	11/13/17	Ch. 4; Art. VIII
17-18	Liquor: Serving Hours	11/13/17	Section 21-3-1
17-19	Motor Vehicles: Four-Way Stop	11/27/17	Ch. 24; Schd. "A"
17-20	Tax Levy	11/27/17	Special Legislation
17-21	Mandated Policies: Sexual Harassment	12/27/17	Chapters 22 & 11
17-22	Street Closure	12/11/17	Special Legislation

<b><u>ORD. #</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>	<b><u>LOCATION IN CODE</u></b>
17-23	Alley Closure	12/11/17	Special Legislation
18-01	Motor Vehicles: Three-Way Stop	01/08/18	Ch. 24; Schd. "A"
18-02	Budget	04/12/18	Special Legislation
18-03	Recreation: Lake Hamilton Covenants	05/14/18	Special Legislation
18-04	Utilities: Sewer Surcharge	06/25/18	Secs. 38-4-13; 38-4-29; 38-4-30
18-05	Prevailing Wage	06/25/18	Special Legislation
18-06	Cable TV: Franchise	06/25/18	Ch. 8; Art. III
18-07	Cable TV: Small Wireless Facilities	06/25/18	Ch. 10; Art. III
18-08	Utilities: Water Rates	07/23/18	Section 38-4-13
18-09	Alley Closure	05/29/18	Special Legislation
18-10	Motor Vehicles: No Parking	08/27/18	Ch. 24; Schd. "E"
18-11	Motor Vehicles: Four-Way Stop	08/27/18	Ch. 24; Schd. "A"
18-12	Liquor: Civic Center Sunday Permits	08/27/18	Section 21-3-1
18-13	Motor Vehicles: Speed Limit	09/10/18	Ch. 24; Schd. "D"
18-14	Motor Vehicles: No Parking	09/10/18	Ch. 24; Schd. "E"
18-15	Motor Vehicles: No Parking	09/24/18	Ch. 24; Schd. "E"
18-16	Motor Vehicles: Stop Signs	09/24/18	Ch. 24; Schd. "A"
18-17	Mandated Policies: Sexual Harassment	11/12/18	Ch. 22; Art. VIII
18-18	Enterprise Zone	11/12/18	Special Legislation



## **CHAPTER 1 - ADMINISTRATION**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERAL CODE PROVISIONS</i></b>	
	<i>Division I - Title</i>	
	<i>Section 1-1-1 - Title</i>	<i>1-1</i>
	<i>Section 1-1-2 - Acceptance</i>	<i>1-1</i>
	<i>Section 1-1-3 - Amendments</i>	<i>1-1</i>
	<i>Section 1-1-4 - Code Alteration</i>	<i>1-1</i>
	<i>Section 1-1-5 - Jurisdiction</i>	<i>1-1</i>
	<i>Section 1-1-6 - 1-1-7 Reserved</i>	
	<i>Division II - Saving Clause</i>	
	<i>Section 1-1-8 - Repeal of General Ordinances</i>	<i>1-2</i>
	<i>Section 1-1-9 - Public Utility Ordinances</i>	<i>1-2</i>
	<i>Section 1-1-10 - Court Proceedings</i>	<i>1-2</i>
	<i>Section 1-1-11 - Severability of Provisions</i>	<i>1-2</i>
	<i>Section 1-1-12 - City Clerk's Certificate</i>	<i>1-2</i>
	<i>Section 1-1-13 - 1-1-14 Reserved</i>	
	<i>Division III - Definitions</i>	
	<i>Section 1-1-15 - Construction of Words</i>	<i>1-3</i>
	<i>Section 1-1-16 - Definitions</i>	<i>1-3</i>
	<i>Section 1-1-17 - Catchlines</i>	<i>1-5</i>
	<i>Section 1-1-18 - 1-1-19 Reserved</i>	
	<i>Division IV - General Penalty</i>	
	<i>Section 1-1-20 - Penalty</i>	<i>1-6</i>
	<i>Section 1-1-21 - Appeals</i>	<i>1-6</i>
	<i>Section 1-1-22 - Service by Certified Mail</i>	<i>1-6</i>
	<i>Section 1-1-23 - Application</i>	<i>1-7</i>
	<i>Section 1-1-24 - Liability of Officers</i>	<i>1-7</i>
	<i>Section 1-1-25 - License</i>	<i>1-7</i>
<b><i>II</i></b>	<b><i>COMMISSIONERS</i></b>	
	<i>Division I - Generally</i>	
	<i>Section 1-2-1 - Composition and General Powers</i>	<i>1-8</i>
	<i>Section 1-2-2 - Vacancies - Appointment</i>	<i>1-8</i>
	<i>Section 1-2-3 - Meetings</i>	<i>1-8</i>
	<i>Section 1-2-4 - Special Meetings</i>	<i>1-8</i>
	<i>Section 1-2-5 - Quorum</i>	<i>1-8</i>
	<i>Section 1-2-6 - Special Committees</i>	<i>1-9</i>
	<i>Section 1-2-7 - 1-2-9 Reserved</i>	
	<i>Division II – City Administration and Officials</i>	
	<i>Section 1-2-10 - City Departments</i>	<i>1-9</i>
	<i>Section 1-2-11 - Commissioners are Superintendents of Departments</i>	<i>1-9</i>
	<i>Section 1-2-12 - Department Regulations</i>	<i>1-9</i>
	<i>Section 1-2-13 - Department of Public Affairs</i>	<i>1-10</i>
	<i>Section 1-2-14 - Department of Accounts and Finances</i>	<i>1-10</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>II</b>	<b>COMMISSIONERS (CONTINUED)</b>	
	<i>Division II – City Administration and Officials (Continued)</i>	
	Section 1-2-15 - Department of Public Health and Safety	1-11
	Section 1-2-16 - Department of Streets and Public Improvements	1-11
	Section 1-2-17 - Department of Public Property	1-11
	Section 1-2-18 - 1-2-19 Reserved	
	<i>Division III – Rules of the City Council</i>	
	Section 1-2-20 - Rules of the Council	1-13
	Section 1-2-21 - Address by Non-Members	1-15
	Section 1-2-22 - Reserved	
	<i>Division IV – Ordinances</i>	
	Section 1-2-23 - Ordinances	1-16
	Section 1-2-24 - 1-2-25 Reserved	
	<i>Division V - General Corporate Provisions</i>	
	Section 1-2-26 - Corporate Seal	1-17
	Section 1-2-27 - Elections	1-17
	Section 1-2-28 - Municipal Officers - Regulations	1-17
	Section 1-2-29 - Resignation of Appointed Officials	1-18
	Section 1-2-30 - Qualifications; Elective Office	1-18
	Section 1-2-31 - Bonds of City Officers	1-19
	Section 1-2-32 - City Offices Consolidated	1-19
	Section 1-2-33 - Liability Insurance	1-19
	Section 1-2-34 - Bidding and Contract Procedures	1-20
	Section 1-2-35 - Salaries Regulation	1-21
	Section 1-2-36 - Claims	1-22
	Section 1-2-37 - Municipal Year	1-22
	Section 1-2-38 - Expenses - Reimbursement	1-22
	Section 1-2-39 - Official Records	1-22
	Section 1-2-40 - Federal Old Age and Survivor's Insurance System	1-22
	Section 1-2-41 - Illinois Municipal Retirement Fund	1-22
	Section 1-2-42 - Smoking Prohibited	1-22
	Section 1-2-43 - 1-2-46 Reserved	
	<i>Division VI – City Clerk</i>	
	Section 1-2-47 - Appointment of Clerk	1-23
	Section 1-2-48 - Council Minutes – Records	1-23
	Section 1-2-49 - Delivery of Papers to Officers	1-23
	Section 1-2-50 - Preparation of Documents, Commissions; Licenses	1-23
	Section 1-2-51 - License Plates	1-23
	Section 1-2-52 - Administration of Oaths	1-23
	Section 1-2-53 - Reports	1-23
	Section 1-2-54 - Successor	1-23
	Section 1-2-55 - Deputy Clerk	1-24
	Section 1-2-56 - Payments	1-24
	Section 1-2-57 - Warrant Register	1-24
	Section 1-2-58 - Finances	1-24
	Section 1-2-59 - Annual Budget	1-24
	Section 1-2-60 - Notification to Persons Appointed	1-24

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>II</b>	<b>COMMISSIONERS (CONTINUED)</b>	
	<i>Division VI – City Clerk (Continued)</i>	
	Section 1-2-61 - Other Duties	1-24
	Section 1-2-62 - Delinquent Special Assessments	1-24
	Section 1-2-63 - Unclaimed Rebate Fund	1-25
	Section 1-2-64 - 1-2-67 Reserved	
	<i>Division VII – City Treasurer</i>	
	Section 1-2-68 - Finance Department	1-26
	Section 1-2-69 - Appointment of Treasurer	1-26
	Section 1-2-70 - Money; Warrants; Accounts	1-26
	Section 1-2-71 - Warrant Register	1-26
	Section 1-2-72 - Separation of Funds	1-26
	Section 1-2-73 - Bond	1-26
	Section 1-2-74 - Special Assessments	1-26
	Section 1-2-75 - Bookkeeping; Payroll	1-27
	Section 1-2-76 - Statements	1-27
	Section 1-2-77 - Annual Accounts; Preparation and Filing; Contents; Publication	1-27
	Section 1-2-78 - Deposit of Funds	1-27
	Section 1-2-79 - Outstanding Bonds	1-28
	Section 1-2-80 - Reserved	
	<i>Division VIII – City Attorney</i>	
	Section 1-2-81 - Services of Attorney	1-28
	Section 1-2-82 - Prosecute for City	1-29
	Section 1-2-83 - Preparation of Ordinances	1-29
	Section 1-2-84 - Judgments	1-29
	Section 1-2-85 - Department Advisor	1-29
	Section 1-2-86 - Violations of Ordinances	1-29
	Section 1-2-87 - Prosecution of Suits	1-29
	Section 1-2-88 - 1-2-89 Reserved	
	<i>Division IX – City Engineer</i>	
	Section 1-2-90 - Office Created	1-29
	Section 1-2-91 - Oath	1-29
	Section 1-2-92 - Maps, Plats and Records	1-29
	Section 1-2-93 - Duties	1-30
	Section 1-2-94 - 1-2-95 Reserved	
	<i>Division X – Director of Public Works</i>	
	Section 1-2-96 - Position Created	1-30
	Section 1-2-97 - Duties	1-30
	Section 1-2-98 - Accountable to Commissioners	1-30
	Section 1-2-99 - Approval of Salary	1-30
	Section 1-2-100 - Reserved	
	<i>Division XI – Zoning and Code Enforcement Officer/Economic Development Administrator</i>	
	Section 1-2-101 - Office Established and Appointment	1-31
	Section 1-2-102 - Duties	1-31

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>II</b>	<b>COMMISSIONERS (CONTINUED)</b>	
	<i>Division XI – Zoning and Code Enforcement Officer/Economic Development Administrator (Continued)</i>	
	<i>Section 1-2-103 - Stop Order</i>	<i>1-31</i>
	<i>Section 1-2-104 - Entry Powers</i>	<i>1-31</i>
	<i>Section 1-2-105 - Scope</i>	<i>1-31</i>
	<i>Section 1-2-106 - 1-2-107 Reserved</i>	
	<i>Division XII – Billing Clerk</i>	
	<i>Section 1-2-108 - Office Established</i>	<i>1-31</i>
	<i>Section 1-2-109 - Duties</i>	<i>1-32</i>
	<i>Section 1-2-110 - Reports</i>	<i>1-32</i>
	<i>Section 1-2-111 - Clerk-Secretary</i>	<i>1-32</i>
<b>III</b>	<b>SALARIES</b>	
	<i>Section 1-3-1 - Established</i>	<i>1-33</i>
	<i>Section 1-3-2 - Salaries – Other Officers</i>	<i>1-33</i>
<b>IV</b>	<b>ADMINISTRATIVE SICK LEAVE</b>	
	<i>Section 1-4-1 - Policy Established</i>	<i>1-34</i>
	<i>Section 1-4-2 - Purpose</i>	<i>1-34</i>
	<i>Section 1-4-3 - Employee Qualification</i>	<i>1-34</i>
	<i>Section 1-4-4 - Advance Approval</i>	<i>1-34</i>
	<i>Section 1-4-5 - Medical Documentation</i>	<i>1-34</i>
	<i>Section 1-4-6 - Half Time Approval</i>	<i>1-34</i>
	<i>Section 1-4-7 - Increment Limitations</i>	<i>1-34</i>
	<i>Section 1-4-8 - Return to Work</i>	<i>1-34</i>
	<i>Section 1-4-9 - Medication</i>	<i>1-35</i>
	<i>Section 1-4-10 - Accrual</i>	<i>1-35</i>
	<i>Section 1-4-11 - Termination</i>	<i>1-35</i>
<b>V</b>	<b>MEETING PROCEDURES</b>	
	<i>Division I - Recording Closed Meetings</i>	
	<i>Section 1-5-1 - Recording Closed Sessions</i>	<i>1-36</i>
	<i>Section 1-5-2 - Responsibility for Recording Closed Sessions and Maintaining Recordings</i>	<i>1-36</i>
	<i>Section 1-5-3 - Closed Session Minutes</i>	<i>1-36</i>
	<i>Section 1-5-4 - Procedure for Recording</i>	<i>1-36</i>
	<i>Section 1-5-5 - Back-Up Equipment/Procedure for Equipment Malfunction</i>	<i>1-36</i>
	<i>Section 1-5-6 - Procedure for Review of Closed Session Minutes and Recordings</i>	<i>1-36</i>
	<i>Section 1-5-7 - Maintenance and Public Release of Recordings and Access to Tapes</i>	<i>1-37</i>
	<i>Section 1-5-8 - Procedure for Destruction of Recordings</i>	<i>1-37</i>
	<i>Section 1-5-9 - 1-5-10 Reserved</i>	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b>MEETING PROCEDURES (CONTINUED)</b>	
	<i>Division II - Remote Meeting Participation</i>	
	<i>Section 1-5-11 - Statutory Authority for Participation</i>	<i>1-37</i>
	<i>Section 1-5-12 - Definition of Meeting</i>	<i>1-37</i>
	<i>Section 1-5-13 - Amendment of Previous Terms</i>	<i>1-37</i>
	<i>Section 1-5-14 - Remote Participation Policy</i>	<i>1-37</i>
	<i>Addendum "A" - Government Unit Remote Attendance Policy</i>	<i>1-38</i>
	<i>Addendum "B" - Request for Auxiliary Aid(s) and/or Service(s)</i>	<i>1-39</i>

## **EXHIBIT 'A'**

### **CHAPTER 1**

#### **ADMINISTRATION**

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

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

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

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

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

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

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

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

**1-1-6 - 1-1-7 RESERVED.**

## **DIVISION II - SAVING CLAUSE**

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

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

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

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

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

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

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

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





## CITY CLERK'S CERTIFICATE

STATE OF ILLINOIS  
COUNTY OF FRANKLIN  
CITY OF BENTON

)  
) ss.  
)

CITY CLERK'S OFFICE

I, Brook Craig, City Clerk of the **City of Benton, Illinois**, do hereby certify that the following **Revised Code of Ordinances of the City of Benton, Illinois of 2015**, published by authority of the City Council were duly passed by the City Council of the **City of Benton, Illinois**, approved by the Mayor and published in book form according to law on this date, and that these ordinances are true and perfect copies of the ordinances, as passed, approved and now of record and on file in my office, as provided by law.

In witness whereof, I have set my hand and affixed the corporate seal of the **City of Benton, Illinois**, this 23<sup>rd</sup> day of May, 2016.

---

**BROOK CRAIG**  
**CITY CLERK**  
**CITY OF BENTON**

(SEAL)

**1-1-13 - 1-1-14      RESERVED.**

## DIVISION III - DEFINITIONS

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

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

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

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

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

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



**"COUNCIL"** unless otherwise indicated shall mean the Mayor and Commissioners of this City. (See 65 ILCS 5/4-3-3)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**"WHOLESALE" AND "WHOLESALE DEALER"** as used in this Code unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles, or things in quantity to persons who purchase for the purpose of resale.

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

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

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

**1-1-18 - 1-1-19      RESERVED.**

## **DIVISION IV - GENERAL PENALTY**

### **1-1-20      PENALTY.**

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

(B) Any minor or person designated a juvenile by this State convicted of a violation of any section of this Code shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **One Thousand Dollars (\$1,000.00)** for any **one (1) offense**, but may not be confined except by provisions of the **Juvenile Court Act of the State of Illinois**.

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

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

(E) All municipal ordinance offenses may be satisfied without a court appearance by written plea of guilty and payment of the minimum fine, plus court costs, unless a court appearance is required by the ordinance violated.

(F) A penalty imposed for violation of an ordinance may include, or consist of, a requirement that the defendant perform some reasonable public service work such as but not limited to the picking up of litter in parks or along public highways or the maintenance of public facilities. **(See 65 ILCS 5/1-2-1 and 5/1-2-7)**

**1-1-21      APPEALS.** Any person aggrieved by any order issued under the Benton Revised Code of Ordinances in any matter related to the interpretation or enforcement of any provision of this Code except rulings made by the Planning Commission, may appeal as follows:

(A) **Filing; Record Transmittal.** Every appeal shall be made within **five (5) business days** of the issuance of the order complained of by filing in writing with the Municipal Clerk a written notice specifying the grounds for appeal.

(B) **Transmittal to Department.** The Municipal Clerk shall, as soon as practicable, transmit the written appeal to the Commissioner from whose Department the order was issued, who shall decide the merit of the appeal or determine that further information is needed, and shall communicate his/her decision in writing to the appellant.

(C) **Stay of Further Proceedings.** An appeal stays further action on the matter being appealed unless the Commissioner determines that for matters of public safety a delay is not appropriate. In which case, the Commissioner shall give written notice to the appellant that the appeal will not involve a stay of further proceedings.

(D) **Hearing.** When the matters appealed from involve the Planning Commission or when the Commissioner of the Department shall otherwise determine it is appropriate, the Planning Commission and/or the Commissioner, as applicable, shall hear the appeal as soon as practicable. Any interested party may appear at such a hearing and testify, either in person or by duly authorized attorney. Any decision shall be rendered within a reasonable time after the hearing, if one occurs pursuant to this paragraph.

**(Ord. No. 02-06; 04-08-02)**

**1-1-22      SERVICE BY CERTIFIED MAIL.** In all actions for violation of any municipal ordinance where the fine would not be in excess of **Five Hundred Dollars (\$500.00)** and no jail term could be imposed, service of summons may be made by the municipal clerk or Code Official by certified mail, return receipt requested, whether service is to be within or without the State. **(See 65 ILCS 5/1-2-9.1)**

**1-1-23            APPLICATION.**

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

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

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

**1-1-24            LIABILITY OF OFFICERS.** The failure of any officer or employee to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code, unless a penalty is specifically provided for.

**1-1-25            LICENSE.** When a person is convicted of a violation of any Section of this Code, any license previously issued to him by the City may be revoked by the court or by the City Council.



## **ARTICLE II - COMMISSIONERS**

### **DIVISION I - GENERALLY**

**1-2-1 COMPOSITION AND GENERAL POWERS.** The City Council shall consist of the Mayor and **four (4) Commissioners**, elected at large, in conformity with this Code and State Law governing elections in cities and shall have such powers as are granted by the **Illinois Compiled Statutes**. The term of office shall be for **four (4) years** or until their successors are elected and have qualified. **(See 65 ILCS 5/4-3-4)**

(A) **Reports.** Every Commissioner, officer, assistant and employee shall, from time to time, as required by law or ordinance or when requested by the Council or whenever he shall deem necessary for the good of the public service, report to the Council in writing respecting the business or work of his department, subordinate department, bureau or office, or matters connected therewith.

(B) **Department Heads Agents of Council.** All Commissioners or superintendents of departments and officers are the agents of the Council only, and all their acts shall be subject to review and to approval or revocation by the Council. **(See 65 ILCS 5/4-3-1 et seq.)**

**1-2-2 VACANCIES – APPOINTMENT.** A vacancy occurs in the office of City Commissioner by reason of resignation, failure to elect or qualify, death, permanent physical or mental disability, conviction of a disqualifying crime, abandonment of office or removal from office, or removal of residence from the City.

If a vacancy occurs in any of these offices, the remaining members of the Council, within **thirty (30) days** thereafter, shall appoint a person to fill the vacancy for the balance of the unexpired term or until the vacancy is filled by interim election pursuant to **Section 5/3.1-10-50** of the **Illinois Compiled Statutes**, and until the successor is elected and has qualified. **(See 65 ILCS 5/4-3-4)**

**1-2-3 MEETINGS.** The regular stated meetings of the City Council shall be held in the City Hall Building on the **second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Mondays** in each month at **6:00 P.M.** When said meeting date falls upon a legal holiday, the meeting shall be held on the next secular day at the same hour. Adjourned meetings may be held at such times as may be determined by the Council. Public notice of regular meetings and rescheduled meetings shall be given in accordance with the **Open Meetings Act**. **(See 5 ILCS 120-1 et seq.) (Ord. No. 15-22; 09-28-15)**

**1-2-4 SPECIAL MEETINGS.** Special meetings of the City Council may be called by the Mayor or any **two (2) Commissioners** by giving **at least forty-eight (48) hours notice** thereof, by delivering to them personally, written or printed notices of the time of such meeting at the residences of the Commissioners; such notices shall be served by mail, by the Chief of Police or his designated representative. Said notices shall specify the purpose of said special meeting and the business to be taken up at that time and place. Such notice shall be posted at the City Hall and shall be provided to any local newspaper of general circulation or any local radio or television station that has filed an annual request for such notice. The notice shall be provided to such news media in the same manner as said notice is given to the Mayor and members of the City Council, provided such news media has given the City an address within the City at which such notice may be given. **(See 65 ILCS 5/4-5-12 and 5 ILCS 120/2.02 and 120/2.03)**

**1-2-5 QUORUM.** At all meetings of the City Council, **three (3) members** of the City Council shall constitute a quorum to do business, but a smaller number may adjourn from time to time and compel absentees to attend any regular or special meeting by a written citation to be signed by the

Mayor and **two (2) Commissioners** issuing the same, and may be served by any official authorized to serve process within the City by reading the same to such absentees. **(See 65 ILCS 5/4-5-12)**

**1-2-6**            **SPECIAL COMMITTEES.** Special Committees may be appointed by the Mayor, subject to the advice and consent of the City Council, as may be needed from time to time.

**1-2-7 - 1-2-9**            **RESERVED.**

## **DIVISION II – CITY ADMINISTRATION AND OFFICIALS**

**1-2-10**            **CITY DEPARTMENTS.** The executive and administrative powers, authority and duties in the City are distributed into and among the following departments, and the powers and duties to be performed are determined and assigned to the appropriate departments and officer(s), as hereinafter set forth:

- (A)            Department of Public Affairs.
- (B)            Department of Accounts and Finances.
- (C)            Department of Public Health and Safety.
- (D)            Department of Streets and Public Improvements.
- (E)            Department of Public Property.

The City Council shall enter upon its official duties on the **first (1<sup>st</sup>) Monday in May** after each regular election. The Council shall immediately hold an organizational meeting at which time the Mayor, with the advice and consent of the City Council, shall appoint a member of the City Council to each of the departments listed hereinabove, provided however, that the Mayor shall be the Commissioner of Public Affairs.

The City Council, by ordinance, shall (1) determine the powers of and duties to be performed by each department and shall assign them to the appropriate departments; (2) shall prescribe the powers and duties of officers and employees and may assign officers and employees to one or more of the departments; (3) may require an officer or employee to perform duties in two or more departments; and (4) may make such rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the Municipality.

The City Council has the right and power to appoint and discharge the heads of all principal departments subordinate to the departments set forth hereinabove, and shall appoint the City Clerk, City Attorney, Treasurer, Zoning Administrator, Police Chief and Fire Chief by majority vote, upon receiving a recommendation from the Commissioner who supervises the officer to be appointed.

Except as otherwise provided in this Code, any officer or employee who has been appointed by the Council may only be removed by a majority vote of the City Council.

**(Ord. No. 00-21; 08-28-00) (See 65 ILCS 5/4-5-2)**

**1-2-11**            **COMMISSIONERS ARE SUPERINTENDENTS OF DEPARTMENTS.** The Commissioner of each department shall be the superintendent of that department and is vested with the right and power to appoint and discharge the heads of the department, except as provided hereinabove in **Section 1-2-10**, as well as the employees thereof subordinate to the department of which he is the Commissioner; provided however, that the action of appointment and discharge shall be subject to the approval by a majority vote of the City Council. **(Ord. No. 00-21; 08-28-00) (See 65 ILCS 5/4-5-3)**

**1-2-12**            **DEPARTMENT REGULATIONS.** The Commissioner of each department shall make and enforce such rules and regulations not inconsistent with the law or the ordinance, or rules and

regulations adopted by the Council, as may be necessary to secure efficient conduct of the service of his department or the business in charge thereof.

**1-2-13                    DEPARTMENT OF PUBLIC AFFAIRS.**

(A)                    **Mayor's Powers.** The Mayor shall have and exercise all the powers and perform all the duties provided or prescribed by the ordinances of the City not in conflict with the provisions of this Code, and shall have and exercise all the powers and perform all the duties provided or prescribed by law.

(B)                    **Mayor as Superintendent.** The Mayor shall be Commissioner of Public Affairs and shall be Superintendent of the Department of Public Affairs and as such, shall have general supervision and shall oversee all departments and officers of the City.

(C)                    **Chief Executive Officer.** The Mayor shall be chief executive officer and representative of the City. He shall sign all contracts on behalf of the City and shall require and cause to be prepared and published all statements and reports required by law or ordinance or resolution of the Council.

(D)                    **Liquor Commissioner.** The Mayor is hereby designated as Liquor Commissioner. **(See Chapter 21 of this Code.)**

(E)                    **Additional Duties.** The Mayor shall perform such other and further duties pertaining to his office as are or may be required of him by the laws of the State of Illinois or this Code.  
**(Ord. No. 00-21; 08-28-00)**

**1-2-14                    DEPARTMENT OF ACCOUNTS AND FINANCES.**

(A)                    **Commissioner's Duties.** The Commissioner of Accounts and Finances shall be Superintendent of the Department of Accounts and Finances, and shall have charge of and supervision over all accounts and records of the City and in all matters relating to the accounts and finances of the City, in addition to the accounts and records of the City Clerk, City Treasurer, Water Revenue Collector, Sewer Revenue Collector and Billing Clerk, their offices or departments, plus all officers, boards or departments required to keep or make accounts, records, and reports.

(B)                    **Inspections and Reports.** The Commissioner shall inspect or cause to be inspected, all records or accounts required to be kept in any of the offices or departments of the City and shall, at least once each month, report the result of each inspection to the Council with such recommendations as he shall see fit to make.

(C)                    **Annual Audit.** He shall supervise all officers and employees of the City with respect to the proper accounting of funds; the supervising and preparation of the annual audit and its publication as required by law; make certain that all officers and employees are under bond at all times as required by this Code; and that the City has adequate insurance coverage through the proper acquisition of insurance.

(D)                    **Claims.** The Commissioner shall examine or cause to be examined and report to the Council upon all bids, accounts and claims before they are acted upon, unless otherwise provided by law or ordinance.

(E)                    **Departments and Officers.** The City Clerk, City Treasurer, and Water Revenue Collector, Sewer Revenue Collector and Billing Clerk, and all their respective offices and departments and all officers, assistants and employees therein, and all bookkeepers and accountants, are assigned to the Department of Accounts and Finances and shall be under the supervision and direction of the Commissioner thereof.

(F)                    **Utility Reports; Collection of Fees.** The Commissioner of Accounts and Finances shall procure from all persons and corporations operating public service utilities in the City such reports as they are, by law or ordinance or otherwise required to make to the City or any of its officers, and procure copies of such reports as are made to the State or any public office or department. He shall collect all license fees, inspection fees, franchise taxes, rentals or other monies which may be due or become due the City.

He shall report to the Council any failure to make reports or to pay monies due the City with such recommendations in relation thereto as he may deem proper.

He shall, whenever the City has authority to do so, cause to be examined, the accounts and records of any person or corporation operating a public service utility in the City and shall report to the

Council any refusal to permit such examination, with such recommendations in relation thereto as he may deem proper.

(G) **City Clerk – Treasurer.** In addition to the above provisions, the City Clerk/Treasurer shall have the responsibilities and duties as outlined in this Chapter.

(H) **Mayor Pro-Tem.** The Commissioner of Accounts and Finances shall be vice-president of the Council, and in case of a vacancy in the office of Mayor or the absence or inability of the Mayor, shall perform the duties of the Mayor. **(See 65 ILCS 5/4-5-1)**

**1-2-15                    DEPARTMENT OF PUBLIC HEALTH AND SAFETY.**

(A) **Department and Officers.** The Police Department, the Superintendent and Chief of Police, and all officers and employees in the Police Department; License Collector and all police stations, property and apparatus used in the Police Department; the Police and Fire Alarm System and all property and apparatus belonging thereto; and the Fire Department and Chief of the Fire Department and all firemen, officers and employees therein, all fire stations, property and apparatus used in the Fire Department; and all property used in such respective offices or departments are assigned to the Department of Public Health and Safety. **(Ord. No. 1173; 05-11-87)**

(B) **Commissioner's Duties.** The Commissioner of Public Health and Safety shall be the Superintendent of the Department of Public Health and Safety, and shall have charge of and supervision and direction over all officers and employees assigned to the department.

**1-2-16                    DEPARTMENT OF STREETS AND PUBLIC IMPROVEMENTS.**

(A) **Streets and Buildings.** The Commissioner of Streets and Public Improvements shall be Superintendent of the Department of Streets and Public Improvements, and shall take charge of all public work, the cleaning, mowing and sprinkling of streets and public places, the erection and reconstruction of all street improvements, sidewalks, bridges, viaducts and public buildings and other improvements, and of the repair thereof when such public buildings, other improvements and repairs thereof are not otherwise assigned.

He shall have control, management direction, and supervision of the lighting of streets and alleys, of public grounds and buildings and of all lamps, lights, lighting materials and persons charged with the care thereof.

(B) **Formal Maintenance Program.** The Street Commissioner or his designated representative shall be responsible for making monthly inspections of streets and sidewalks for maintenance purposes. These inspections shall categorize the above into **three (3) areas**, to-wit:

- (1) **Critical.** The City will endeavor to repair or replace these items immediately, working in conjunction with property owners, public programs, service clubs and existing laws.
- (2) **Watch.** Items will be designated on a watch basis; and the City will attempt to repair or replace these items by the same means as above before they reach the critical stage.
- (3) **Acceptable.** Items designated as acceptable should be subject to routine maintenance procedures to keep those items in acceptable condition.
- (4) **Reports.** Written reports of the monthly inspections shall be filed and kept under the jurisdiction of the Street Commissioner.

**(Paragraph B; Ord. No. 1152; 01-27-86)**

(C) **Departments and Officers.** The City Engineer, Sidewalk Inspector, Superintendent of Streets and Superintendent of Storm Sewers, their respective offices or departments, and all officers, assistants and employees therein, and all property and apparatus of the respective officers, offices, or departments are assigned to the Department of Streets and Public Improvements and shall be under the supervision and direction of the Superintendent thereof.

**1-2-17                    DEPARTMENT OF PUBLIC PROPERTY.**

(A) **Commissioner's Duties.** The Commissioner of Public Property shall be Superintendent of the Department of Public Property and shall have charge, control and supervision of



and shall manage the Waterworks System of the City with all the lands, rights-of-way, pumping works, wells, galleries, machinery, reservoir, reservoir parks, water mains, distributing pipes, hydrants, meters, water rents, liens, apparatus, property and effective of every kind appertaining to the Waterworks.

He shall have charge, control and supervision of and shall manage the City's Sewer System and all appurtenances. However, the Billing Clerk and the Water and Sewer Revenue Collector shall be under the jurisdiction of the Commissioner of Accounts and Finances.

(B) **Garbage System.** He shall have charge of and supervision over the garbage collection, disposal service and the landfill disposal.

(C) **Building Construction and Supervision.** He shall have supervision over the construction and repairs of all buildings assigned to the department and may, on his application, receive assistance therein from other officers and departments.

He shall have control, management, direction and supervision of the City Hall, the custodians, and watchmen thereof. He shall have charge of the furniture and fixtures in the City Hall not otherwise assigned to or used by some other department.

(D) **Public Service Utilities.** He shall have control and supervision over all public service utilities and all persons or corporations rendering service in the City under any franchise, license, contract or grant made or granted by the City or State, and shall report to the Council or other proper officer any failure of the person or corporation to render services or to observe the requirements or conditions of the franchise, contract, license or grant under which such public service utility is operated.

(E) **Lake Benton City Park.** He shall have charge of and supervision over the operation, maintenance and activities of the Lake Benton City Park Area.

(F) **City Hall; Cemetery; Playgrounds.** The Commissioner of Public Property shall be custodian of the City Hall, the City Cemetery, City Playgrounds and shall be in charge of the building inspection as required by the Fire Code of the State of Illinois.

(G) **Health Agencies.** He shall have charge of and supervision over all of the affairs pertaining to the Health Department, including, but not limited to the Building, Electric, Fire and Sanitary Codes of the City.

(H) **Oil Well Inspector.** He shall have charge of and supervision over the Oil Well Inspector and the regulations governing the same.

**1-2-18 - 1-2-19      RESERVED.**

### **DIVISION III – RULES OF THE CITY COUNCIL**

**1-2-20**      **RULES OF THE COUNCIL.** The following rules of order and procedure shall govern the deliberations and meetings of the City Council. **(See 65 ILCS 5/3.1-40-15)**

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

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

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

**\*See Section 1-2-21.**

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

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

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

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

(D)      **Visitors.** After the public comment period, no person other than a member of the Council shall address that body on the same question, unless such person has been recognized by the presiding officer pursuant to **Section 1-2-21.**

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

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

The City Council, by motion, may limit debate. The Presiding Officer shall have the right to participate in debate.

While a member is speaking, no member shall hold any private discussion, nor pass between the speaker and the Chair.

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

(H)      **Appeals from Decision of the Chair.** Any member may appeal to the Council from a ruling of the Chair, and if the appeal is seconded, the member making the appeal may briefly

state his reason for the same, and the Chair may briefly explain his ruling; but there shall be no debate  
on the

appeal and no other person shall participate in the discussion. The Presiding Officer shall have the right to participate in debate.

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

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

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

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

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

- (1) To adjourn to a day certain.
- (2) To adjourn.
- (3) To take a recess.
- (4) To lay on the table.
- (5) The previous question.
- (6) To refer.
- (7) To amend.
- (8) To defer or postpone to a time certain.
- (9) To defer or postpone (without reference to time.)
- (10) To defer or postpone indefinitely.

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

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

- (1) When a member is in possession of the floor.
- (2) While the yeas and nays are being called.
- (3) When the members are voting.
- (4) When adjournment was the last preceding motion.
- (5) When it has been decided that the previous question shall be taken.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(U) **Reconsideration.** A vote or question may be reconsidered at any time during the same meeting, or at the first regular meeting held thereafter. A motion for reconsideration having been once made and decided in the negative shall not be renewed, nor shall a motion to reconsider be reconsidered.

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

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

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

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

## **1-2-21 ADDRESS BY NON-MEMBERS.**

(A) **Public Comment Request.** Any person not a member of the Council may address the Council with regard to items of proposed business under the following rules:

- (1) He or she shall rise (if not physically impaired) and state his or her name and unless further time is granted by the Council to limit remarks to **five**

**(5) minutes.** All remarks shall be addressed to the Council, not to any member thereof.

- (2) No person other than the Council member recognizing the individual addressing the Council and the person having the floor shall be permitted to enter into any discussion directly or through a member of the Council without the permission of the Mayor. No questions shall be asked of a Commissioner except through the Mayor. Any person making personal or impertinent remarks or who shall become disruptive addressing the Council shall be forthwith evicted from the Council room by the Mayor.

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

- (1) The City shall furnish appropriate auxiliary aid(s) and service(s) where necessary to afford qualified individuals with disabilities including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits, of a service, program, or activity of the City.
- (2) Auxiliary aids and services shall be provided in a timely manner.
- (3) Individuals shall notify the City Clerk **fourteen (14) days** in advance specifying the appropriate auxiliary aids or services required. **(See Addendum "B", Request for Public Comment or Auxiliary Aid(s) and/or Services)**

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

**1-2-22        RESERVED.**

#### **DIVISION IV - ORDINANCES**

**1-2-23        ORDINANCES.**

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

(B) **Passage by Yeas and Nays - Record.** The yeas and nays shall be taken upon the passage of all ordinances, and on all propositions to create any liability against the City or for the expenditure or appropriation of its money, and all other cases at the request of any member and entered on the journal of its proceeding and the concurrence of **three (3)** of the members elected to the City Council shall be necessary for the passage of any such ordinance or proposition. **(See 65 ILCS 5/4-5-12)**

(C) **Inspection.** Every ordinance or resolution appropriating any money, or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise, right, or license to occupy or use the streets, alleys, highways, bridges, viaducts, public property, or public places in the municipality for any purpose, shall remain on file with the municipal clerk for public inspection, in the form in which it is finally passed, at least **one (1) week** before the final passage thereof. **(See 65 ILCS 5/4-5-13)**

(D) **Passage and Signature.** All ordinances passed by the City Council shall, before they take effect, be deposited in the office of the City Clerk, and the Mayor shall sign the same. **(See 65 ILCS 5/4-5-12)**



**1-2-24 - 1-2-25     RESERVED.**

## **DIVISION V - GENERAL PROVISIONS**

### **1-2-26      CORPORATE SEAL.**

(A) The Seal provided by the Council, being circular in form shall consist of the words "**Corporate Seal**" in the interior circle, and the words, "**City of Benton, Franklin County, Illinois**" around the outer edge of the seal. Such seal shall be and hereby is established and declared to be the seal of the City. **(See 65 ILCS 5/2-2-12)**

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

### **1-2-27      ELECTIONS.**

(A) **Election Procedure.** The provisions of the **Illinois Compiled Statutes, Chapter 10 and Chapter 65, Section 5/4-3-1** concerning municipal elections shall govern the conduct of the City elections.

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

### **1-2-28      MUNICIPAL OFFICERS - REGULATIONS.**

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

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

(1) No person shall be eligible for any appointive municipal office unless that person is a resident of the Benton Grade School District #47 within **twelve (12) months** of the commencement of their employment, or as otherwise provided by law.

(2) The residency requirements do not apply to Municipal Attorneys, Engineers, Health Officers, or other officers who require technical training or knowledge. **(See 65 ILCS 5/3.1-10-6)**

### **(Ord. No. 12-10; 04-09-12)**

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

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

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

(F) **Fees; Report of Fees.** No officer of the municipality shall be entitled to charge or receive any fees as against the City. All officers of the City entitled to receive fees shall keep a correct

account thereof, and make a report thereof under oath to the Council prior to the regular meeting of each

month. In the report, they shall specify from whom such fees were received, for what service, and when received. All fees received shall be paid over into the City Treasury.

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

(H) **Conservators of Peace.**

(1) The Mayor and policemen in municipalities shall be conservators of the peace. Those persons and others authorized by ordinance shall have power:

- (a) to arrest or cause to be arrested, with or without process, all persons who break the peace or are found violating any municipal ordinance or any criminal law of the State,
- (b) to commit arrested persons for examination,
- (c) if necessary, to detain arrested persons in custody over night or Sunday in any safe place or until they can be brought before the proper court, and
- (d) to exercise all other powers as conservators of the peace prescribed by the corporate authorities.

(2) All warrants for the violation of municipal ordinances or the State criminal law, directed to any person, may be served and executed within the limits of a municipality by any policeman of the municipality. For that purpose, policemen have all the common law and statutory powers of sheriffs. **(See 65 ILCS 5/3.1-15-25)**

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

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

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

**(See 65 ILCS 5/4-1-1)**

**(See "Administration of Oaths")**

**1-2-29      RESIGNATION OF APPOINTED OFFICIALS.** Any officer of the City may resign from office. If such officer resigns he shall continue in office until his successor has been chosen and has qualified. If there is a failure to appoint a City officer, or the person appointed fails to qualify, the person filling the office shall continue in office until his successor has been chosen and has qualified. **(See 65 ILCS 5/3.1-10-50)**

**1-2-30      QUALIFICATIONS; ELECTIVE OFFICE.**

(A) A person is not eligible for an elective municipal office unless that person is a qualified elector of the municipality and has resided in the municipality at least one (1) year next preceding the election. **(65 ILCS 3.1-10-5(A))**

(B) No person is not eligible for an elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony, until completion of his or her sentence. **(65 ILCS 3.1-10-5 and 3.1-10-5(B))**

(C) A person is not eligible for the office of Alderman of a ward unless that person has resided in the ward that the person seeks to represent, and a person is not eligible for the office of

trustee of a district unless that person has resided in the municipality, at least **one (1) year** next

preceding the election or appointment, except as provided in **65 ILCS 5/3.1-20-25 and 5/5-2-2.**  
**(See 730 ILCS 5/5-5-5(b))**

(D) If a person (i) is a resident of a municipality immediately prior to the active duty military service of that person or that person's spouse, (ii) resides anywhere outside of the municipality during that active duty military service, and (iii) immediately upon completion of that active duty military service is again a resident of the municipality, then the time during which the person resides outside the municipality during the active duty military service is deemed to be time during which the person is a resident of the municipality for purposes of determining the residency requirement under subsection (A).  
**(People v. Hofer, 363 Ill. App 3d 719 (5<sup>th</sup> District))**

**1-2-31                    BONDS OF CITY OFFICERS.**

(A) **Amount.** Bonds of City officers required under **Illinois Compiled Statutes, Chapter 65, Section 5/4-4-2** shall be executed in the following penal sums:

(1)	Mayor	\$3,000.00
(2)	City Commissioners	\$3,000.00
(3)	City Treasurer	\$50,000.00
(4)	Waterworks & Sewer Revenue Collector	\$50,000.00
(5)	City Clerk	\$5,000.00
(6)	Water and Sewer Superintendent	\$50,000.00
(7)	Clerk to City Clerk	\$3,000.00
(8)	Clerk Typist	\$3,000.00
(9)	Water/Sewer Clerk	\$50,000.00
(10)	Zoning Administrator and Code Enforcement Officer	\$3,000.00
(11)	Police and Fire Merit Board (Each)	\$1,000.00

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

(C) **Surety.** The Council shall not receive or approve any bond or security whereon the name of the Council, any one of the Commissioners or any elected or appointed officer of the City appear as bondsman or security. If, by mistake, a bond containing the name of any such officer is approved by the Council or if any bondsman, after becoming such is elected or appointed to any City office, this Section shall not act as a release of any such obligation incurred. **(See 65 ILCS 5/4-4-2)**

**1-2-32                    CITY OFFICES CONSOLIDATED.**

(A) The City Council may, from time to time, by law, impose upon any officer filling any office created by the ordinances of the City, any such other or further duties as shall be consistent with the laws of this State, and may consolidate any **two (2)** or more of the offices and impose the duties thereof upon any other officer and may make any such regulations respecting such offices as shall be consistent with the laws of this State.

(B) In case the City Council consolidates any offices created by it, the person performing the duties of the offices so consolidated shall not be entitled on account thereof to receive any salary or compensation which he would not have been entitled to receive if such consolidation had not taken place.

**1-2-33                    LIABILITY INSURANCE.**

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

charges called for by any valid liability insurance policy covering the municipal corporation, officer, employee or elected official.

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

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

#### **1-2-34 BIDDING AND CONTRACT PROCEDURES.**

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

(B) **Formal Contract Procedure.** All work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, and all purchases, orders or contracts for supplies, materials, equipment or contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed **Twenty Thousand Dollars (\$20,000.00)**, shall be purchased from the lowest responsible bidder, after due notice inviting bids, unless competitive bidding is waived by a vote of **four (4)** of the **five (5) Commissioners** then holding office. **(Ord. No. 10-29; 11-08-10)**

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

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

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

#### **(F) Bid Opening Procedure.**

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

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

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

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



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

(I)

**Award of Contract.**

- (1) **Authority in City.** The City Council shall have the authority to award contracts within the purview of this Section.
- (2) **Lowest Responsible Bidder.** Contracts shall be awarded to the lowest responsible bidder on the basis of the bid that is in the best interest of the City to accept. In awarding the contract, in addition to price, the City Council shall consider:
  - (a) The ability, capacity and skill of the bidder to perform the contract to provide the service required;
  - (b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
  - (c) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
  - (d) The quality of the performance of previous contracts or services;
  - (e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
  - (f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  - (g) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
  - (h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
  - (i) The number and scope of conditions attached to the bid.
- (3) **Performance Bonds.** The City Council shall have the authority to require a performance bond, before entering into a contract, in such amounts as it shall find reasonably necessary to protect the best interests of the City.

(J)

**Open Market Procedure.** All work and purchases of supplies, materials and services of less than the estimated value of **Twenty Thousand Dollars (\$20,000.00)** shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed by this Section for the award of formal contracts.

(K)

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

(L)

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

(M)

**Cooperative Purchasing.** The City shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the City would be served thereby. **(See 65 ILCS 5/4-5-11, 8-9-1 and 8-9-2)**

**1-2-35**

**SALARIES REGULATION.**

(A)

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

(B)

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

**(See 65 ILCS 5/4-6-1 and 5/4-6-2)**

**EDITOR'S NOTE:** The salary of appointed officials and employees may be established in the appropriation ordinance or annual budget. The salary of elected officials must be established in an ordinance other than the appropriation ordinance at least **one hundred eighty (180) days** prior to the general municipal election in which voting is held for those offices.

**1-2-36                    CLAIMS.**

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

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

**1-2-37                    MUNICIPAL YEAR.** The municipal year of the City shall begin on **May 1<sup>st</sup> of each year and shall end on April 30<sup>th</sup> of the following year. (See 65 ILCS 5/1-1-2) (For definition of fiscal year see Section 1-1-16)**

**1-2-38                    EXPENSES - REIMBURSEMENT.** Each member of the corporate authorities may receive reimbursement from the municipality for expenses incurred by the member in attending committee meetings of the corporate authorities or for other expenses incurred by the member in the course of performing official duties. **(See 65 ILCS 5/3.1-50-15(B))**

**1-2-39                    OFFICIAL RECORDS.** All official records, including the Corporate Seal, shall be kept in the City Hall.

**1-2-40                    FEDERAL OLD AGE AND SURVIVOR'S INSURANCE SYSTEM.**

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

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

**1-2-41                    ILLINOIS MUNICIPAL RETIREMENT FUND.**

(A)                    The City does hereby elect to participate in the **Illinois Municipal Retirement Fund.**

(B)                    **Special Tax.** The City includes in its levy and Budget ordinance provisions for the levying of a special tax to pay the City's cost of participating in the Retirement Fund and appropriate therefrom funds to pay the cost of participation.

**1-2-42                    SMOKING PROHIBITED.** It shall be unlawful to smoke in any portion or area of the City Hall except in a private office occupied by **one (1) person** only and with the door closed. **(Ord. No. 1270; 07-16-90)**

**1-2-43 - 1-2-46      RESERVED.**

## **DIVISION VI - CITY CLERK**

**1-2-47      APPOINTMENT OF CLERK.** At the first regular meeting after the general election of the City Council, the City Clerk shall be appointed by a majority vote, for a **four (4) year term**, and shall serve until his successor is appointed and has qualified. The City Clerk shall be under the supervision of the Commissioner of Accounts and Finances. **(See 65 ILCS 5/3.1-15-5 and 5/3.1-30-5) (Ord. No. 00-21; 08-28-00)**

**1-2-48      COUNCIL MINUTES - RECORDS.** The City Clerk shall attend all meetings of the City Council and shall keep in a suitable book to be styled, "**The Journal of the City Council**", a full and faithful record of its proceedings. The City Clerk shall record and properly index in a book kept for that purpose, all ordinances passed by the City Council and at the foot of the record of each ordinance so recorded, he shall make a memorandum of the date of the passage and when published, of the publication of such ordinance. The Clerk shall also record in proper books for the purpose, all official bonds and note upon each bond so recorded, when the same was entered of record and the book and pages where recorded. **(See 65 ILCS 5/1-2-5 and 5/3.1-35-90)**

**1-2-49      DELIVERY OF PAPERS TO OFFICERS.** The Clerk shall deliver to the members of the City Council and to the officers of this City, all petitions, communications, reports and resolutions, orders, claims and other papers referred to those committees or officers by the Council on demand therefor. He shall also, without delay, deliver to the Mayor all ordinances or resolutions, orders and claims in his charge which may require to be approved or otherwise acted upon by the Mayor. **(See 65 ILCS 5/3.1-35-90)**

**1-2-50      PREPARATION OF DOCUMENTS; COMMISSIONS; LICENSES.** The Clerk shall prepare all commissions, licenses, permits and other official documents required to be issued by him under this Code and shall attest the same with the corporate seal, and he shall, in like manner, attest all deeds for the sale of real estate owned and conveyed by this City.

**1-2-51      LICENSE PLATES.** In all cases where the City requires a license to be obtained for the purpose of engaging in or carrying on any business or occupation and the licensee is required to obtain from the Clerk, plates, tags or stickers, it shall be the duty of the Clerk to deliver such plates, tags, or stickers to the person paying the license fee.

**1-2-52      ADMINISTRATION OF OATHS.** The Clerk shall have the power to administer oaths or affirmations for all lawful purposes. **(See 65 ILCS 5/3.1-15-20)**

**1-2-53      REPORTS.** On or before the first meeting in each month, the City Clerk shall make out and submit to the Council a statement or report in writing of all the moneys received and warrants drawn by him during the preceding month, showing therein from what sources and on what account moneys were received, and for what purpose, and on what account the warrants were drawn or paid.

**1-2-54      SUCCESSOR.** The City Clerk shall carefully preserve in his office, all books, records, papers, maps and effects of every detail and description belonging to the City or pertaining to

his office, and not in actual use and possession of other City officers; and upon the expiration of his official term, he shall deliver all such books, records, papers and effects to his successor in office.

**1-2-55      DEPUTY CLERK.** There is hereby created the office of Deputy Clerk. The Clerk of the Water Department shall be the Deputy Clerk and shall have the power and duty to execute all documents required by any law or ordinance to be executed by the Clerk and shall affix the seal of the City thereto whenever required.

When signing any documents, the Deputy Clerk shall sign the name of the City Clerk followed with the word "**By**" and the Deputy Clerk's own name and the words, "**Deputy Clerk**".

The powers and duties herein described shall be exercised by such Deputy Clerk only in the absence of the City Clerk from the Clerk's office in the City Hall and only when either written direction has been given by the City Clerk to such Deputy Clerk to exercise such power or the City Council has determined by resolution that the City Clerk is temporarily or permanently incapacitated to perform such function.

Such Deputy Clerk shall have the authority and power herein described and such further power and authority as may be provided by statute. **(See 65 ILCS 5/3.1-30-10; 5/3.1-10-45 and 5/3.1-35-95) (Ord. No. 1123; 07-15-83)**

**1-2-56      PAYMENTS.** The City Clerk shall prepare weekly, an itemized list of all moneys received and shall deliver a copy of the same to the City Treasurer and shall also pay over to the Treasurer all moneys received by him and take a receipt therefor. **(Ord. No. 1161; 10-02-86)**

**1-2-57      WARRANT REGISTER.** The Clerk shall keep an accurate register of warrants drawn upon the Treasury, specifying the date, to whom payable, the amount, and the particular fund or appropriation to which the same is chargeable. **(See 65 ILCS 5/8-1-8)**

**1-2-58      FINANCES.** Under the direction of the Department of Accounts and Finances, the Clerk shall open and keep a complete set of books, in which, among other things, shall be set forth the appropriations of the fiscal year for which each distinct object and branch of expenditures and also, the receipts from each and every source of revenue so far as he can ascertain the same.

**1-2-59      ANNUAL BUDGET.** The City does hereby adopt the provisions in **Chapter 65** of the **Illinois Compiled Statutes** specifically **Sections 5/8-2-9.1** through **5/8-2-9.9**. The annual budget shall be prepared pursuant to those sections each fiscal year under the direction of the Budget Officer or City Clerk. **(Ord. No. 1204; 06-13-88)**

**1-2-60      NOTIFICATION TO PERSONS APPOINTED.** The Clerk, within **five (5) days** after the result of an election is decided or an appointment is made, shall notify all persons appointed to office of their appointment. The office becomes vacant unless the person appointed qualifies within **ten (10) days** after such notice.

**1-2-61      OTHER DUTIES.** In addition to the foregoing duties, the Clerk shall perform all such other duties pertaining to his office as are or may be imposed upon him by law, resolution or ordinance of the City Council.

**1-2-62      DELINQUENT SPECIAL ASSESSMENTS.**  
(A) **Uncollectible Assessments.** It is determined that there are certain installments of special assessments levied on real property within the limits of the City which are

presumed by law to be uncollectible, being those installments which have been delinquent for a period of **thirty (30) years**.



(B) **City Collector Appointed.** The City Treasurer has heretofore been appointed the City Collector.

(C) **Duties of City Collector.** The City Collector shall enter the word "**Uncollectible**" upon the records of his office where such delinquent special assessments appear and he shall adjust the books and records of his office therefor. **(Ord. No. 962; 08-23-76)**

**1-2-63      UNCLAIMED REBATE FUND.**

(A) **Established.** There is hereby created pursuant to **Illinois Compiled Statutes, Chapter 65, Section 5/9-1-5**, and **Unclaimed Rebate Fund**. Deposits for all funds which the City has held for more than **four (4) years** after the final installment of any local improvement by special assessment or special taxation and transferred pursuant to the Notice and Recommendation provisions of **Chapter 65, Article IX, Divisions 2 and 3 of the Illinois Compiled Statutes**.

(B) **Transfer of Funds.** There is hereby transferred to the **Unclaimed Rebate Fund** the amounts on deposit with the City Clerk and City Treasurer as payments on the Special Assessments for Paving Districts 1 through 14, Sidewalk Districts 1, 2, 3, and Sewer District 1, pursuant to the attached recommendation of the Board of Local Improvement and Certificate of Publication of Notice as required by **Chapter 65, Section 5/9-1-6**. All claims against said funds not filed before this date are hereby barred.

(C) **Appropriated Moneys.** There is hereby appropriated and payment approved from the **Unclaimed Rebate Fund** all claims filed prior to this date on the Special Assessments listed in paragraph (B) hereof and contained in the attached list. The balance of any funds from said Special Assessments, after payment, are hereby transferred to the Capital Improvement Fund. **(Ord. No. 1128; 10-07-83)**

**1-2-64 - 1-2-67      RESERVED.**

## **DIVISION VII - CITY TREASURER**

**1-2-68      FINANCE DEPARTMENT.** The Department of Accounts and Finances shall exercise a general supervision over the affairs of the Finance Department. It shall ascertain the condition and needs thereof; shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had and generally, shall do all the acts necessary to promote the efficiency of the Department.

**1-2-69      APPOINTMENT OF TREASURER.** At the first regular meeting after the general election of the City Council, the City Treasurer shall be appointed by a majority vote, for a **four (4) year term**, and shall serve until his successor is appointed and has qualified. The City Treasurer shall be under the supervision of the Commissioner of Accounts and Finances. **(Ord. No. 00-21; 08-28-00)**

**1-2-70      MONEY; WARRANTS; ACCOUNTS.** The City Treasurer shall receive all moneys belonging to this City and shall pay all warrants signed by the Mayor or by the Commissioner of Accounts and Finances, and countersigned by the City Clerk and not otherwise and shall keep a separate account of each fund or appropriation, and the debits and credits belonging thereto. He shall give to every person paying money into the City Treasury a receipt therefor, specifying the date of payment and upon what account paid, and he shall file copies of such receipts with the Clerk with his monthly reports. **(See 65 ILCS 5/3.1-35-40)**

**1-2-71      WARRANT REGISTER.** The Treasurer shall keep a register of all warrants redeemed and paid by him, showing the number, date and amount of each, the fund from which paid, and the name of the person to whom and when paid, and he shall cancel all warrants as soon as redeemed by him. **(See 65 ILCS 5/8-1-8 and 5/8-1-9)**

**1-2-72      SEPARATION OF FUNDS.** The Treasurer shall keep all moneys in his hands belonging to this City separate and distinct from his own money, and he shall not use, either directly or indirectly, the City moneys or warrants in his custody and keeping for his own use and benefit, or that of any other person. Any violation of this Section shall subject him to removal from office by the City Council. **(See 65 ILCS 5/3.1-35-55)**

**1-2-73      BOND.** The Treasurer shall give bond, conditioned upon the faithful performance of his duties and to indemnify the City for any loss due to neglect or wrongful act on his part; and the amount of such bond shall not be less than **ten percent (10%)** of the highest amount of taxes and special assessments received by the Treasurer during any fiscal year in the preceding **five (5) fiscal years**, nor less than **one and one-half (1 ½) times** the largest amount which the Council estimates will be in his custody at any one time, nor less than **three (3) times** the number of residents of the City, as determined by the last Federal Census. Such bond shall be filed with the Clerk as required by statute. **(See 65 ILCS 5/3.1-10-45)**

**1-2-74      SPECIAL ASSESSMENTS.** The Treasurer shall collect all payments on special assessments and shall see to it that the same are properly recorded and credited to the particular account entitled thereto. **(See 65 ILCS 5/3.1-35-85)**

**1-2-75      BOOKKEEPING; PAYROLL.** The Treasurer shall keep his books and accounts in such a manner as to show with accuracy, all monies received and disbursed by him for the City, stating from whom and on what account received, and to whom and on what account paid out, and in such a way that the books and accounts may be readily investigated and understood, and the books and accounts and all files and papers of the office shall be, at all times, open to examination by the Mayor or the Department of Accounts and Finances of the Council.

The Treasurer shall prepare the City payroll for all persons who come under appropriations for salaries. **(See 65 ILCS 5/3.1-35-40)**

**1-2-76      STATEMENTS.** The Treasurer shall report to the corporate authorities at the first monthly meeting, a full and detailed account of all receipts and expenditures of the municipality as shown by his books, up to the time of the report. **(See 65 ILCS 5/3.1-35-45)**

**1-2-77      ANNUAL ACCOUNTS; PREPARATION AND FILING; CONTENTS; PUBLICATION.** Within **six (6) months** after the end of each fiscal year, the Clerk shall annually prepare and file with the City Council an account of monies received and expenditures incurred during the preceding fiscal year as specified in this Section. The Treasurer shall show in such account the following:

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

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

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

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

Upon receipt of such account from the Treasurer, the Clerk shall publish the account at least once in **one (1)** or more newspapers published in the Municipality. **(See 65 ILCS 5/3.1-35-65)**

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

**1-2-78      DEPOSIT OF FUNDS.**

(A) **Designation by Council.** The Treasurer, and/or Clerk are hereby required to keep all funds and moneys in their custody belonging to the City in such places of deposit as have been designated by this Section. When requested by the Treasurer/Clerk, the corporate authorities shall designate a bank or banks in which may be kept the funds and moneys of the City in the custody of the City Officials. When a bank has been designated as a depository, it shall continue as such depository until **ten (10) days** have elapsed after a new depository is designated and has qualified as provided by law. When a new depository is designated, the corporate authorities shall notify the sureties of the Treasurer of that fact in writing at least **five (5) days** before the transfer of funds.

(B) **Discharge from Responsibility.** The Treasurer and the aforementioned officials shall be discharged from responsibility for all funds or moneys which they deposit in a designated bank while the funds and money are so deposited. If City funds or moneys are deposited in a designated bank, however, the amount of such deposits shall not exceed **seventy-five percent (75%)** of the

bank's or savings and loan association's capital stock and surplus, and the Treasurer shall be responsible for funds or moneys deposited in the bank(s) in excess of this limitation.

(C) **Accounts with Financial Institutions.** In cases of urgency between scheduled City Council meetings, at the discretion of the Finance Officer, accounts may be opened, administered, and/or closed with the signatures of the Finance Officer and the City Treasurer.

(D) **Investments.** The Treasurer is hereby authorized to invest surplus funds or reserve funds of the City in the following types of investments:

- (1) General obligation securities of the United States of America or of the State of Illinois.
- (2) Certificates of Deposit and Time Deposits in any bank where such investments are insured by the Federal Deposit Insurance Company.
- (3) Money Market Accounts.
- (4) Short term discount obligations of the Federal National Mortgage Association.
- (5) The following banks and/or Savings and Loan Associations are hereby designated as places of deposit where the Treasurer is required to keep all funds and moneys in his/her custody belonging to this Municipality:
  - (a) Bank of America, Benton, IL
  - (b) The Illinois Funds
  - (c) US Bank, Benton, IL
  - (d) Mid Country Bank, Benton, IL
  - (e) State Bank of Whittington, Benton, IL
  - (f) Peoples National Bank, Benton, IL
  - (g) First Financial Bank, Benton, IL

**(Ord. No. 2013-21; 06-10-13 and 2013-31; 07-22-13)**

**1-2-79** **OUTSTANDING BONDS.** The Clerk shall keep in his office in a book or books kept expressly for that purpose, a correct list of all the outstanding bonds of the City, showing the number and amount of each, for and to whom the bonds are issued; and when the City bonds are issued or purchased or paid or canceled; the book or books shall show the fact; and in his annual report, the City Clerk shall describe particularly the bonds sold during the year and the terms of sale with each and every item of expense thereof. **(See 65 ILCS 5/3.1-35-110)**

**1-2-80** **RESERVED.**

## **DIVISION VIII – CITY ATTORNEY**

**1-2-81** **SERVICES OF ATTORNEY.** At the first regular meeting after the general election of the City Council, the City Attorney shall be appointed by a majority vote of the City Council for a **four (4) year** term, and shall serve until his successor is appointed and has qualified. The City Attorney shall be known as the City Attorney or Corporation Council, and shall receive reasonable fees as allowed by **Section 1-3-2** for services rendered, when in the judgment of the Commissioner for whose department the services are rendered, the same are necessary or for the best interests of the City. The City Attorney may, in the absence of said Commissioner, take any necessary legal action when in his/her judgment the same is necessary for best interests of the City. The City Attorney shall be supervised by the respective Commissioners for services performed with respect to each Commissioner's department. **(Ord. No. 00-21; 08-28-00)**

**1-2-82            PROSECUTE FOR CITY.** The City Attorney shall prosecute or defend on behalf of the City, in all cases in which the interests of the corporation or any officer thereof are involved; and the City Clerk shall furnish him or her with certified copies of any ordinance, bond or paper in his keeping necessary to be filed or used in any suit or proceedings.

**1-2-83            PREPARATION OF ORDINANCES.** He shall, when required, advise the Council or any officer in all matters of law in which the interests of the corporation are involved, and he shall draw such ordinances, bonds, forms and contracts, or examine and pass upon the same, as may be required of him by the Mayor, the Council, or any committee thereof.

**1-2-84            JUDGMENTS.** He shall direct executions to be issued upon all judgments recovered in favor of the City, and he shall direct their prompt service. He shall examine all the bills of the officers of courts, and of other officers of the law, and shall certify to their correctness and the liability of the City therefore.

**1-2-85            DEPARTMENT ADVISOR.** He shall act as the legal advisor for the Water and Sewer Departments, for the Plan Commission, for the Zoning Board of Appeals and he shall perform the legal services required of the Departments and/or Boards and Commissioners.

**1-2-86            VIOLATIONS OF ORDINANCES.** He shall institute and prosecute an action in every case of violation of a City ordinance when instructed to do so by the Mayor or the City Council.

**1-2-87            PROSECUTION OF SUITS.** He shall not be required to prosecute any suit or action arising under the ordinances of the City when, upon investigation of the same, he shall become satisfied that the complaint was instituted maliciously, vexatiously, or without just cause; and he shall dismiss or discontinue any such suit or proceeding upon such terms as he may deem just or equitable.

**(65 ILCS 5/3.1-30-5)**

**1-2-88 - 1-2-89            RESERVED.**

## **DIVISION IX – CITY ENGINEER**

**1-2-90            OFFICE CREATED.** There is hereby created the office of City Engineer, who may be appointed annually on the **first (1<sup>st</sup>) day of May** or as soon thereafter as may be, by a majority vote of the City Council. He shall hold his office for a term of **one (1) year** and until a successor is appointed and has qualified. Provided however, the City may use another firm if they choose to do so for a project.

**1-2-91            OATH.** Before entering upon the duties of his office, he shall take the oath prescribed by law for all City officers.

**1-2-92        MAPS, PLATS AND RECORDS.** The City Engineer shall keep accurate maps, plats and records of all public works, lands or property owned by the City.

**1-2-93**      **DUTIES.** He shall advise the Council on all engineering matters referred to him, and shall perform such duties as are provided by law or ordinance, and in addition thereto, such other duties as from time to time may be imposed upon him by the Council.

He shall, from time to time as required by the Council, make reports regarding public improvements, repairs of streets, bridges and sidewalks, or such other work as the Council may request, and shall make such suggestions to the City Council, regarding the same, as shall, in his judgment, seem best and proper.

**1-2-94 - 1-2-95**      **RESERVED.**

**(See 65 ILCS 5/3.1-30-5)**

#### **DIVISION X – DIRECTOR OF PUBLIC WORKS**

**1-2-96**      **POSITION CREATED.** There is hereby created the position of "Director of Public Works," which position shall be filled by the affirmative vote of a majority of the voting council members and Mayor.

**1-2-97**      **DUTIES.** It shall be the duties of the Director of Public Works to supervise and direct the workforce employees in the departments of water, waste water treatment plant, streets, and janitor, and to perform such other duties as may be delegated to him by the respective Commissioners of Public Property and Public Works and of Streets.

**1-2-98**      **ACCOUNTABLE TO COMMISSIONERS.** The Director of Public Works shall be accountable to the Commissioners of the departments in which he serves, as referenced above and pursuant to the statutory duties and responsibilities of each respective Commissioner.

**1-2-99**      **APPROVAL OF SALARY.** The position of Director of Public Works shall be compensated as determined by the majority vote of the City Council.

**1-2-100**      **RESERVED.**

**(Ord. No. 00-02; 02-28-00)**



**DIVISION XI – ZONING AND CODE ENFORCEMENT OFFICER/  
ECONOMIC DEVELOPMENT ADMINISTRATOR**

**1-2-101      OFFICE ESTABLISHED AND APPOINTMENT.** There is hereby created the position of Zoning Administrator/Code Enforcement Officer and Economic Development Administrator, an executive office of the City, under the charge and supervision of the Commissioner of Public Affairs.

**1-2-102      DUTIES.** It shall be the duty of the Code Enforcement Officer to see to the enforcement of all Code provisions relating to buildings or zoning and to inspect all buildings and structures being erected or altered, as frequently as may be necessary to insure compliance with the ordinances of the City. He shall see to the enforcement of all laws in this Code and as prescribed in the Department of Public Property.

**1-2-103      STOP ORDER.** The Code Enforcement Officer shall have the power to order all work stopped on construction or alteration or repair of buildings or structures in the City when such work is being done in violation of any provision of any Code relating thereto, or in violation of any Zoning Code. Work shall not be resumed after the issuance of such an order, except on the written permission of the Code Enforcement Officer, provided that if the stop order is an oral one, it shall be followed by a written stop order within **twenty-four (24) hours**.

**1-2-104      ENTRY POWERS.** The Code Enforcement Officer shall have the power to make or cause to be made an entry into any building or premises where the work of altering, repairing or constructing is going on, for the purpose of making inspection, at any reasonable hour.

**1-2-105      SCOPE.** The intent and responsibility under the Economic Development Administrator portion is to allow the Administrator to make contacts with prospective business entities in an effort to encourage local firms to expand and national or global firms to locate in Benton.

The Administrator shall become familiar with marketing tools such as brochures and the Internet.

The Economic Development duties are secondary to the duties of Zoning and Code Enforcement. However, anytime the Administrator has spare time, the time will be spent in Economic Development.

At all times, the Mayor will be kept informed of the status of Economic Development and the Administrator, City Attorney and Mayor will work together in unison.

**(See Chapter 40 – Zoning)**

**1-2-106 - 1-2-107      RESERVED.**

**DIVISION XII – BILLING CLERK**

**1-2-108      OFFICE ESTABLISHED.** There is hereby created the office of Billing Clerk, an executive office in the City Water and Sewer Department. The Billing Clerk and all assistants or clerks in the office shall be appointed by the Commissioner of Accounts and Finances with the advice and consent of the City Council and shall serve until a successor is appointed and has qualified. The Billing Clerk and assistants or clerks shall be under the supervision of the Commissioner of Accounts and Finances.

**1-2-109**      **DUTIES.** It shall be the duty of the Billing Clerk to send to each utility customer a statement specifying the fees and charges due the City for the services rendered.

It shall be the duty of the Billing Clerk to collect and receive all money due to the City Water System. The Billing Clerk shall make the necessary records pertaining to such collections as required by this Code.

It shall be the duty of the Billing Clerk to collect and receive all money due to the City Sewer System. The Billing Clerk shall make the necessary records pertaining to such collections as required by this Code.

**1-2-110**      **REPORTS.** The Billing Clerk shall keep such books and accounts as may be required by the City Council and shall keep them in the manner required by law.

The Billing Clerk shall make such reports regarding delinquent water and sewer accounts as required by this Code and shall make a monthly report to the City Council showing what money has been received and the source thereof. The Billing Clerk shall also make an annual report during the last month of the fiscal year, showing all activities of this office.

**1-2-111**      **CLERK-SECRETARY.** In the absence of the Billing Clerk, the Clerk-Secretary shall be permitted to do the duties of the Billing Clerk.

**(See 65 ILCS 5/3.1-30-5)**

## ARTICLE III - SALARIES

**1-3-1**        **ESTABLISHED.** Beginning the first Monday of May, 2015, the Mayor and the City Commissioners shall be paid as compensation for their services, a salary payable monthly as the Commissioners shall determine, in the sum hereinafter set forth for each designated office:

(A)        **Department of Public Affairs.**    **Mayor: Nine Thousand Six Hundred Dollars (\$9,600.00)** per year and as Liquor Commissioner, **Two Thousand One Hundred Dollars (\$2,100.00)** per year.

(B)        **Department of Accounts and Finance.**    **Commissioner: Six Thousand Dollars (\$6,000.00)** per year.

(C)        **Department of Public Health and Safety.**    **Commissioner: Six Thousand Dollars (\$6,000.00)** per year.

(D)        **Department of Streets and Public Improvements.**    **Commissioner: Six Thousand Dollars (\$6,000.00)** per year.

(E)        **Department of Public Property.**    **Commissioner: Six Thousand Dollars (\$6,000.00)** per year.

(Ord. No. 14-09; 10-13-14) (See 65 ILCS 5/4-6-1)

**1-3-2**        **SALARIES – OTHER OFFICERS.** Those officers set forth in **Division VII** through **Division XI**, inclusive, shall be paid as compensation for their services an annual salary payable monthly, semi-monthly or as the Council shall determine in the sum hereinafter set forth opposite the designated office.

(A)        **City Attorney.** The City Attorney shall be paid the sum of **One Hundred Twenty Dollars (\$120.00)** per hour for his services, together with reasonable costs and expenses incurred. (Ord. No. 07-24; 06-11-07)

(B)        **City Engineer.** (Independent contracts for services performed for the City as established by separate contractual service agreements.)

(C)        **Water Revenue Collector.** (Included in Treasurer)

(D)        **Sewer Revenue Collector.** (Included in Treasurer)

## **ARTICLE IV – ADMINISTRATIVE SICK LEAVE**

**1-4-1      POLICY ESTABLISHED.** Administrative personnel employed by the City of Benton, Illinois, on **May 1, 2006** shall be granted **thirty-six (36) days** of time pursuant to this policy effective **May 1, 2006**. Employees shall accrue **one (1) additional day** per month worked, with a month work being considered as any calendar month in which the employee works at least **three (3) weeks** during that calendar month.

**1-4-2      PURPOSE.** This time off is not simply an extension of additional sick days. The purpose of extended sick leave is different than the purpose of sick days. Therefore, it is to be administered differently. The employee is not entitled to take paid days off under this policy unless it is approved by Council action and based upon a physician's written opinion of sufficient detail to justify the City's action.

**1-4-3      EMPLOYEE QUALIFICATION.** Qualification for time under this policy must be at the conclusion of the exhaustion of all other paid time off to which the employee is entitled.

**1-4-4      ADVANCE APPROVAL.** The time off under this policy must be consecutive days (or partial days as discussed hereafter) and must be approved in advance by the Council. In other words, this is not time that can be taken as additional sick days to fill in when the employee needs additional days off. This is time to be taken because the employee is currently suffering from a medical condition that impairs their ability to perform wholly or in part, as set forth further hereinbelow.

**1-4-5      MEDICAL DOCUMENTATION.** The employee must provide a doctor's written opinion stating the nature of the employee's condition and the nature of its impairment. If the employee seeks to work half time, then the doctor's written opinion must be sufficient to support a reasonable decision by the Council that the employee be permitted to take this time in half-day increments and still be able to perform adequately their job-related duties during the one-half day that they would be working. Even the taking of one-half day increments must be based on consecutive days off pursuant to this policy. It is anticipated that an employee could initially require full days off and then qualify for half days off as their condition may change, but that change in time off would likewise be required to be supported by a doctor's written opinion as stated more fully above, explaining that the employee would be able to perform on a one-half time basis.

**1-4-6      HALF TIME APPROVAL.** The half time hours, if any, that the employee will work shall be governed by vote of Council. Although administrative personnel may otherwise be under the direction of a single Commissioner, it is recognized that all administrative personnel to whom this policy will apply may have overlapping responsibilities with other departments and that their absence will necessarily affect directly and indirectly the performance of all departments within the City of Benton.

**1-4-7      INCREMENT LIMITATIONS.** This leave may not be taken in increments smaller than one-half day increments.

**1-4-8      RETURN TO WORK.** The employee may not return to full paid work without a doctor's written opinion indicating that their condition has improved to the point that they are able to

perform their work related functions on a full time basis. There is no right to return to work after exhaustion of this administrative leave on a half-time basis.

**1-4-9            MEDICATION.** If an employee working half time will be under the influence of any medication, then the physician must identify the medication that the employee will be taking and its potential effect on the employee's ability to perform work related functions.

**1-4-10           ACCRUAL.** If an employee utilizes time pursuant to this policy but not all of the time to which they are entitled, then at the conclusion of the time utilized, the balance may be carried forward and added to the employee's additional time that they may accrue when returning to work.

**1-4-11           TERMINATION.** If for any reason an employee's employment with the City of Benton terminates, there is no right to payment for days accumulated under this policy. This is not sick time and is not governed by the same policies of sick time. This is "use it or lose it" time such that the cessation of employment ceases entitlement to either the time or its dollar value.

**(Ord. No. 06-38; 07-24-06)**

## **ARTICLE V – MEETING PROCEDURES**

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

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

**1-5-2      RESPONSIBILITY FOR RECORDING CLOSED SESSIONS AND MAINTAINING RECORDINGS.** The City Clerk or his or her designee shall be responsible for arranging for the recording of such closed or executive sessions. In the absence of the City Clerk or his or her designee, the meeting Chair will arrange for the audio or video recording of the closed or executive session of the City Council. Each subsidiary public body of the City shall designate an individual who will be responsible for the recording of any and all closed or executive sessions of the subsidiary body and for providing the City Clerk with a copy of such recording. The City Clerk, or his or her designee, shall securely maintain the verbatim recordings of all closed sessions of the corporate authorities of the City and all subsidiary public bodies of the City.

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

**1-5-4      PROCEDURE FOR RECORDING.** At the beginning of each closed session, those present shall identify themselves by voice for the audio recording. If the meeting is videotaped, those present shall individually appear on camera and identify themselves by voice at the beginning of the closed session. The meeting Chair shall also announce the times the closed session commences and ends at the appropriate points on the recording.

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

**1-5-6      PROCEDURE FOR REVIEW OF CLOSED SESSION MINUTES AND RECORDINGS.** At one meeting at least every **six (6) months**, the agenda shall include the item: “Review of the minutes and recordings of all closed sessions that have not yet been released for public review, and determination of which minutes, if any, may be released.” Minutes shall be reviewed in closed session and shall not be released unless the corporate authorities of the City find that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential. As to any minutes not released, the corporate authorities shall find that the “need for confidentiality still exists” as to those minutes. Minutes of closed sessions shall be kept indefinitely.

**1-5-7                    MAINTENANCE AND PUBLIC RELEASE OF RECORDINGS AND ACCESS TO TAPES.** The audio or video tape recordings of closed sessions shall be maintained for **eighteen (18) months** after the closed session and shall not be released to the public unless such release is required by a court order or specifically authorized for release by a vote of the City Council. Members of the corporate authorities may listen to the closed session recordings in the presence of the City Clerk or his or her designee. Copies of such tapes will not be made or provided to anyone unless specifically authorized by vote of the City Council.

**1-5-8                    PROCEDURE FOR DESTRUCTION OF RECORDINGS.** The City Clerk or his or her designee is hereby authorized to destroy the audio and video recordings of those closed sessions for which:

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

**1-5-9 - 1-5-10                    RESERVED.**

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

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

**1-5-12                    DEFINITION OF MEETING.** The term “meeting” shall mean “any gathering, whether in person or by video or audio conference, telephone calls, electronic means (such as, without limitation, electronic mail, electronic chat and instant messaging), or other means of contemporary interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business” or such other definition as shall be contained within the state statutes.

**1-5-13                    AMENDMENT OF PREVIOUS TERMS.** The definition of “meeting” set forth in **Section 1-5-12** shall supersede and replace any other definition used in any previous or existing ordinance.

**1-5-14                    REMOTE PARTICIPATION POLICY.** The City hereby adopts the Remote Participation Policy, as outlined in Addendum “A”, that permits a member of the public body to attend and participate in any meeting of a public body as defined in the Open Meetings Act from a remote location via telephone, video, or internet connection provided that such attendance and participation is in compliance with the policy and any applicable laws.



## **ADDENDUM "A"**

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

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

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

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

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

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

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

**ADDENDUM "B"**

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

Please keep in mind that pursuant to Section 1-2-21 that establishes rules governing the address of the Council, all remarks must be kept to a maximum of five minutes, shall be addressed to the Council, and shall not be disruptive to the business of the Council. The Mayor is empowered to remove individuals from any meeting should they fail to adhere to the rules regarding address of the Council.

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

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

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

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

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

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

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

Sincerely,

\_\_\_\_\_  
APPLICANT

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

## **CHAPTER 3 - ANIMALS**

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

## CHAPTER 3

### ANIMALS

#### ARTICLE I - GENERAL REGULATIONS

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

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

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

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

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

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

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

**"DANGEROUS DOG"** means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) **Unlawful.** It shall be unlawful for any person owning or possessing a dog or cat to permit such dog or cat to go upon any sidewalk, parkway, or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

(D) The licensing authority may issue a temporary permit for the keeping, care, and protection of any infant animal native to this area which has been deemed to be homeless.

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

**3-1-9                    LIMITATION ON NUMBER OF DOGS AND CATS KEPT.**

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

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

(B) **Limitation; Exception.**

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

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

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

**3-1-10                    ANIMALS, ETC. IN CITY.**

(A) **Certain Prohibitions.** It shall be unlawful, and is hereby declared a nuisance for any person to keep or allow to be kept any animal of the species of horse, mule, swine, sheep, goat, cattle, poultry (with the exception of chickens, ducks, quail, pheasant, pigeons and rabbits as herein provided), skunks, or poisonous reptiles within the limits of the City.

- (1) It shall be unlawful to keep roosters or crowing hens within City limits.

- (2) Allowable animals shall be deemed Hobby Animals.
- (3) The number of allowable fowl shall be no less than **two (2)**, and no more than **six (6)**.
- (4) The number of rabbits shall not exceed **ten (10)**.
- (5) Any structures housing hobby animals shall be termed an "accessory structure".
- (6) Applicants shall register with City Hall obtaining annual permit and have proof of registration on-site. Registration fee of **Ten Dollars (\$10.00)** per year.
- (7) Care for Hobby Animals shall follow the provisions set forth in this Chapter.
  - (a) Hobby Animals shall be kept in such a way so as not to cause a nuisance.
  - (b) Hobby Animal runs, yards and coops shall be constructed and maintained to reasonably prevent the collection of standing water; and shall be cleaned of droppings, uneaten or discarded feed, feathers, and other waste with such frequency as is necessary to ensure the yard, coop and pen do not become nuisances.
    - (i) Coops, pens and yards shall be large enough to provide at least **four (4) square feet** per animal.
    - (ii) The coop must be built to provide ventilation, shade, protection from precipitation, protection from cold weather and to be secure from predators, wild birds and rodents.
    - (iii) Openings in windows and doors must be covered by wire mesh or screens to deter predators.
    - (iv) Access doors must be sized and placed for ease of cleaning.
    - (v) The enclosed run must be attached to the coop or must surround the coop. The sides of the run must be made of fencing or wire mesh that discourages predators.
    - (vi) The run must be enclosed on all sides, including the top or roof plane.
    - (vii) Odors from pens, manure or related substances shall not be detectable from property lines. Manure must be stored and disposed of. Manure may be composted. All manure not composted must be removed from property regularly.
  - (c) Licenses for coops must be obtained and shall meet the rules of this Chapter where applicable.
    - (i) Coops over **one hundred twenty (120) square feet** will require a building permit.
    - (ii) A license shall not be granted unless the applicant has obtained all necessary building permits and can show proof that a pen, yard and coop that comply with this Section have been erected.
    - (iii) The chicken coop and run shall be located in the rear of the residential structure. The pen, coop and run are allowed in the rear yard, but not the side or front yards.
    - (iv) The coop and run shall be located at least **ten (10) feet** from the property line and at least **twenty-five (25) feet** from any dwelling.
    - (v) Licenses will only be granted to persons who reside on parcels with single-family dwellings. An applicant who

- lives in an apartment, multi-family units or condominium building is not eligible to receive a Hobby Animal license.
- (vi) The City may deny a license to any person who:
    - a. Owes money to the City; or
    - b. has, in the last **five (5) years** prior to application for a license under this Section been convicted or plead guilty to any code violation of animals, nuisance, noise, property maintenance or zoning.
  - (vii) If the licensee is found to be in violation of this Section or of Cruelty to Animals, the license will be immediately and permanently revoked.
  - (viii) Applications shall be submitted to the City Clerk's office.
  - (ix) No person shall slaughter any Hobby Animal within City limits in view of the public.
  - (x) No Hobby Animal shall be permitted to run at large. All animals shall be kept in a designated coop or run. Hobby Animals may be allowed to exercise in a rear yard with a **six (6) foot** or higher fence with supervision.
  - (xi) No lawfully owned cat or dog shall be deemed dangerous, vicious or otherwise punished for attacking or killing any Hobby Animal allowed to run astray whether by accident or design.
  - (xii) Any resident currently owning a designated Hobby Animal shall have **ninety (90) days** from enactment of this Section to comply with all the provisions set forth.
  - (xiii) If the licensee is found to be in violation of these standards **three (3)** or more times, the license will be immediately and permanently revoked.
  - (xiv) Pens, coops and runs not maintained according to this Section shall be deemed a public nuisance and the license will be immediately and permanently revoked.
  - (xv) Any person found to be in violation of this Section shall be fined not less than **One Hundred Dollars (\$100.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Each day an owner is not compliant with this Section shall constitute a separate offense.

(B) **Exceptions.** This Section shall not apply in areas of the City that are zoned agricultural in nature nor shall this Section apply to livestock brought into the City for the purpose of being shipped out of the City.

(C) **Powers of Police Chief.** The police chief shall have the power to issue an order prohibiting the keeping of any animal, fowl, or bird which is deemed to pose a health hazard to the general public.

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

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

## **ARTICLE II - DOGS**

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

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

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

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

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

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

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

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

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

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

(A) It shall be the duty of such employees and officers of the Police Department as shall be designated for that purpose by the Mayor to take up and impound in such place as may be

designated and set apart for that purpose, any dog found running at large or unlicensed in the City, contrary to any of the provisions of this Chapter or other regulations of the City.

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

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

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

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

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

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

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

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

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

**3-2-13      REDEMPTION OF IMPOUNDED ANIMALS.** The owner of any animal impounded under this Chapter may redeem the same by paying all the costs and charges assessed, if any, that have accrued up to the time of making redemption and on paying the same; it shall be the duty of the authorities to release the animal from the pound and deliver it to its owner, or certify the release thereof to any County authority having possession of the animal.

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

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

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

**3-2-17      FEMALE DOG WITH OTHER DOGS.** No person in control or possession of a female dog or permitting the same to remain upon his or her premises, shall permit any such female dog, while in heat, to consort with any other dog or dogs in an indecent manner in any place of public view, whether upon his own or any other premises.

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



## ARTICLE III - VICIOUS AND DANGEROUS DOGS

### 3-3-1

(A)

**DEFINITIONS.** For purposes of this Article:

**"Vicious dog"** means:

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

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

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

(B) **"Dangerous dog"** means any individual dog which when either unmuzzled, unleashed, or unattended by its owner, or a member of its owner's family, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon streets, sidewalks, or any public grounds or places.

(C) **"Enclosure"** means a fence or structure of at least **six (6) feet** in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious dog within the enclosure. The enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure.

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

(E)

**"Found to Be Vicious Dog"** means:

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

### 3-3-2

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

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

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

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

**3-3-3      OWNER'S RESPONSIBILITY.** If the owner of the dog has not appealed the impoundment order to the circuit court in the County in which the animal was impounded within **seven (7) working days**, the dog may be humanely dispatched. A dog found to be a vicious dog shall not be released to the owner until the Administrator, an Animal Control Warden, or the Director approves the enclosure as defined in this Section.

No owner or keeper of a vicious dog shall sell or give away the dog.

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

Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempt from this Section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies in accordance with this Code. It shall be the duty of the owner of such exempted dog to notify the Administrator of changes of address. In the case of a sentry or guard dog, the owner shall keep the Administrator advised of the location where such dog will be stationed. The Administrator shall provide police and fire departments with a categorized list of such exempted dogs, and shall promptly notify such departments of any address changes reported to him.

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

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

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

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

**(See also 510 ILCS 5/24)**

## ARTICLE IV – TETHERING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(510 ILCS 70/3)**

## **CHAPTER 4**

### **BOARDS AND COMMISSIONS**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>ZONING AND PLANNING COMMISSION</i></b>	
	<i>Section 4-1-1 - Established</i>	<i>4-1</i>
	<i>Section 4-1-2 - Membership</i>	<i>4-1</i>
	<i>Section 4-1-3 - Term of Office</i>	<i>4-1</i>
	<i>Section 4-1-4 - Procedure</i>	<i>4-1</i>
	<i>Section 4-1-5 - Powers and Duties</i>	<i>4-1</i>
	<i>Section 4-1-6 - Land Subdivision or Re-subdivision and the Official Map</i>	<i>4-2</i>
	<i>Section 4-1-7 - Improvements</i>	<i>4-2</i>
	<i>Section 4-1-8 - Expenditures</i>	<i>4-2</i>
<b><i>II</i></b>	<b><i>BOARD OF POLICE COMMISSIONERS</i></b>	
	<i>Section 4-2-1 - Board Established</i>	<i>4-3</i>
	<i>Section 4-2-2 - Appointment; Vacancies</i>	<i>4-3</i>
	<i>Section 4-2-3 - Term of Office</i>	<i>4-3</i>
	<i>Section 4-2-4 - Chairman Elected</i>	<i>4-3</i>
	<i>Section 4-2-5 - Quorum</i>	<i>4-3</i>
	<i>Section 4-2-6 - Oath and Bond</i>	<i>4-3</i>
	<i>Section 4-2-7 - Conflicting Offices</i>	<i>4-3</i>
	<i>Section 4-2-8 - Removal From Office</i>	<i>4-3</i>
	<i>Section 4-2-9 - Employment of Secretary</i>	<i>4-4</i>
	<i>Section 4-2-10 - Compensation of Secretary</i>	<i>4-4</i>
	<i>Section 4-2-11 - Powers of Board</i>	<i>4-4</i>
	<i>Section 4-2-12 - Appointment of Chief</i>	<i>4-4</i>
	<i>Section 4-2-13 - Adoption of Rules and Regulations</i>	<i>4-4</i>
	<i>Section 4-2-14 - Board Attorney</i>	<i>4-4</i>
	<i>Section 4-2-15 - Application of Law</i>	<i>4-5</i>
	<i>Section 4-2-16 - Statutes Adopted</i>	<i>4-5</i>
<b><i>III</i></b>	<b><i>POLICE PENSION FUND</i></b>	
	<i>Section 4-3-1 - Board Established</i>	<i>4-6</i>
	<i>Section 4-3-2 - Terms</i>	<i>4-6</i>
	<i>Section 4-3-3 - Pension Funds</i>	<i>4-6</i>
	<i>Section 4-3-4 - Tax Levy</i>	<i>4-6</i>
	<i>Section 4-3-5 - Employee Contribution</i>	<i>4-6</i>
	<i>Section 4-3-6 - Board Membership</i>	<i>4-7</i>
	<i>Section 4-3-7 - Vacancies and Resignation</i>	<i>4-7</i>
	<i>Section 4-3-8 - Compensation</i>	<i>4-7</i>
	<i>Section 4-3-9 - Quarterly Meetings</i>	<i>4-7</i>
	<i>Section 4-3-10 - Vice-President's Duties</i>	<i>4-7</i>
	<i>Section 4-3-11 - Powers and Duties</i>	<i>4-7</i>
	<i>Section 4-3-12 - Annual Statements</i>	<i>4-7</i>
	<i>Section 4-3-13 - Report to City Council</i>	<i>4-8</i>
	<i>Section 4-3-14 - Illinois Pension Code Adopted</i>	<i>4-8</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IV</b>	<b>FIREFIGHTERS PENSION BOARD</b>	
	Section 4-4-1 - Board Established	4-9
	Section 4-4-2 - Board Created	4-9
	Section 4-4-3 - Pension Funds	4-9
	Section 4-4-4 - Tax Levy	4-9
	Section 4-4-5 - Employee Contribution	4-9
	Section 4-4-6 - Vacancies and Resignation	4-10
	Section 4-4-7 - Compensation	4-10
	Section 4-4-8 - Quarterly Meetings	4-10
	Section 4-4-9 - Powers and Duties	4-10
	Section 4-4-10 - Illinois Pension Code Adopted	4-10
<b>V</b>	<b>BENTON TOURISM BOARD</b>	
	Section 4-5-1 - Established	4-11
	Section 4-5-2 - Membership	4-11
	Section 4-5-3 - Term of Office	4-11
	Section 4-5-4 - Procedure	4-11
	Section 4-5-5 - Powers and Duties	4-11
	Section 4-5-6 - Expenditures	4-11
<b>VI</b>	<b>FOREIGN FIRE INSURANCE BOARD</b>	
	Section 4-6-1 - Board Established	4-12
	Section 4-6-2 - Election	4-12
	Section 4-6-3 - Office; Terms	4-12
	Section 4-6-4 - Treasurer's Bond	4-12
	Section 4-6-5 - Appropriation by City Council	4-12
	Section 4-6-6 - Audit	4-12
	Section 4-6-7 - Duties of the Board	4-12
<b>VII</b>	<b>AIRPORT BOARD</b>	
	Section 4-7-1 - Board Established	4-13
	Section 4-7-2 - Term	4-13
	Section 4-7-3 - Vacancies	4-13
	Section 4-7-4 - Officers	4-13
	Section 4-7-5 - Expenditures	4-13
	Section 4-7-6 - Annual Reports	4-13
	Section 4-7-7 - Cooperation with Lessees	4-13

## CHAPTER 4

### BOARDS AND COMMISSIONS

#### ARTICLE I – ZONING AND PLANNING COMMISSION

**4-1-1**        **ESTABLISHED.** A Zoning and Planning Commission is hereby created under authority of the **Illinois Compiled Statutes, Chapter 65, Sections 5/11-12-4 through 5/11-12-12.**

**4-1-2**        **MEMBERSHIP.** The Zoning and Planning Commission shall consist of **seven (7) members**, with said members being residents within the jurisdictional limits of the Zoning Code of the City, appointed by the Mayor on the basis of his/her particular fitness for the duty of the Zoning and Planning Commission and subject to the approval of the City Council.

**4-1-3**        **TERM OF OFFICE.** The members shall serve for a period of **four (4) years** or as designated by the City Council at the time of appointment, but not to exceed **four (4) years**. Vacancies shall be filled by the Mayor, subject to the approval of the City Council. All members of the Commission shall serve without compensation, unless the Council deems it advisable, they may receive such compensation as provided by the appropriation ordinance.

**4-1-4**        **PROCEDURE.** The Zoning and Planning Commission shall elect such officers as it may deem necessary and adopt rules and regulations of organization and procedure consistent with the City Code and State Law. The Commission shall keep written records of its proceedings. It shall be open at all times for and to the inspection of the public, and the Commission shall file an annual report with the Mayor and City Council, setting forth its transactions and recommendations.

**4-1-5**        **POWERS AND DUTIES.** The Zoning and Planning Commission shall have the following powers and duties:

(A)            To prepare and recommend to the City Council a Comprehensive Plan for the present and future development or redevelopment of the City and contiguous unincorporated territory not more than **one and one-half (1 1/2) miles** beyond the corporate limits of the City and not included in any other municipality. Such plan may be adopted in whole or in separate geographical or functional parts, each of which, when adopted, shall be the official comprehensive plan or part thereof of the City. Such plan shall be advisory, except as to such part thereof as has been implemented by ordinances duly enacted by the City Council.

All requirements for public hearing, filing of notice of adoption with the County Recorder of Deeds, and filing of the plan and ordinances with the City Clerk shall be complied with as provided for by law. To provide for the health, safety, comfort, and convenience of the inhabitants of the City and contiguous territory, such plan or plans shall establish reasonable standards of design for subdivisions and for resubdivisions of unimproved land and of areas subject to redevelopment in respect to public improvements as herein defined and shall establish reasonable requirements governing the location, width, course, and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers, and sewage collection and treatment. The requirements specified herein shall become regulatory only when adopted by law.

(B) To prepare and recommend to the City Council zoning ordinances consistent with the Comprehensive Plan adopted by the City Council.



(C) To designate land suitable for annexation to the City and the recommended zoning classification for such land upon annexation.

(D) To assist officials with the direction of projects for improvements embraced within the Comprehensive Plan or parts thereof, to further the making of such improvements and generally, to promote the realization of the Comprehensive Plan.

(E) To cooperate with other municipal or regional plan commissions and other agencies or groups to further the local planning program and to assure harmonious and integrated planning for the area subject to approval of the City Council.

(F) To exercise such other powers germane to the powers granted under authority of an act of the General Assembly of the State of Illinois, as may be conferred by the City Council.

(G) To exercise any additional duties as prescribed in **Chapter 40, Zoning, (Ord. No. 1062)** as amended, with any reference to Planning Commission and/or Zoning Board of Appeals being applicable to this **Chapter 4, Article I.**

**4-1-6** **LAND SUBDIVISION OR RE-SUBDIVISION AND THE OFFICIAL MAP.** At any time or times before or after the formal adoption of the official comprehensive plan by the corporate authorities, an official map may be designated by ordinance, which may consist of the whole area included within the official comprehensive plan or one or more geographical or functional parts and may include all or any part of the contiguous unincorporated area within **one and one-half (1 1/2) miles** from the corporate limits of the City. All requirements for public hearing, filing notice of adoption with the County Recorder of Deeds and filing of the plan and ordinances, including the official map with the Clerk shall be complied with as provided for by law. No map or plat of any subdivision or re-subdivision presented for record affecting land within the corporate limits of the City or within contiguous territory which is not more than **one and one-half (1 1/2) miles** beyond the corporate limits shall be entitled to record or shall be valid unless the subdivision shown thereon provides for standards of design and standards governing streets, alleys, public ways, ways for public service facilities, street lights, public grounds, size of lots to be used for residential purposes, and distribution, sanitary sewers, and sewage collection and treatment in conformity with the applicable requirements of the Code, including the official map.

**4-1-7** **IMPROVEMENTS.** The City Clerk shall furnish the Zoning and Planning Commission for its consideration, a copy of all ordinances, plans and data relative to public improvements of any nature. The Zoning and Planning Commission may report in relation thereto, if it deems a report necessary or advisable, for the consideration of the City Council.

**4-1-8** **EXPENDITURES.** Expenditures of the Commission shall be at the discretion of the City Council and if the Commission shall deem it advisable to secure technical advice or services, it shall be done upon authority of the City Council and appropriations by the City Council therefor. **(65 ILCS 5/11-12-4 and 5/11-12-12)**

**(Ord. No. 2016-05; 02-22-16)**

## **ARTICLE II - BOARD OF FIRE AND POLICE COMMISSIONERS**

**4-2-1      BOARD ESTABLISHED.** Pursuant to the provisions of the Illinois Compiled Statutes for municipalities of a population of at least **5,000** and not more than **250,000**, a Board of Fire and Police Commissioners consisting of **three (3) persons** is established for the City and shall hereinafter be referred to as the "**Board**". **(65 ILCS 5/10-2.1-1 et seq.)**

**4-2-2      APPOINTMENT; VACANCIES.** Within **thirty (30) days** after this article becomes effective, the Mayor shall appoint the first members of the Board. One of the members shall be appointed to serve until the end of the then current municipal year, another to serve until the end of the municipal year next ensuing, and the third to serve until the municipal year second next ensuing. Every member shall serve until his successor is appointed and has qualified. Vacancies on the Board shall be filled in the same manner as the original appointments. **(65 ILCS 5/10-2.1-2)**

**4-2-3      TERM OF OFFICE.** Subsequent appointments to the Board shall be made by the Mayor with the advice and consent of the City Council. Subsequent appointments shall be for a term of **three (3) years** and until their respective successors are appointed and have qualified. No such appointment, however, shall be made by any Mayor within **thirty (30) days** before the expiration of his term of office.

**4-2-4      CHAIRMAN ELECTED.** The members of the Board shall elect a chairman to serve during the municipal fiscal year. **(65 ILCS 5/10-2.1-2).**

**4-2-5      QUORUM.** A majority of the Board shall constitute a quorum for the conduct of all business. **(65 ILCS 5/10-2.1-2)**

**4-2-6      OATH AND BOND.** The members of the Board shall be considered officers of the City and shall file an oath and a fidelity bond in such amount as may be required by the City Council.

**4-2-7      CONFLICTING OFFICES.** No person holding an office of the City shall be a member of the Board or the secretary thereof. The acceptance of any such office by a member of the Board shall be treated as a resignation of his office as a member of the Board or the secretary thereof. No person shall be appointed a member of the board who is related, either by blood or marriage up to the degree of first cousin, to any elected official of the City. No more than **two (2) members** of the Board shall belong to the same political party existing in the City at the time of such appointments and as defined in **Section 5/10-2 of the Election Code, Illinois Compiled Statutes**. If only one or no political party exists in the City at the time of such appointments, then state or national political party affiliation shall be considered in making such appointments. Party affiliation shall be determined by affidavit of the person appointed as member of the Board. **(65 ILCS 5/10-2.1-3)**

**4-2-8      REMOVAL FROM OFFICE.** Members shall not be subject to removal, except for cause, upon written charges and after an opportunity to be heard within **thirty (30) days** in his, her or their own defense, before a regular meeting of the City Council of the City. A majority vote of the elected members of the City Council of the City shall be required to remove any such member from office. **(65 ILCS 5/10-2.1-3)**

**4-2-9                    EMPLOYMENT OF SECRETARY.** The Board may employ a secretary, or may designate one of its own members to act as secretary. The secretary (1) shall keep the minutes of the Board proceedings, (2) shall be the custodian of all records pertaining the business of the Board, (3) shall keep a record of all examinations held, (4) shall perform all other duties the Board prescribes and (5) shall be custodian of the seal of the Board, if one is adopted, and the Board is hereby authorized to adopt an official seal and to prescribe the form thereof by resolution of the Board. **(65 ILCS 5/10-2.1-20)**

**4-2-10                    COMPENSATION OF SECRETARY.** The secretary may be paid a reasonable compensation for his or her services, to be fixed by the corporate authorities. The corporate authorities may also fix the compensation to be paid to the members of the Board, but until the corporate authorities make provision therefor, the members of the Board shall serve without compensation. **(65 ILCS 5/10-2.1-22)**

**4-2-11                    POWERS OF BOARD.** The Board of Police Commissioners shall have the powers set forth in **Division 2.1 of Article 10 of the Illinois Compiled Statutes 65 ILCS 5/10-2.1-1 et seq.)** including the following:

(A)                    to appoint all officers and members of the police and fire departments, except the Chief of Police and the Fire Chief;

(B)                    to make such promotions as it deems appropriate, except with regard to the office of Chief of Police;

(C)                    to discipline, suspend, remove, or discharge officers and members of the police department, except the Chief of Police;

(D)                    to conduct hearings on charges brought against a member of the police department, except the Chief of Police.

Nothing in this Section shall be construed to prevent the Police Chief or Fire Chief from suspending, without pay, a member of his department for a period of not more than **five (5) calendar days**, which right is hereby granted to the Police Chief and Fire Chief. Notice of any such suspension shall be given to the Board and shall be subject to review as provided in **Chapter 65, Section 5/10-2.1-17 of the Illinois Compiled Statutes.**

**4-2-12                    APPOINTMENT OF CHIEF.** The Police Chief and the Fire Chief shall be appointed by the Mayor with the advice and consent of the City Council and may be removed or discharged by the Mayor upon confirmation by the City Council as set forth in **Illinois Compiled Statutes, Ch. 65 5/10-2.1-4.** All other full-time police officers and firemen shall be appointed, promoted, removed or discharged in the manner provided in **Division 2.1 of Article 10 of the Illinois Compiled Statutes. (65 ILCS 5/10-2.1-17 et seq.)**

**4-2-13                    ADOPTION OF RULES AND REGULATIONS.** The Board shall adopt and publish rules and regulations to carry out the purpose of the **Illinois Compiled Statutes** and to govern appointments and removals in accordance with the provisions of said statute. Such rules and regulations shall be adopted according to the procedure required by the **Illinois Compiled Statutes.** The Board, from time to time, may revise such rules and regulations in the same manner as for the adoption of the original rules and regulations. No such rule or regulation shall be made by the Board to govern the operation of the police department or the conduct of its members. **(65 ILCS 5/10-2.1-5)**

**4-2-14                    BOARD ATTORNEY.** The Board shall appoint an Attorney to represent the Board and shall handle prosecutions before the Board.

**4-2-15            APPLICATION OF LAW.** This Article shall apply only to full-time policemen and firemen of the City and not to any other personnel of any kind or description.

**4-2-16            STATUTES ADOPTED. Division 2.1 of Article 10 of the Illinois Compiled Statutes,** as amended, is hereby incorporated in and made part of this law the same as if recited herein verbatim. In case of any conflict between the provisions of this Article and said Division, said Division shall control. If and as said Division is amended, from time to time, the provisions of this Article in conflict with said Division as a result of said amendment, shall be construed as having been amended by the Amendment to the Division and shall be read, construed and applied in accordance with the provisions of said Amended Division. **(65 ILCS 5/10-2.1-1 et seq.)**

## ARTICLE III - POLICE PENSION BOARD

**4-3-1 BOARD ESTABLISHED.** Pursuant to the provisions of the **Illinois Compiled Statutes** for municipalities with a population of **5,000** or more, a Police Pension Fund is established for the benefit of police officers of the Police Department and their surviving spouses, children and certain other dependents, as provided in the aforesaid Illinois Pension Code. **(40 ILCS 5/3-101 et seq.)**

**4-3-2 TERMS.** The terms used in this Article shall have the meanings ascribed to them in this Section:

(A) **"Board"** means the Board of Trustees of the Police Pension Fund.

(B) **"Police Officer"** means any person who (1) is appointed to the police force of the police department and sworn and commissioned to perform police duties; (2) is found upon examination of a duly licensed physician or physicians selected by the Board to be physically and mentally fit to perform the duties of a police officer; and (3) within **three (3) months** after receiving his or her first appointment, and if reappointed within **three (3) months** thereafter, makes written application to the Board to come under the provisions of this ordinance and Article 3 of the Illinois Pension Code.

(C) **"Salary"** means the annual salary, including longevity, attached to the police officer's rank, as established by the City's budget ordinance, including any compensation for overtime which is included in the salary so established, but excluding any "overtime pay", "holiday pay", "bonus pay", "merit pay", or any other cash benefit not included in salary so established.

**4-3-3 PENSION FUNDS.** The Police Pension Fund shall consist of the following moneys which shall be set apart by the Treasurer of the City:

(A) All moneys derived from the taxes levied under; **(40 ILCS 5/3-125)**

(B) Contributions by police officers under **Illinois Compiled Statutes; Ch. 40; 5/3-125.1;**

(C) All moneys accumulated by the City under any previous legislation establishing a fund for the benefit of disabled or retired police officers;

(D) Donations, gifts or other transfers authorized by the **Illinois Compiled Statutes. (40 ILCS 5/3-125)**

**4-3-4 TAX LEVY.** The City Council shall annually levy and tax upon all the taxable property of the City at the rate on the dollar which will produce an amount which, when added to the deductions from the salaries or wages of police officers, and revenues available from other sources, will equal a sum sufficient to meet the annual requirements of the police pension fund. The annual requirements to be provided by such tax levy are equal to (1) the normal cost of the pension fund for the year involved, plus (2) the amount necessary to amortize the fund's unfunded accrued liabilities as provided by the **Illinois Compiled Statutes; Ch. 40; Sec. 5/3-127.** The tax shall be levied and collected in the same manner as the general taxes of the City, and in addition to all other taxes now or hereafter authorized to be levied upon all property within the City. **(40 ILCS 5/3-125)**

**4-3-5 EMPLOYEE CONTRIBUTION.** Each police officer shall contribute to the police pension fund **nine percent (9%)** of his or her salary which shall be deducted monthly. However, the Chief of Police may elect to participate in the Illinois Municipal Retirement Fund rather than in the fund created under this ordinance. Such election shall be irrevocable, and shall be filed in writing, with the Board. **(40 ILCS 5/3-125.1 and 5/3-109)**



**4-3-6      BOARD MEMBERSHIP.** A Board of **five (5) members** shall constitute a Board of Trustees to administer the Police Pension Fund and to designate the beneficiaries thereof. The Board shall be known as the "**Board of Trustees of the Police Pension Fund of the City**".

**Two (2) members** of the Board shall be appointed by the Mayor, one of whom shall serve for **one (1) year** beginning on the **second Tuesday in May** after the municipality comes within the provisions of Article I of the Illinois Pension Code. The other appointed member shall serve for **two (2) years** beginning on the same date. The successors to each of the foregoing trustees shall serve for **two (2) years** each or until their successors are appointed and qualified.

**Two (2) members** of the Board shall be elected from the active participants of the Pension Fund by such active participants. **One (1) member** of the Board shall be elected by and from the beneficiaries. The election of these Board members shall be held biennially on the **third Monday in April**, at such place or places in the City and under the Australian ballot system and such other regulations as shall be prescribed by the appointed members of the Board.

The active Pension Fund participants shall be entitled to vote only for the active participant members of the Board. All beneficiaries of legal age may vote only for the member chosen from among the beneficiaries. No person shall be entitled to cast more than **one (1) ballot** at such election. The term of elected members shall be **two (2) years**, beginning on the **second Tuesday of the first May** after the election. **(40 ILCS 5/3-128)**

**4-3-7      VACANCIES AND RESIGNATIONS.** Upon the death, resignation, or inability to act of any elective Board member, his or her successor shall be elected for the unexpired term at a special election, to be called by the Board and conducted in the same manner as the regular biennial election. **(40 ILCS 5/3-128)**

**4-3-8      COMPENSATION.** Members of the Board shall neither receive nor have any right to receive any salary from the Pension Fund for services performed as trustees in that office.

**4-3-9      QUARTERLY MEETINGS.** The Board shall hold annually regular quarterly meetings in July, October, January, and April, and special meetings as called by the President.

At the regular July meeting, the Board shall select from its members a President, Vice-President, Secretary and Assistant Secretary to serve for **one (1) year** and until their respective successors are elected and qualified. **(40 ILCS 5/3-130)**

**4-3-10      VICE-PRESIDENT'S DUTIES.** The Vice-President shall perform the duties of the President during any vacancy in that office, or during the President's absence from the City, or if he or she is by reason of illness or other causes unable to perform the duties of the office.

The Assistant Secretary shall act for the Secretary whenever necessary to discharge the functions of such office. **(40 ILCS 5/3-130)**

**4-3-11      POWERS AND DUTIES.** The Board shall have the powers and duties provided in **40 ILCS 5/3-132 through 40 ILCS 5/3-140.1** of the Illinois Pension Code.

**4-3-12      ANNUAL STATEMENTS.** On the **second Tuesday in May** annually, the Treasurer and all other officials of the City who had the custody of any pension funds herein provided, shall make a sworn statement to the Pension Board, and to the Mayor and City Council of all moneys received and paid out by them on account of the Pension Fund during the year, and of the amount of funds then on hand and owing to the Pension Fund. All surplus then remaining with any official other

than the Treasurer shall be paid to the Treasurer of the City. Upon demand of the Pension Board, any



official shall furnish a statement relative to the official method of collection or handling of the Pension Funds. All books and records of that official shall be produced at any time by him for examination and inspection by the Board. **(40 ILCS 5/3-141)**

**4-3-13      REPORT TO CITY COUNCIL.** The Board shall report to the City Council on the condition of the Pension Fund. The report shall be made prior to the City Council meeting held for the levying of taxes for the year for which the report is made.

The Board shall certify:

- (A) the assets in its custody at such time;
- (B) the estimated receipts during the next succeeding calendar year from deductions from the salaries of police officers, and from all other sources; and
- (C) the estimated amount required during said calendar year to (a) pay all pensions and other obligations provided in this Article, and (b) to meet the annual requirements of the fund as provided in **Section 4-3-4** hereinabove. **(40 ILCS 5/3-143)**

**4-3-14      ILLINOIS PENSION CODE ADOPTED.** The provisions of the **Illinois Compiled Statutes, Chapter 40, Section 5/3-101 et seq.** are incorporated by reference herein. In case of any conflict between this ordinance and said Article, the applicable provisions of said Article shall control, and as said Code is amended from time to time, the provisions hereof, insofar as any variance may develop therefrom, if any, shall automatically be construed so as to conform therewith. **(40 ILCS 5/3-101 et seq.)**

## **ARTICLE IV – FIREFIGHTERS PENSION BOARD**

**4-4-1      BOARD ESTABLISHED.** Pursuant to the provisions of the Illinois Pension Code for municipalities with a population of **5,000** or more but less than **500,000** inhabitants, a Firefighter's Pension Fund is established for the benefit of firefighters, their surviving spouses, children and certain other dependents, as provided in the aforesaid Illinois Pension Code. **(40 ILCS 5/4-101)**

**4-4-2      BOARD CREATED.** There is created in each municipality or fire protection district a board of trustees to be known as the "**Board of Trustees of the Firefighter's Pension Fund**".

Notwithstanding any provision of this Section to the contrary, the term of office of each member of a board established on or before the **third (3<sup>rd</sup>) Monday in April, 2006** shall terminate on the **third (3<sup>rd</sup>) Monday in April, 2006**, but all incumbent members shall continue to exercise all of the powers and be subject to all of the duties of a member of the Board until all the new members of board take office.

Beginning on the **third (3<sup>rd</sup>) Monday in April, 2006**, the board for each municipality or fire protection district shall consist of **five (5) members**. **Two (2) members** of the board shall be appointed by the Mayor or President of the Board of Trustees of the municipality or fire protection involved. **Two (2) members** of the Board shall be active participants of the pension fund who are elected from the active participants of the fund. **One (1) member** of the Board shall be a person who is retired under the Firemen's Pension Fund Act of 1919 or this Article. **(Ord. No. 09-38; 11-23-09)**

**4-4-3      PENSION FUNDS.** The Firefighters Pension Fund shall consist of the following moneys which shall be set apart by the Treasurer of the City:

- (A) All moneys derived from the taxes levied under **Article 4 of the Illinois Pension Code (40 ILCS 5/4-118)**;
- (B) Contributions by firefighters under **40 ILCS 5/4-118.1**;
- (C) All moneys accumulated by the City under any previous legislation establishing a fund for the benefit of disabled or retired firefighters;
- (D) Donations, gifts or other transfers authorized by the **Illinois Compiled Statutes. (40 ILCS 5/3-129.1)**

**4-4-4      TAX LEVY.** The City Council shall annually levy and tax upon all the taxable property of the City at the rate on the dollar which will produce an amount which, when added to the deductions from the salaries or wages of firefighters, and revenues available from other sources, will equal a sum sufficient to meet the annual requirements of the firefighters pension fund. The annual requirements to be provided by such tax levy are equal to (1) the normal cost of the pension fund for the year involved, plus (2) the amount necessary to amortize the fund's unfounded accrued liabilities as provided by the **40 ILCS 5/4-120**. The tax shall be levied and collected in the same manner as the general taxes of the City, and in addition to all other taxes now or hereafter authorized to be levied upon all property within the City. **(40 ILCS 5/4-118)**

**4-4-5      EMPLOYEE CONTRIBUTION.** Each firefighter shall contribute to the firefighter pension fund **seven and one-half percent (7.5%)** of his or her salary which shall be deducted monthly.

**4-4-6            VACANCIES AND RESIGNATIONS.** Upon the death, resignation, or inability to act of any elective Board member, his or her successor shall be elected for the unexpired term at a special election, to be called by the Board and conducted in the same manner as the regular election.

**4-4-7            COMPENSATION.** Members of the Board shall neither receive nor have any right to receive any salary from the Pension Fund for services performed as trustees in that office. **(40 ILCS 5/4-121)**

**4-4-8            QUARTERLY MEETINGS.** The Board may hold regular quarterly meetings in July, October, January and April, and special meetings as called by the President.

At the regular July meeting, the Board shall select from its members a president and secretary to serve for **one (1) year** and until their respective successors are elected and qualified. **(40 ILCS 5/4-122)**

**4-4-9            POWERS AND DUTIES.** The Board shall have the powers and duties provided in **Chapter 40, Article 4 of the Illinois Pension Code**, including those powers and duties stated in **Sections 5/4-123 through 5/4-129.1 of said Code.** **(40 ILCS 5/4-122)**

**4-4-10           ILLINOIS PENSION CODE ADOPTED.** Article 4 of Chapter 40 of the Illinois Pension Code is incorporated by reference herein. In case of any conflict between this Article and the statutes, the applicable provisions of the statutes shall control, and as said Code is amended from time to time, the provisions hereof, insofar as any variance may develop therefrom, if any, shall automatically be construed so as to conform therewith. **(40 ILCS 5/401 et seq.)**

## **ARTICLE V – BENTON TOURISM BOARD**

**4-5-1            ESTABLISHED.** A Benton Tourism Board is hereby created under authority of the **Illinois Compiled Statutes, Chapter 65, Sections 5/11-12-4 through 5/11-12-12.**

**4-5-2            MEMBERSHIP.** The Benton Tourism Board shall consist of **five (5) members**, with said members being residents within the jurisdictional limits of the Zoning Code of the City. The members shall be appointed by the Mayor on the basis of his/her particular fitness for the duty of the Benton Tourism Board and subject to the approval of the City Council.

**4-5-3            TERM OF OFFICE.** The members shall serve for a period of **four (4) years** or as designated by the City Council at the time of appointment, but not to exceed **four (4) years**. Vacancies shall be filled by the Mayor, subject to the approval of the City Council. All members of the Board shall serve without compensation, unless the City Council deems it advisable, they may receive such compensation as provided by the appropriation ordinance.

**4-5-4            PROCEDURE.** The Benton Tourism Board shall elect such officers as it may deem necessary and adopt rules and regulations of organization and procedure consistent with the City Code and State Law. The Board shall keep written records of its proceedings. It shall be open at all times for and to the inspection of the public, and the Board shall file an annual report with the Mayor and City Council, setting forth its transactions and recommendations.

**4-5-5            POWERS AND DUTIES.** The Benton Tourism Board shall have the following powers and duties:

- (A) To prepare and recommend to the City Council a strategy to promote local tourism;
- (B) To encourage tourism and attract visitors to the City of Benton;
- (C) To work in conjunction with other area tourism councils, boards, and commissions to develop a stronger tourism presence in the area;
- (D) To further market and develop city-owned properties, including but not limited to Twin Oaks; and
- (E) To perform any additional duties recommended by the City Council.

**4-5-6            EXPENDITURES.** Expenditures of the Board shall be at the discretion of the City Council and if the Commission shall deem it advisable to secure technical advice or services, it shall be done under authority of the City Council and appropriations by the City Council. **(65 ILCS 5/11-12-4 and 5/11-12-12)**

**(Ord. No. 2016-07; 02-22-16)**

## **ARTICLE VI - FOREIGN FIRE INSURANCE BOARD**

**4-6-1      BOARD ESTABLISHED.** There is hereby established a Foreign Fire Insurance Board which shall consist of **five (5) members** of the Fire Department.

**4-6-2      ELECTION.** The members of the Fire Department shall elect annually from their membership **five (5) firemen** who shall serve as the Board of Directors. The election shall take place at the regular monthly meeting in January of each year.

**4-6-3      OFFICE; TERMS.** The members of the Board shall elect a President, Vice-President, and a Secretary-Treasurer at its first meeting following the election. The officers shall serve for **one (1) year** until their successors are elected and qualified.

**4-6-4      TREASURER'S BOND.** The Treasurer shall be bonded for a minimum of **Twenty-Five Thousand Dollars (\$25,000.00)** to be paid for by the City. The bond shall be approved by the Mayor, as the case may be, conditioned upon the faithful performance by the Treasurer of his/her duties under this Article.

**4-6-5      APPROPRIATION BY CITY COUNCIL.** The City Council shall include in the annual budget or appropriation ordinance all revenues received from the Foreign Fire Insurance Tax as provided in **65 ILCS 5/11-10-1**. Those funds once received shall be transferred to the Foreign Fire Insurance Board's Treasurer.

**4-6-6      AUDIT.** The fund shall be audited whenever the municipal audit is conducted each year to verify that the purchases are for the maintenance, use and benefit of the municipal fire department.

**4-6-7      DUTIES OF THE BOARD.** The Board shall prepare all the necessary rules and regulations with respect to the operations of the Board and the management of the revenues appropriated to the same.

(A)            The Board shall develop and maintain a listing of those items that it feels are appropriate expenditures under this Article and the Treasurer of the Board shall pay out the money upon the order of the Board for the maintenance, use and benefit of the Fire Department of the City.

(B)            The Board shall report to the corporate authorities annually where the monies from this tax have been expended.

**(See 65 ILCS 5/11-10-1)**

## **ARTICLE VII – AIRPORT BOARD**

**4-7-1            ESTABLISHED.** The Mayor shall, with the advice and consent of the City Council, appoint a board of **three (3) members** for the Municipal Airport to replace the current airport board subject to the provisions of the Illinois Aeronautics Act.

**4-7-2            MEMBERS/TERM.** The initial advisory board members shall be appointed upon the adoption of this Article. Subsequently, the board members shall be appointed to **four (4) year** terms at the **first (1<sup>st</sup>)** City Council meeting in May following every **four (4) year** municipal election cycle, or as soon as possible thereafter. The Mayor may, with the advice and consent of the City Council, remove and discharge any member for misconduct or neglect-of-duty.

**4-7-3            VACANCIES.** Vacancies in the Board of Directors shall be reported to the City Council and shall be filed in like manner as this Chapter provides.

**4-7-4            PROCEDURE.** The members shall meet and adopt such laws, rules, and regulations for their own guidance as an advisory board to the City Council in its operation of the Municipal Airport, understanding that the Board is an advisory board only, and shall provide recommendations and advice to the City Council as to airport issues.

**4-7-5            DUTIES.** In addition to providing recommendations and advice to the City Council on all relevant airport issues, the Board, if requested by the City Council, shall also assist the Treasurer of the City with expenditures and collections of all monies related to the Municipal Airport, provided that all monies received for the Municipal Airport shall be deposited in the Treasury of the City, and shall be kept separate and apart from other monies of the City. The Board shall have the power to appoint any necessary committees, and remove such appointees; and in general to carry out the spirit and intent of this Chapter in advising the City Council as to the operation and maintenance of the Municipal Airport.

**4-7-6            COMPENSATION.** Members of the Board shall neither receive nor have any right to receive any salary for services performed as Board members.

**4-7-7            QUARTERLY MEETINGS.** The Board shall hold regular quarterly meetings in March, June, September, and December, and special meetings as called by the Board.

**4-7-8            ANNUAL REPORTS.** The Municipal Airport Board shall assist the Treasurer of the City to make on or before the **first (1<sup>st</sup>) Monday** in May, an annual report to the City Council, stating the financial condition of the Municipal Airport, and such other information and recommendations as the Board may deem necessary and in the best interest of the Municipal Airport.

**4-7-9            COOPERATION WITH LESSEES.** The Board shall endeavor to cooperate with the lessees of the Municipal Airport, hangars, properties, and otherwise in the operation and maintenance of the Municipal Airport.

(Ord. No. 17-17; 11-14-17)

**CHAPTER 6**

**BUILDING REGULATIONS**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERAL PROVISIONS</i></b>	
	<i>Section 6-1-1 - Purpose and Code Adoption</i>	<i>6-1</i>
	<i>Section 6-1-2 - Building Code Adoption</i>	<i>6-1</i>
	<i>Section 6-1-3 - International Residential Code</i>	<i>6-1</i>
	<i>Section 6-1-4 - Expiration of Building Permit</i>	<i>6-2</i>
	<i>Section 6-1-5 - Plumbing Code Adoption</i>	<i>6-2</i>
	<i>Section 6-1-6 - Electrical Code Adoptions</i>	<i>6-2</i>
	<i>Section 6-1-7 - International Fire Prevention Code Adoption</i>	<i>6-2</i>
	<i>Section 6-1-8 - State of Illinois Accessibility Standards Adoption</i>	<i>6-2</i>
	<i>Section 6-1-9 - Fees</i>	<i>6-2</i>

## CHAPTER 6

### BUILDING REGULATIONS

#### ARTICLE I – GENERAL PROVISIONS

**6-1-1 PURPOSE AND CODE ADOPTION.** The purpose of this Article is to define general development regulations that apply in all zoning districts and in other development areas where applicable. These regulations apply to all development within the appropriate jurisdiction of the **City of Benton**.

**6-1-2 BUILDING CODE ADOPTION.** “**2015 International Building Code**”, as published by **International Code Council, Inc.**, including accumulative supplements thereto as amended from time to time, be and is hereby adopted as the **Building Code for the City of Benton, Illinois**, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the 2006 International Building Code and accumulative supplements thereto are hereby referred to, adopted, and made a part hereof as if fully set out in this Code with any additions, insertions, deletions, and changes thereto, described as follows:

Section 101.1 Insert: City of Benton.

Section 1612.3 Insert: City of Benton.

Section 3410.2 Insert: January, 1998.

Section 406.1.4 Change: 1. Private garages... “Doors shall be self-closing and self latching in all use groups with the exception of R3.”

Section 903.2.1.2 Group A-2 As follows: “An automatic sprinkler system shall be provided for group A-2 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (465m<sup>2</sup>); or
2. The fire area has an occupant load of 100 or more; or
3. The fire area is located on a floor other than the level of exit discharge.”
4. One and two-family dwellings automatic fire systems. A builder of one and two-family dwellings to be constructed for a prospective purchaser shall offer to the purchaser at the time of entering into the construction/purchase contract the option, at the purchasers cost, to install or equip fire sprinklers in the dwelling, residence or unit. No purchaser of such one or two-family dwelling shall be denied the right to choose or decline to install a fire sprinkler system in such dwelling or residence being purchased. Written verification by the builder affirming that a fire sprinkler system was offered to the purchaser at the time of entry into the construction/purchase contract must be included in the permit application.

**6-1-3 INTERNATIONAL RESIDENTIAL CODE.** “**2006 International Residential Code**”, as published by the International Code Council, Inc., including accumulative supplements thereto as amended from time to time, be and is hereby adopted as the Residential Building Code for the City of Benton, Illinois, for the control of one and two-family buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the 2006 International Residential Code and accumulative supplements thereto are hereby referred to, adopted and made a part hereof as if fully set out in this Code with any additions, insertions, deletions and changes thereto, described as follows: Insert: “Benton, Illinois” where wording calls for “Name of Municipality”.

Section R105.2 Work Exempt from Permit Change to: 1. One story detached accessory structure used as tool and storage sheds, playhouses and similar uses, provide the floor area does not exceed 200 square feet (11.15m<sup>2</sup>)

Section R301.1 Emergency Escape and rescue openings Change to: Basement sleeping rooms shall have at least one operable emergency escape and rescue opening.



One and two-family dwellings automatic fire systems. A builder of one and two-family dwellings to be constructed for a prospective purchaser shall offer to the purchaser at the time of entering into the

construction/purchase contract the option, at the purchasers cost, to install or equip fire sprinklers in the dwelling, residence or unit. No purchaser of such one or two-family dwelling shall be denied the right to choose or decline to install a fire sprinkler system in such dwelling or residence being purchased. Written verification by the builder affirming that a fire sprinkler system was offered to the purchaser at the time of entry into the construction/purchase contract must be included in the permit application.

**6-1-4                    EXPIRATION OF BUILDING PERMIT.** Building permits shall expire **two (2) years** from date of issuance. Fees paid **will not** be refunded.

**6-1-5                    PLUMBING CODE ADOPTION.** **"The Illinois State Plumbing Code, 2004", as published by the State of Illinois, Department of Health,** including accumulative supplements thereto, as amended from time to time, be and is hereby adopted as the **Plumbing Code of the City of Benton, Illinois**, for the control of plumbing in this City, and all regulations, provisions, penalties, conditions and terms of "The Illinois State Plumbing Code" are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

**6-1-6                    ELECTRICAL CODE ADOPTIONS.** **"The National Electrical Code, 2011 Edition", as published by the National Fire Protection Association,** including accumulative supplements thereto, as amended from time to time, be and is hereby adopted as the **Electrical Code of the City of Benton, Illinois**, for the control of installations, alteration and use of electrical equipment in this City, and all regulations, provisions, penalties, conditions, and terms of that Code are hereby referred to, adopted, and made a part thereof, as if fully set out in this Code.

(A) **Administration.** All fees provided herein shall be made payable to the City of Benton and paid to the City Clerk of the City of Benton.

**6-1-7                    INTERNATIONAL FIRE PREVENTION CODE ADOPTION.** **"The 2006 International Fire Code" as published by the International Code Council, Inc.,** including accumulative supplements thereto as amended from time to time, be and is hereby adopted, to be administered and enforced by the Fire Department.

**6-1-8                    STATE OF ILLINOIS ACCESSIBILITY STANDARDS ADOPTION.** **"State of Illinois Accessibility Standards 1997"** as published by the State of Illinois Capital Development Board including accumulative supplements thereto as amended from time to time be and is hereby adopted by reference.

**6-1-9                    FEES.** The fees for the respective codes shall be as follows:  
(A) **Title.** This Section shall be more commonly referred to as the "Building Permit Fee Section".

(B) **Building Electrical and Plumbing Permit Fees.** Except as provided herein, the Building, Electrical, and Plumbing Permit Fee Schedule shall be as stated in Exhibit "A" of this Article. Reference to "Group" and "Type of Construction" on said exhibit shall correspond with the definition and description of those terms as found in Sections 302-312 of the International Building Code - 2006 Edition, adopted by the City in Ordinance No. 1271. The building, plumbing, and electrical permit fees shall be established according to the International Code Council (ICC) table for Square Foot Construction Costs (as periodically updated).

The multipliers for each permit shall be as follows:

Building Permit	0.0015
Electrical Permit	0.0005

Plumbing Permit

0.0005

The formula for permit fee shall be as follows:

Building Sq/Ft x Cost per Sq/Ft x Multiplier = Permit Fee

Underground plumbing inspection fee - \$30.00

The minimum fee for a Building Permit shall be no less than **Fifty Dollars (\$50.00)** for all structures where a new foundation is required. The minimum Electrical and Plumbing Permit Fee shall be **Twenty-Five Dollars (\$25.00)**.

At the expiration of a Building, Electrical, or Plumbing Permit, the City may issue a **three (3) month** extension of the permit upon payment of a **One Hundred Fifty Dollar (\$150.00)** fee, provided the property owner, contractor, and subcontractor have otherwise complied with the Ordinances of the City in the construction of the project. No more than **four (4)** such extensions shall be granted.

There shall be a **Twenty Dollar (\$20.00)** re-inspection fee per re-inspection for each type of permit.

(C) **Occupancy Permit.** There shall be a **Two Hundred Dollar (\$200.00)** Occupancy Permit Fee payable at the time of the issuance of a Building, Electrical, or Plumbing Permit. The fee shall be refunded at the time an Occupancy Permit is issued less any re-inspection fees due and owing.

(D) **Fines and Penalties.** Certain fines and penalties shall be assessed against contractors, sub-contractors, and/or property owners for violations of certain provisions of the Ordinance Related to Building Codes and Fire Regulations. Said fines and penalties are more particularly set forth in **Section 1-1-20.**

(E) **Exclusion of Fees.** Churches, schools, and other non-profits are exempt from the aforementioned fees.

## APPLICATION FOR PLAN EXAMINATION AND BUILDING PERMIT

**APPLICANT INSTRUCTIONS:** For all applications, complete Parts 1, 2, 3, 4, and 5 of this form. If electrical work, complete also Part 6. If plumbing work, complete also Part 7. If mechanical work, complete also Part 8. For other permits, complete also Part 9. Site Plan (Part 10) is to be shown on Page 4 or attached hereto. Parts 11-18 (Pages 5 and 6) are for department use only.

App. Date ___/___/___	Type Permit <input type="checkbox"/> Building (B)	<input type="checkbox"/> Electrical (E) <input type="checkbox"/> Plumbing (P) <input type="checkbox"/> Mechanical (M) <input type="checkbox"/> Other (O) (See Item 9)	Is owner Applicant (Y/N)
--------------------------	--	--	--------------------------------

### I. PROPERTY INFORMATION

Street Address	Apt	Zip	Parcel Number	Zoning
Subdivision	Lot Number	Parcel Type	<input type="checkbox"/> Residential (R) <input type="checkbox"/> Industrial (I) <input type="checkbox"/> Commercial (C) <input type="checkbox"/> Other (O)	

### II. OWNER INFORMATION

First Name	Last Name or Business Name	Phone
Street Address	City	State    Zip

### III. CONTRACTORS INFORMATION

	NAME OF CONTRACTOR	ST. ADDRESS	CITY, ST	LICENSE NO.
Applicant (not owner)				
Architect/Engineer				
General Contractor				
Excavation				
Concrete				
Carpentry				
Electrical				
Plumbing				
Sewer				
Mechanical				
Roofing				
Masonry				
Drywall or Lathing				
Sprinkler				
Paving				
Fire Alarm				

### IV. CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the code official or the code official's authorized representative shall have the authority to enter areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to such permit.

Signature of Applicant Address Phone No.

Responsible Person in Charge of Work, Title Phone No.

**V. BUILDING PERMIT APPLICATION**

For Dept. Use Only	Request Plan No. Assignment (Y/N)	Plan Number
-----------------------	--------------------------------------	-------------

**Improvement Type:**

- |   |   |
|---|---|
| <input type="checkbox"/> New Construction (1) | <input type="checkbox"/> Addition (2)           |
| <input type="checkbox"/> Alteration (3)       | <input type="checkbox"/> Repair/Replacement (4) |
| <input type="checkbox"/> Demolition (5)       | <input type="checkbox"/> Relocation (6)         |
| <input type="checkbox"/> Foundation Only (7)  | <input type="checkbox"/> Change of Use Only (8) |

**Proposed Use:**

**Assembly**

- |   |   |
|---|---|
| <input type="checkbox"/> Theatre (1)    | <input type="checkbox"/> Church (4)         |
| <input type="checkbox"/> Night Club (2) | <input type="checkbox"/> Other Assembly (5) |
| <input type="checkbox"/> Restaurant (3) |   |

☐ **Business (6)**

**Educational**

- |  |  |
|--|--|
| <input type="checkbox"/> (Grades 1-12) (7) | <input type="checkbox"/> Day Care Facility (8) |
|--|--|

**Factory**

- |  |  |
|--|--|
| <input type="checkbox"/> Moderate Hazard (9) | <input type="checkbox"/> Low Hazard (10) |
| <input type="checkbox"/> High Hazard (11)    |  |

**Institutional**

- |  |                                    |
|--|------------------------------------|
| <input type="checkbox"/> Group Home (12) | <input type="checkbox"/> Jail (14) |
| <input type="checkbox"/> Hospital (13)   |                                    |

☐ **Mercantile (15)**

**Residential**

- |  |  |
|--|--|
| <input type="checkbox"/> Hotel/Motel (16)    | <input type="checkbox"/> CABO Two Family (19)    |
| <input type="checkbox"/> Multi-Family (17)   | <input type="checkbox"/> IBC Single Family (20)  |
| <input type="checkbox"/> IBC Two Family (18) | <input type="checkbox"/> CABO Single Family (21) |

**Storage**

- |   |  |
|---|--|
| <input type="checkbox"/> Moderate Hazard (22) | <input type="checkbox"/> Low Hazard (23) |
|---|--|

<input type="checkbox"/> <b>Other (24)</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Parking Garage  Motor Fuel Service  Public Utility        </div> <div style="width: 45%;"> Carport  Repair Garage  HPM        </div> </div>		
<b>Structural Frame</b> (Check those applicable) <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Steel (1)  <input type="checkbox"/> Masonry (2)  <input type="checkbox"/> Concrete (3) </div> <div style="width: 45%;"> <input type="checkbox"/> Wood (4)  <input type="checkbox"/> Other (5) Identify: _____ </div> </div>		
<b>Exterior Walls</b> (Check those applicable) <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Steel (1)  <input type="checkbox"/> Masonry (2)  <input type="checkbox"/> Concrete (3) </div> <div style="width: 45%;"> <input type="checkbox"/> Wood (4)  <input type="checkbox"/> Other (5) Identify: _____ </div> </div>		
<b>Are any structural assemblies fabricated off-site?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
Street Frontage (Feet)	Stories (Number)	Lot Area (Sq. Ft.)
Front Setback (Feet)	Bedrooms (Number)	Building Area (Sq. Ft.)
Rear Setback (Feet)	Full Baths (Number)	Parking Area (Sq. Ft.)
Left Setback (Feet)	Partial Baths (Number)	Living Area (Sq. Ft.)
Right Setback (Feet)	Garages (Number)	Basement Area (Sq. Ft.)
Height Above Grade (Feet)	Windows (Number)	Garage Area (Sq. Ft.)
New Residential Units (Number)	Fireplaces (Number)	Office/Sales (Sq. Ft.)
Existing Residential Units (Number)	Enclosed Parking (Number)	Service (Sq. Ft.)
Elevators/Escalator (Number)	Outside Parking (Number)	Manufacturing (Sq. Ft.)
Est. Start    /    /	Est. Finish    /    /	Building Est. Value \$

## 6. ELECTRICAL PERMIT APPLICATION

**Electrical Work** ☐ Yes   ☐ No

Total Service ____ AMPS	Number of Circuits: <input type="checkbox"/> 2 wire <input type="checkbox"/> 3 wire <input type="checkbox"/> 4 wire	Number of Service Outlets: ____ 110 V        ____ 220V
-------------------------	---	---

Power Devices	No.	Output/Load	Power Devices	No.	Output/Load
1			7		
2			8		
3			9		
4			10		
5					
6					
Utility Service Revisions:			Total Number of Motors		
Est. Start    /    /		Est. Finish    /    /		Building Est. Value \$	

## 7. PLUMBING PERMIT APPLICATION

**Enter the Number of Fixtures Being Installed, Replaced or Repaired**

Tubs/Shower		Drinking Fountains		Back Flow Preventers	
Shower Stalls		Floor Drains		Water Pumps	
Lavatories		Water Heaters		Roof Openings	
Toilets		Water Softeners		Parking Lot Drains	
Urinals		Sewage Ejectors		Inside Downspouts	
Sinks		Sump Pumps		Swimming Pools	
Laundry Tubs		Grease Traps		Stand Pipes (Y/N)	
				(Number Hose Outlets)	
Dishwashers		Bidets		Fire Sprinklers (Y/N)	
				(Number of Heads)	
Garbage Disposals				Lawn Sprinklers (Y/N)	
				(Number of Heads)	
				Total Fixtures	
Public Water (Y/N)		Public Sewer (Y/N)			
Water Service Size		Water Meter Size	in.	Avg. Daily Water Use	GPD
Utility Service Revisions					
				Plumbing Work	
Est. Start	/ /	Est. Finish	/ /	Building Est. Value \$	

## 8. MECHANICAL PERMIT APPLICATION

**Mechanical Work** ☐ Yes ☐ No

**Enter Number of New or Replacement Units**

Forced Air Furnace		Incinerator		Air Handling Unit	
Unit Heater		Boiler		Heat Pump	
Gas/Oil Conversion		Coil Unit		Air Cleaner	
Space Heater		Window A/C Unit		Kitchen Exhaust Hood	
Gravity Furnace		Split System A/C		Hazardous Exhaust System	
Solid Fuel Appliance		A/C Compressor		Electric Furnace	
Utility Service Revisions					
				Plumbing Work	
Type of Heating Fuel					
(Check One) <input type="checkbox"/> Gas (1) <input type="checkbox"/> Oil (2) <input type="checkbox"/> Electric (3) <input type="checkbox"/> Coal (4) <input type="checkbox"/> Wood (5) <input type="checkbox"/> Other (6)					
				Mechanical Work	
Est. Start	/ /	Est. Finish	/ /	Est. Value \$	

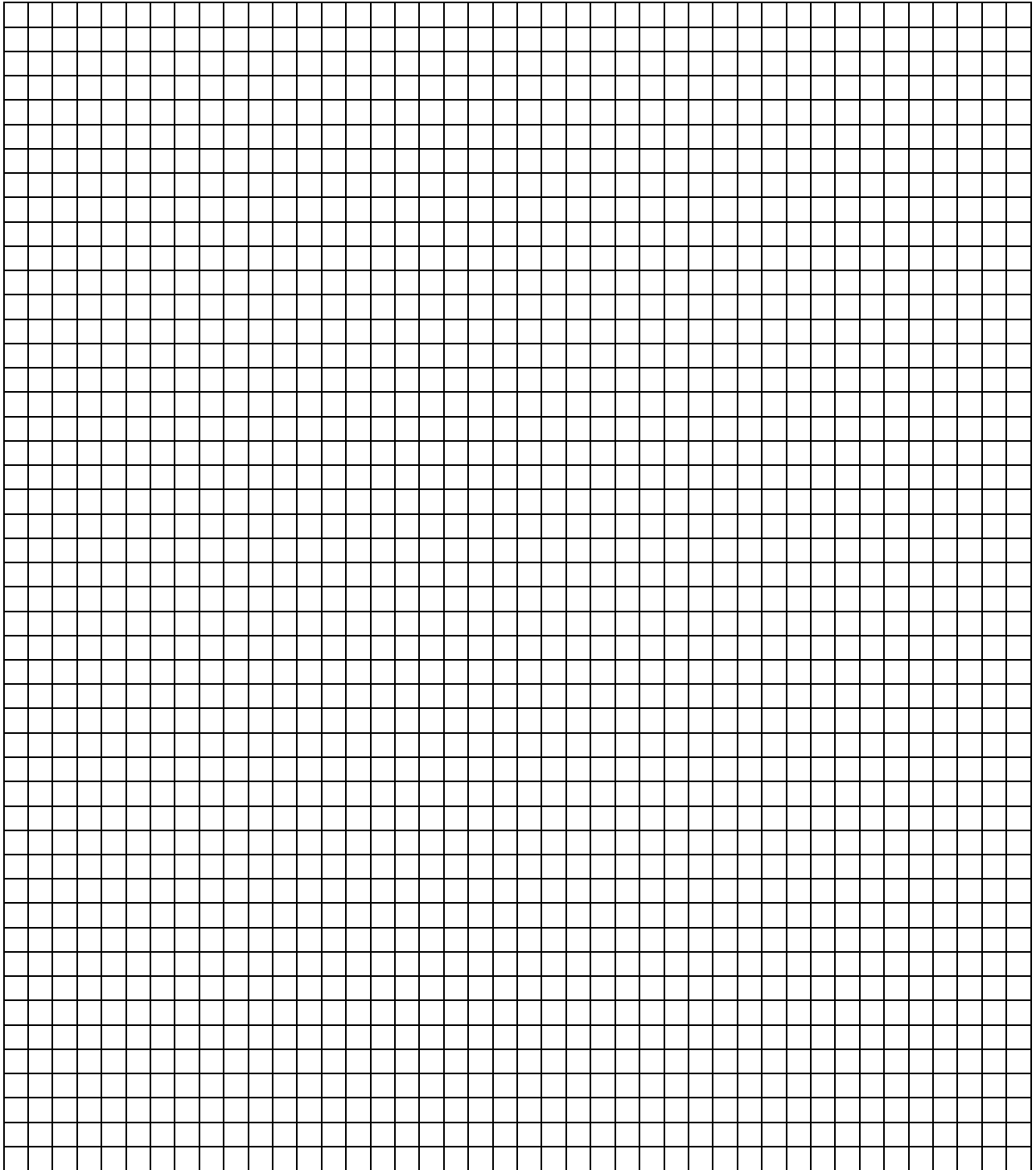
## 9. OTHER REQUIRED PERMIT APPLICATION(S)

Permit Type		
Description of Work		
Est. Start	/ /	Est. Value \$



**10. SITE PLAN**

**(Show lot lines, easements and work layout and dimensions)**



**SCALE = 1 inch = \_\_\_\_\_ FEET**

## 11. DATA ENTRY

Application Received: \_\_/\_\_/\_\_ \_\_\_\_\_  
By: \_\_\_\_\_  
Application Reviewed: \_\_/\_\_/\_\_ \_\_\_\_\_  
By: \_\_\_\_\_  
Data Entry: \_\_/\_\_/\_\_ \_\_\_\_\_  
By: \_\_\_\_\_

## 12. FLOODPLAIN EVALUATION

Flood Map Number & Date \_\_\_\_\_  
Flood Zone \_\_\_\_\_

Lowest Floor Elevation \_\_\_\_\_  
Base Flood Elevation \_\_\_\_\_

### 13. ZONING PLAN EVALUATION

Zoning District _____	Map Number _____
Lot Area (From Page 2) _____	Lot Coverage (%) _____
Lot Area Per Room _____	Encroachments _____
Off-Street Parking Spaces, Required _____	Provided _____
Load Space _____	
Signs; Number _____	Size of Each Sign _____

## 14. PLAN REVIEW RECORD

Plan Review Required	Check	Plan Review Fee	Date Plans Started	By	Date Plans Approved	By	Titles
Building		\$					
Plumbing		\$					
Mechanical		\$					
Electrical		\$					
<b>Total</b>		<b>\$</b>	<b>TO BE ENTERED ON PART 18</b>				

## 15. ADDITIONAL PERMITS REQUIRED

Permit or Approval	Check	Date Obtained	Number	By	Permit or Approval	Check	Date Obtained	Number	By
Boiler					Plumbing				
Curb or Sidewalk Cut					Roofing				
Elevator					Sewer				
Electrical					Sign or Billboard				
Furnace					Street Grades				
Grading					Use of Public Areas				
Oil Burner					Demolition				

### 16. PROJECT DOCUMENTS (DRAWINGS & CALCULATIONS)

Type Drawings/Report	Submitted	Signed and Sealed	Date	Revision Date
Site Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Soil Report	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Architectural Drawings	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Structural Drawings	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Mechanical Drawings	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Electrical Drawings	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Job Specifications	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Structural Connection Drawings	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Structural Calculations	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Special Inspection Data	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Sprinkler Drawings	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Sprinkler Calculations	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		

### 17. OTHER DEPARTMENT APPROVALS

Signature	Date	Signature	Date
Fire		Health and Sanitation	
Public Works		Water	
Zoning Planning		Architectural Review	
Environmental Management			

### 18. VALIDATION

Building Permit	Date	Number	Permit/Insp Fee
Electrical Permit	Date	Number	Permit/Insp Fee
Plumbing Permit	Date	Number	Permit/Insp Fee
Mechanical Permit	Date	Number	Permit/Insp Fee
	Date	Number	Permit/Insp Fee
	Date	Number	Permit/Insp Fee
Plan Review (From Part 14)			
Certificate of Occupancy Fee			
Other Fee			
<b>TOTAL FEES</b>			

Prepared By: \_\_\_\_\_ Date: \_\_\_\_\_

Approved By: \_\_\_\_\_ Title: \_\_\_\_\_

## **CHAPTER 7**

### **BUSINESS CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>ADMINISTRATOIN</i></b>	
	<i>Section 7-1-1 - Applications</i>	<i>7-1</i>
	<i>Section 7-1-2 - Persons Subject to License</i>	<i>7-1</i>
	<i>Section 7-1-3 - Form of License</i>	<i>7-1</i>
	<i>Section 7-1-4 - Investigations</i>	<i>7-1</i>
	<i>Section 7-1-5 - Fees</i>	<i>7-2</i>
	<i>Section 7-1-6 - Termination of Licenses</i>	<i>7-2</i>
	<i>Section 7-1-7 - Building and Premises</i>	<i>7-2</i>
	<i>Section 7-1-8 - Change of Location</i>	<i>7-3</i>
	<i>Section 7-1-9 - Location</i>	<i>7-3</i>
	<i>Section 7-1-10 - Nuisances Prohibited</i>	<i>7-3</i>
	<i>Section 7-1-10.1 - Generally</i>	<i>7-3</i>
	<i>Section 7-1-10.2 - Unsafe or Unhealthful Business</i>	<i>7-3</i>
	<i>Section 7-1-11 - Working Conditions</i>	<i>7-3</i>
	<i>Section 7-1-11.1 - Health Requirements</i>	<i>7-3</i>
	<i>Section 7-1-11.2 - Sanitation</i>	<i>7-3</i>
	<i>Section 7-1-11.3 - Heat Required</i>	<i>7-3</i>
	<i>Section 7-1-11.4 - Inspection</i>	<i>7-4</i>
	<i>Section 7-1-12 - Inspections</i>	<i>7-4</i>
	<i>Section 7-1-13 - Suspension, Revocation of License or Permit</i>	<i>7-4</i>
	<i>Section 7-1-13.1 - Nuisance</i>	<i>7-4</i>
	<i>Section 7-1-13.2 - Hearing</i>	<i>7-4</i>
	<i>Section 7-1-13.3 - Revocation</i>	<i>7-4</i>
	<i>Section 7-1-13.4 - Hearing Notice</i>	<i>7-5</i>
	<i>Section 7-1-13.5 - Counsel</i>	<i>7-5</i>
	<i>Section 7-1-14 - Appeal</i>	<i>7-5</i>
	<i>Section 7-1-15 - License to be Posted</i>	<i>7-5</i>
	<i>Section 7-1-16 - Produce: Exclusions</i>	<i>7-5</i>
<b><i>II</i></b>	<b><i>TRANSIENT MERCHANTS, ITINERANT VENDORS AND SOLICITORS</i></b>	
	<i>Division I - Definitions</i>	
	<i>Section 7-2-1 - Definitions</i>	<i>7-6</i>
	<i>Section 7-2-2 - 7-2-3 Reserved</i>	
	<i>Division II – Transient Merchants and Itinerant Vendors</i>	
	<i>Section 7-2-4 - License Required</i>	<i>7-7</i>
	<i>Section 7-2-5 - Standards for License Issuance</i>	<i>7-8</i>
	<i>Section 7-2-6 - Denial of License</i>	<i>7-8</i>
	<i>Section 7-2-7 - Denial of License</i>	<i>7-8</i>
	<i>Section 7-2-8 - Revocation of License</i>	<i>7-9</i>
	<i>Section 7-2-9 - Appeal of License Denial or Revocation</i>	<i>7-9</i>
	<i>Section 7-2-10 - License to be Carried on Person and Exhibited Upon Request</i>	<i>7-10</i>
	<i>Section 7-2-11 - Transfer</i>	<i>7-10</i>
	<i>Section 7-2-12 - Failure to Obtain License</i>	<i>7-10</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>II</b>	<b>TRANSIENT MERCHANTS, ITINERANT VENDORS AND SOLICITORS (CONTINUED)</b>	
	<i>Division II – Transient Merchants and Itinerant Vendors (Continued)</i>	
	Section 7-2-13 - Exemptions from Fee Requirements	7-10
	Section 7-2-14 - Exemptions from License Requirements	7-11
	Section 7-2-15 - Licenses Granted to Firms or Corporations	7-11
	Section 7-2-16 - Interstate Commerce	7-11
	Section 7-2-17 - Penalty	7-11
	Section 7-2-18 - 7-2-24 Reserved	
	<i>Division III - Solicitors</i>	
	Section 7-2-25 - Registration Required	7-12
	Section 7-2-26 - Registration Fee	7-12
	Section 7-2-27 - Standards for Solicitor's Permit Issuance	7-12
	Section 7-2-28 - Issuance of Permit	7-13
	Section 7-2-29 - Solicitor's Permit Denial	7-13
	Section 7-2-30 - Revocation of Permit	7-13
	Section 7-2-31 - Appeal of Permit Denial or Revocation	7-13
	Section 7-2-32 - Permit to be Carried on Person and Exhibited Upon Request	7-14
	Section 7-2-33 - Nontransferable	7-14
	Section 7-2-34 - Disclosure Requirements	7-14
	Section 7-2-35 - Posted Premises	7-14
	Section 7-2-36 - Prohibited Practices	7-15
	Section 7-2-37 - Exceptions	7-15
	Section 7-2-38 - No Agreement to Evade <sup>3</sup>	7-15
	Section 7-2-39 - Interstate Commerce	7-15
	Section 7-2-40 - Regulations: Intersections	7-15
	Section 7-2-41 - Penalty	7-16
	Section 7-2-42 - 7-2-43 Reserved	
	<i>Division IV – Garage and Yard Sales</i>	
	Section 7-2-44 - Time Period for Operation	7-16
	Section 7-2-45 - Limitation	7-16
	Section 7-2-46 - Fines	7-16
<b>III</b>	<b>PEDDLERS</b>	
	Section 7-3-1 - License Required	7-17
	Section 7-3-2 - Definition	7-17
	Section 7-3-3 - Applications	7-17
	Section 7-3-4 - Investigation of Applicants	7-17
	Section 7-3-5 - Hours	7-17
	Section 7-3-6 - Fraud	7-17
	Section 7-3-7 - Photograph	7-17
	Section 7-3-8 - Unwanted Peddling	7-18
	Section 7-3-9 - Peddlers as Nuisance	7-18
	Section 7-3-10 - Duty of Police to Abate	7-18
	Section 7-3-11 - Exclusionary Provision	7-18
	Section 7-3-12 - Fees	7-18
	Section 7-3-13 - Delinquent Payment of City Debt	7-18

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IV</b>	<b>COIN-OPERATED MACHINES</b>	
	Section 7-4-1 - Definitions	7-19
	Section 7-4-2 - License Required	7-20
	Section 7-4-3 - Application	7-20
	Section 7-4-4 - Prohibited Licensees	7-21
	Section 7-4-5 - Term of License - Fees	7-21
	Section 7-4-6 - Delinquent Payment of City Debt	7-21
	Section 7-4-7 - Non-Assignability of License	7-22
	Section 7-4-8 - Placement; Gambling Regulations	7-22
	Section 7-4-9 - Permitting Gambling	7-22
	Section 7-4-10 - Hours of Operation	7-22
	Section 7-4-11 - Display of License	7-22
	Section 7-4-12 - Right of Entry	7-23
<b>V</b>	<b>JUNK DEALERS</b>	
	Section 7-5-1 - Definitions	7-24
	Section 7-5-2 - Physical Requirements	7-24
	Section 7-5-3 - Licenses Required	7-24
	Section 7-5-4 - Application	7-24
	Section 7-5-5 - Disqualification	7-25
	Section 7-5-6 - License	7-25
	Section 7-5-7 - License Fee	7-25
	Section 7-5-8 - Delinquent Payment of City Debt	7-25
	Section 7-5-9 - Minors	7-25
<b>VI</b>	<b>TAXICABS</b>	
	Section 7-6-1 - Definitions	7-26
	Section 7-6-2 - Certificate of Public Convenience and Necessity Required	7-26
	Section 7-6-3 - Application for Certificate	7-26
	Section 7-6-4 - Issuance of Certificate	7-26
	Section 7-6-5 - Limitation of Franchises	7-26
	Section 7-6-6 - Liability Insurance Required	7-27
	Section 7-6-7 - Transfer of Certificates	7-27
	Section 7-6-8 - Suspension and Revocation of Certificates	7-27
	Section 7-6-9 - Taxi Driver's License	7-27
	Section 7-6-10 - Application for Driver's License	7-27
	Section 7-6-11 - Issuance of License; Duration; Annual Fee	7-27
	Section 7-6-12 - Display of License	7-27
	Section 7-6-13 - Suspension and Revocation of License	7-27
	Section 7-6-14 - Failure to Comply with City, State and Federal Laws	7-28
	Section 7-6-15 - Vehicles; Equipment; Maintenance	7-28
	Section 7-6-16 - Refusal of Passengers to Pay Legal Fare	7-28
	Section 7-6-17 - Certificate Fee	7-28
	Section 7-6-18 - Delinquent Payment of City Debt	7-28

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VII</b>	<b>RAFFLES AND POKER RUNS</b>	
	Section 7-7-1 - Definitions	7-29
	Section 7-7-2 - Requirement of License	7-30
	Section 7-7-3 - Application for a License for a Raffle	7-30
	Section 7-7-4 - Application for a License for a Poker Run	7-31
	Section 7-7-5 - Licensee Qualifications	7-31
	Section 7-7-6 - License Issuance	7-32
	Section 7-7-7 - Conduct of Raffles and Poker Runs	7-32
	Section 7-7-8 - Manager – Bond	7-33
	Section 7-7-9 - Records	7-33
	Section 7-7-10 - Limited Construction	7-33
	Section 7-7-11 - Delinquent Payment of City Debt	7-34
<b>VIII</b>	<b>ADULT ENTERTAINMENT</b>	
	Section 7-8-1 - Purpose and Intent	7-35
	Section 7-8-2 - Definitions	7-35
	Section 7-8-3 - Location of Sexually Oriented Businesses	7-37
	Section 7-8-4 - License Required	7-37
	Section 7-8-5 - Application for Sexually Oriented Business License	7-38
	Section 7-8-6 - Application for a Sexually Oriented Business Employee License	7-38
	Section 7-8-7 - Fees	7-38
	Section 7-8-8 - Inspection	7-39
	Section 7-8-9 - Expiration of License	7-39
	Section 7-8-10 - Suspension	7-39
	Section 7-8-11 - Revocation	7-39
	Section 7-8-12 - Licensing Procedure and Licensing Decisions	7-40
	Section 7-8-13 - Transfer of License	7-42
	Section 7-8-14 - Alcoholic Beverages	7-42
	Section 7-8-15 - Exterior Portions of Sexually Oriented Businesses	7-42
	Section 7-8-16 - Additional Regulations for Adult Motels	7-43
	Section 7-8-17 - Additional Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos in Viewing Rooms	7-44
	Section 7-8-18 - Additional Regulations for Adult Theaters	7-46
	Section 7-8-19 - Additional Regulations Concerning All Sexually Oriented Businesses	7-47
	Section 7-8-20 - Prohibition Against Minors in a Sexually Oriented Business	7-49
	Section 7-8-21 - Hours of Operation	7-50
	Section 7-8-22 - Notices	7-50
	Section 7-8-23 - Calculation of Time	7-50
	Section 7-8-24 - Injunction, Penalties and Remedies	7-51
	Section 7-8-25 - Nuisance Declared	7-51
<b>IX</b>	<b>FIREWORKS CODE</b>	
	Section 7-9-1 - Definitions	7-52
	Section 7-9-2 - Sale of Fireworks Unlawful	7-52
	Section 7-9-3 - Possession, Use and Discharge of Dangerous Fireworks Unlawful	7-52

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>IX</i></b>	<b><i>FIREWORKS CODE (CONTINUED)</i></b>	
	<i>Section 7-9-4 - Permit Required to Sell or Display Fireworks</i>	<i>7-52</i>
	<i>Section 7-9-5 - Time Limit Set on Sale and Use</i>	<i>7-52</i>
	<i>Section 7-9-6 - Permit Fees</i>	<i>7-53</i>
	<i>Section 7-9-7 - Issuance – Nontransferable Voiding</i>	<i>7-53</i>
	<i>Section 7-9-8 - Application for Public Display Permit</i>	<i>7-53</i>
	<i>Section 7-9-9 - Application for Seller’s Permit – Conditions for Issuance</i>	<i>7-53</i>
	<i>Section 7-9-10 - Sale From Stands – Exceptions</i>	<i>7-54</i>
	<i>Section 7-9-11 - Standards for Temporary Stands</i>	<i>7-54</i>
	<i>Section 7-9-12 - Standards for Public Fireworks Displays</i>	<i>7-55</i>
	<i>Section 7-9-13 - Use of Fireworks in Public Parks</i>	<i>7-55</i>
	<i>Section 7-9-14 - Special Effects for Entertainment Media</i>	<i>7-56</i>
	<i>Section 7-9-15 - Nonprohibited Acts</i>	<i>7-56</i>
	<i>Section 7-9-16 - Applicability</i>	<i>7-56</i>
	<i>Section 7-9-17 - Status of State Law</i>	<i>7-56</i>
	<i>Section 7-9-18 - Enforcement</i>	<i>7-56</i>
	<i>Section 7-9-19 - Reckless Discharge or Use Prohibited</i>	<i>7-56</i>





## CHAPTER 7

### BUSINESS CODE

#### ARTICLE I - ADMINISTRATION

##### **7-1-1        APPLICATIONS.**

(A) Applications for all licenses and permits required by this Chapter shall be made in writing to the City Clerk in the absence of provision to the contrary.

- (B) Each application shall contain:
- (1) the name of the applicant;
  - (2) the permit or license desired;
  - (3) the location to be used, if any;
  - (4) Zoning district, if any;
  - (5) the time covered; and
  - (6) the fee to be paid.

(C) Each application shall also contain the number the Certificates of Registration required under the Retailer's Occupation Tax Act, Service Occupation Tax Act, and/or Use Tax Act, if applicable. Each application shall contain such additional information as may be needed for the proper guidance of the municipal officials in the issuing of the license or permit applied for.

**7-1-2        PERSONS SUBJECT TO LICENSE.** Whenever a license or permit is required in this Code or in any municipal ordinance for the maintenance, operation, or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person, firm, or corporation shall be subject to the requirement if by himself or itself, or through an agent, employee or partner, he or it is held forth as being engaged in the business, activity or occupation, or if he or it solicits patronage therefor actively or passively; or if he or it performs or attempts to perform any part of such business, activity or occupation in this Municipality.

**7-1-3        FORM OF LICENSE.** Every license shall be signed by the Mayor and attested by the Clerk under the corporate seal, and no license shall be valid until signed and countersigned as aforesaid, nor shall any person be deemed to be licensed until the same shall have been issued to him in due form.

##### **7-1-4        INVESTIGATIONS.**

(A) Upon the receipt of an application for a license or permit, where an investigation or inspection is required by ordinance before the issuance of such permit or license, or where an inspection or investigation shall be deemed reasonably necessary or appropriate, the Clerk, within **forty-eight (48) hours** shall refer the application to the appropriate official(s) for the making of such investigation or inspection.

(B) The official(s) to whom the application has been referred shall make a report thereon, favorable or otherwise within **ten (10) days** after receiving such application or a copy thereof.

(C) The Chief of Police or the County Health Department shall make or cause to be made an inspection regarding such permits and licenses as relate to the care and handling of food, the prevention of nuisances and the spread of disease, and the protection of health. **[If a Zoning Code is in effect, the Zoning Administrator shall make or cause to be made any inspections which relate to compliance with the Zoning Code and other related regulations.]** All other investigations, except where otherwise provided, shall be made by the Chief of Police or by some other officer designated by the Mayor.

(D) Upon receipt of all related investigative reports, the Clerk shall forward such reports, together with the application, to the Mayor for evaluation and determination.

(E) If it shall appear to the Mayor that the matters and circumstances relating to an application require further information before a proper determination can be made, such application shall be returned to the Clerk for the inclusion of such additional information as may be specified necessary and appropriate.

(F) If, after due consideration of the information contained with the application and the related investigative reports, the Mayor shall determine that the matters concerning the application are unsatisfactory, he may disapprove such application, indicating the reasons therefor. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is disapproved and that no license or permit will be issued.

(G) If, after due consideration of the information contained within the application and the related investigative reports, the Mayor shall determine that the application is satisfactory, he shall approve the application. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is approved and the license or permit may be issued.

**7-1-5 FEES.** In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Clerk in the amounts prescribed by the corporate authorities. When an applicant has not engaged in the business or activity until after the expiration of the current license year, the license fee shall be prorated by quarters and the fee paid for each quarter or fraction thereof during which the business or activity has been or will be conducted. Except as otherwise provided, all license and permit fees shall become a part of the corporate fund. In no event shall any rebate or refund be made of any license or permit fee, or part thereof, by reason of death or departure of the licensee or permittee; nor shall any rebate or refund be made by reason of non-use of the license or discontinuance of the operation or conduct of the licensed establishment, business or activity.

(A) **Delinquent Payment of City Debt.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purpose of this Section, "licensee" shall refer to the license applicant, its officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-17; 05-10-04)**

**7-1-6 TERMINATION OF LICENSES.** All annual licenses shall be operative and the license year for this Municipality shall commence on **May 1<sup>st</sup> of each year** and shall terminate on **April 30<sup>th</sup>** of the following year, where no provision to the contrary is made.

The Clerk shall notify all licensees of this Municipality of the time of expiration of the license held by the licensee (if an annual), **three (3) weeks** prior to the date of such expiration. Provided, however, that a failure to make such notification or the failure of the licensee to receive it shall not excuse the licensee from the obligation to obtain a new licensee or a renewal thereof, nor shall it be a defense in an action based upon operation without a license.

**7-1-7 BUILDING AND PREMISES.** No license shall be issued for the conduct of any business, and no permit shall be issued for any purpose or activity, if the premises and building to be used for the purpose do not fully comply with all applicable ordinances and regulations of this Municipality and the State of Illinois. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of this Code and/or other applicable regulations of this Municipality. **(See Chapter 40 - Zoning Code)**

**7-1-8            CHANGE OF LOCATION.** The location of any licensed business or occupation, or the location of any permitted act may be changed, provided that **ten (10) days** notice thereof is given to the Clerk, in the absence of any provision to the contrary; provided further, however, that all applicable ordinances and regulations of this Municipality shall be complied with. **(See Chapter 40 - Zoning Code)**

**7-1-9            LOCATION.** No license for the operation of a business or establishment in this Municipality shall be construed to permit the operation of a licensed business or establishment in more than **one (1) location** in this Municipality; a separate license shall be required for each location of a licensed establishment. For the purpose of this Code, the existence of a single location shall be evidenced by the fact that all buildings containing the principal or accessory uses shall be connected or shall be located on the same lot or parcel; shall be operated and managed by the same person or owner; and shall be an establishment with the same classification.

**7-1-10            NUISANCES PROHIBITED.**

**7-1-10.1        GENERALLY.** No business or establishment, whether licensed or not, shall be so conducted or operated as to constitute a nuisance in fact, and no building, vehicle or structure, yard, lot, premises or part thereof shall be used, kept, maintained, or operated in connection with any business or establishment so as to occasion any nuisance or so as to be dangerous to life or detrimental to health.  
**[ED. NOTE: The County Health Department should be consulted.]**

**7-1-10.2        UNSAFE OR UNHEALTHFUL BUSINESS.**  
(A) No building or structure utilized, constructed or maintained in connection with any business or occupation shall evidence an unsanitary, unsafe or dangerous condition.  
(B) No substance, matter or thing of any kind whatsoever, which would be dangerous or detrimental to health, shall be allowed to exist in connection with any business or occupation, or be used in any work or labor performed in this Municipality.

**7-1-11            WORKING CONDITIONS.**

**7-1-11.1        HEALTH REQUIREMENTS.** No owner, lessee, manager, or superintendent of any store, factory, workshop or other place where persons are employed shall cause or permit such place or any room or part thereof to be overcrowded or inadequate or faulty in respect to light, ventilation, heat or cleanliness.

**7-1-11.2        SANITATION.** All such places of employment shall be kept in a clean condition, free from effluvia of a sewer, drain, privy, stable or other nuisance(s); also as far as practicable, such premises shall be free from all gases, vapors, dust, or other impurities generated by manufacturing processes or otherwise which are injurious to health. Sufficient washroom facilities for male and female employees shall be provided and such facilities shall be properly ventilated.

**7-1-11.3        HEAT REQUIRED.**  
(A) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any factory or workshop to maintain a temperature within such factory or workshop of not less than **sixty-two degrees Fahrenheit (62°F.)** without such undue restriction of ventilation as

to interfere with proper sanitary conditions therein; provided, however, that this requirement shall not apply to any factory or workshop where the business conducted therein is of such a nature that a higher or

lower temperature than **sixty-two degrees Fahrenheit (62°F.)** is necessary or expedient for the work or manufacturing processes of such business.

(B) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any office, store, or other place of employment to maintain a temperature therein of not less than **sixty-two degrees Fahrenheit (62°F.)**, without such undue restriction of ventilation as to interfere with proper sanitary conditions therein during normal working hours.

**7-1-11.4      INSPECTION.** The Mayor or the Chief of Police shall visit or cause to be visited all places of employment in this Municipality as often as they shall deem necessary to assure compliance with the provisions of this Section, and to have such arrangements made as may be deemed necessary for the health and safety of the employees.

**7-1-12      INSPECTIONS.**

(A) Whenever inspections of the premises for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of this Municipality, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto, for the purpose of making the inspection, any officer or employee of this Municipality who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.

(B) Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly authorized officer or employee of this Municipality requesting the same, sufficient samples of such material or commodity for such analysis upon official request.

(C) In addition to any other penalty which may be provided, the Mayor may revoke the license of any owner or operator of a licensed business in this Municipality who refuses to permit any duly authorized officer or employee to make such inspection or to take adequate sample(s) of said commodity, or who interferes with such officer or employee while in the performance of his duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of this Municipality after having first presented a warrant authorizing such entry.

**7-1-13      SUSPENSION, REVOCATION OF LICENSE OR PERMIT.**

**7-1-13.1      NUISANCE.** When the conduct or operation of any business or establishment, whether or not licensed, shall constitute a nuisance in fact and a clear and present danger to the public health, safety or general welfare, the Mayor shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any license or permit for a period not to exceed **ten (10) days**.

**7-1-13.2      HEARING.** Within **eight (8) days** after he has so acted, the Mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.

**7-1-13.3      REVOCATION.** Licenses and permits issued in this Municipality, unless otherwise provided, may be revoked by the Mayor after notice and hearing as provided in **Subsections 7-1-13.4 and 7-1-13.5** of this Section for any of the following causes:

(A) Any fraud, misrepresentation or false statement contained in the application for the license or permit;

(B) Any violation by the licensee or permittee of Code provisions relating to the license or permit, the subject matter of the license or permit, or the premises occupied;

(C) Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;

(D) Failure of the licensee or permittee to pay any fine or penalty owed to this Municipality;

(E) Refusal to permit an inspection or sampling, or any interference with a duly authorized officer or employee in the performance of his duties in making such inspections, as provided in **Section 7-1-12**.

Such revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable Code regulations of this Municipality.

**7-1-13.4 HEARING NOTICE.** Notice of the hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by certified mail [return receipt requested] to the licensee or permittee at his last known address at least **five (5) days** prior to the date set for the hearing.

**7-1-13.5 COUNSEL.** At the hearing, the attorney for the Municipality shall present the complaint and shall represent the Municipality. The licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. The Mayor shall preside and shall render the decision.

**7-1-14 APPEAL.** Any person aggrieved by the decision of the Mayor regarding the denial of an application for a business license as provided in **Section 7-1-4** or in connection with the revocation of a license or permit as provided in **Section 7-1-13** shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the Clerk, within **ten (10) days** after notice of a denial of an application or a revocation of a license or permit, a written statement under oath setting forth specifically the grounds for appeal. The Mayor shall thereupon set the time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant or licensee or permittee in the same manner as provided in **Section 7-1-13** hereof. The decision of the City Council on such appeal shall be final.

**7-1-15 LICENSE TO BE POSTED.** It shall be the duty of every person conducting a licensed business in this Municipality to keep his license posted in a prominent place on the premises used for such business at all times.

**7-1-16 PRODUCE: EXCLUSIONS.** Nothing contained in this Chapter shall be construed as to require any person engaged in the sale of fruits, vegetables, or other foods for human consumption grown on the premises occupied by him or her should obtain any permits required by this Chapter. It shall be unlawful for any person who offers for sale any such food product on his or her own premises anywhere within the corporate limits of the City. **(Ord. No. 1274; 08-13-90)**



## **ARTICLE II – TRANSIENT, MERCHANTS, ITINERANT VENDORS AND SOLICITORS**

### **DIVISION I – DEFINITIONS**

**7-2-1            DEFINITIONS.** The following words and phrases, when used in this Chapter shall have the meanings respectfully ascribed to them by this Section, unless specified otherwise:

**“GARAGE AND YARD SALES”** means any sale conducted in any residential district where tangible personal property is offered for sale in or out of any building or structure.

**“GOODS, WARES OR MERCHANDISE”** means any tangible personal property which is normally used for personal, family or household purposes.

**“ITINERANT VENDOR”** means any person who transports tangible personal property for retail sale within this City who does not maintain in this City an established office, distribution house, sales house, warehouse, service center or residence from which such business is conducted. However, this Chapter does not apply to any person who delivers tangible personal property within this City who is fulfilling an order for such property which was solicited or placed by mail or other means. This Chapter does not apply to any person holding a valid license, nor does this Chapter apply to pushcarts or pushcart operations, which are provided for in Chapter 8 of this Title.

**“PERSON”** means any individual, corporation, partnership, trust, firm, association or other entity.

**“SOLICITOR”** means any person who goes from one residential unit or business to another for the purpose of:

- (A)            seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, insurance, or services of any kind for any kind of consideration;
- (B)            seeking to obtain subscriptions to books, magazines, periodicals, newspapers, or other type or kind of publication or;
- (C)            selling goods, products or merchandise.

**“TRANSIENT MERCHANT”** means any person who is engaged temporarily in the retail sale of goods, wares or merchandise in this City and who, for the purpose of conducting such business, occupies any building, room, vehicle, structure of any kind, vacant lot, or parcel of property. However, this Chapter does not apply to any person selling goods, wares or merchandise which are raised, produced or manufactured by him, to any person selling vegetables, fruit or perishable farm products at an established City market, to any person operating a stand or booth on or adjacent to property owned by him or upon which he resides, or to any person operating a stand or booth at a trade show, exposition, convention or similar event.

**7-2-2 - 7-2-3            RESERVED.**

## DIVISION II – TRANSIENT MERCHANTS AND ITINERANT VENDORS

### 7-2-4

#### **LICENSE REQUIRED.**

(A) **License Required.** It is unlawful for any person, either as principal or agent, to conduct business as a transient merchant or itinerant vendor in this City without first having obtained a license and complying with the requirements of the Retailers' Occupation Tax Act by obtaining a certificate of registration. A license may be obtained by filing a written license application with the City Clerk's office no less than **ten (10) business days** in advance of the proposed activity. **(35 ILCS 120/1 et seq.)**

(B) **Contents of Application.** The applicant shall complete a license application which shall include the following:

- (1) The name, residence, telephone number and driver's license number of the individual applying for the license;
- (2) The address of the principal place of business, which must include a street address of the applicant and a telephone number;
- (3) If the applicant is employed by another person or entity, the name of the employer, his residence address(es) and telephone number, and if the applicant is a corporation, the residential address, phone numbers and driver's license number of each corporate officer;
- (4) The location at which the applicant intends to sell his goods, wares or merchandise and the dates such sales will take place;
- (5) The nature of the business to be conducted;
- (6) A copy of the applicant's certificate of registration under the Retailers' Occupation Tax Act, **35 ILCS 120/1 et seq.**;
- (7) The type of goods, wares or merchandise to be sold or offered for sale;
- (8) A complete inventory of the goods the applicant shall offer for sale;
- (9) A list of all licenses to conduct business as a transient merchant or an itinerant vendor obtained by the applicant in this State in the **twelve (12) months** preceding the filing of the application;
- (10) Whether the applicant has been convicted of a criminal offense or ordinance violation (other than traffic or parking offenses) in any jurisdiction and, if so, a list of such convictions with date and prosecuting jurisdiction;
- (11) The names and addresses of any individuals or business enterprises expected to participate in the business. Any new individuals or business enterprises added after the submission of the application must be submitted to the City Clerk within **twenty-four (24) hours**;
- (12) If a vehicle is to be used, a description of the same, together with the license number or other means of identification;
- (13) The State and Federal tax identification numbers of the applicant and any individuals or business enterprises expected to participate in the business; and
- (14) If a food and drink license is required by the Franklin County Health Department, a copy of said license. Providing false information or failure to complete the application will result in the denial of the license.

(C) **Surety Required.** The applicant shall file with the City Clerk's office the application, along with a surety bond issued by an insurance company having authority to do business in Illinois or a cash deposit. The amount of the bond or deposit shall be equal to **fifty percent (50%)** of the wholesale value of the merchandise that the applicant shall offer for sale; however, the amount of the bond or deposit shall not be less than **One Thousand Dollars (\$1,000.00)** nor more than **Ten Thousand Dollars (\$10,000.00)**.

(D) **Surety Held by State.** The City Clerk's office shall transfer the deposit or bond to the office of the Illinois Attorney General within **fourteen (14) days** after the applicant ceases to do

business within the City and the Illinois Attorney General shall hold such deposit or bond for **two (2) years** as set forth in the Transient Merchant Act adopted by the General Assembly.

(E) **Term of License.** Any licensee issued pursuant to this Section shall run from **May 1** through **April 30** of each fiscal year. A license application fee of **One Hundred Dollars (\$100.00)** shall be required at the time of application in the form of cash, certified check or money order from any person wishing to conduct business as either a transient merchant or itinerant vendor. The license application fee shall not be refunded if the license is denied.

(F) **Granting of License.** A license to conduct business under this Article may be granted to a corporation, partnership or firm. Such a corporation, partnership or firm may use more than one agent or employee in conducting business within this City under the same license. However, in such cases, this Section shall not be construed to authorize more than one agent or employee to conduct business at one and the same time. If a corporation, partnership or firm wishes to have more than one agent or employee to conduct business at one and the same time, multiple licenses under this Article will be required.

#### **7-2-5                    STANDARDS FOR LICENSE ISSUANCE.**

(A) **Investigation of Applicants.** Within **two (2) business days** of receipt of a completed license application, the City Clerk shall cause copies thereof to be sent to:

- (1) The Chief of Police or the Chief of Police's designee who shall cause an investigation to be made as to the applicant's criminal record, if any, and compliance with all applicable laws and ordinances of the State and the City.
- (2) The Zoning Administrator or the Zoning Administrator's designee who shall review the application for compliance with this Code.
- (3) The City Treasurer shall examine the City's records to determine if the applicant owes any outstanding fee, fine or other amount to the City. No license shall be issued to any applicant who has unpaid fines, fees, or other financial obligations outstanding with the City. Any applicant having unpaid fines or other fees owed the City for any purpose shall bring those accounts current prior to the issuance of a registration certificate.

These Departments shall report back to the City Clerk's office within **ten (10) business days** whether the application is in accordance with applicable provisions of this Code.

**(225 ILCS 465/1 et seq.)**

(B) **Additional Information.** Applicants shall cooperate with such investigation and furnish such additional information as may be reasonably requested in furtherance of said investigation.

**7-2-6                    DENIAL OF LICENSE.** Upon receipt of the information provided by the City departments in relation to the application, the City Clerk shall cause the license to be issued within **five (5) business days**, unless the applicant is determined to be unfit to hold a license in the City in accordance with the provisions of the "License Denial" provision of this Chapter.

**7-2-7                    DENIAL OF LICENSE.** If any of the following factors have been committed, the application for the license shall be denied:

- (A) Any of the material statements made in the application to be false;
- (B) The applicant has been charged with or received a disposition of guilt either through supervision, probation or conviction for any offense involving theft, burglary, fraud, bribery or moral turpitude under the laws of the State of Illinois, of any other state, or of the United States within **five (5) years** of the date of application;

(C) The applicant or his employer has had a previously issued license under this or a similar article revoked by the City or by any other municipality within **five (5) years** of the date of the application;

(D) The applicant or his employer has been convicted of violating any provisions of this Article within **five (5) years** of the date of application;

(E) The applicant has not secured a food and/or drink license, if required, from the Franklin County Health Department;

(F) The applicant has outstanding debt with the City. The City Clerk shall deny the license application and shall provide written notification of such denial to the applicant in person or by first class mail.

#### **7-2-8**

#### **REVOCATION OF LICENSE.**

(A) **Grounds for Revocation.** A license issued hereunder shall be revoked by the City Clerk, or the City Clerk's authorized representative, if the holder of the license:

- (1) Has violated any of the provisions of this Chapter, the laws of the State, or the ordinances of the City while engaged in the business of a transient merchant or itinerant vendor;
- (2) The applicant has been charged with or received a disposition of guilt either through supervision, probation or conviction for any offense involving theft, burglary, fraud, bribery or moral turpitude under the laws of the State of Illinois, of any other state, or of the United States within **five (5) years** of the date of application;
- (3) Has knowingly furnished false or misleading information or withheld relevant information on any application for license or in investigation into any such license;
- (4) Has engaged in fraud, misrepresentation or false statements in the course of carrying out his business as a transient merchant or itinerant vendor;
- (5) Has conducted his business as a transient merchant or itinerant vendor in an unlawful manner or in such a manner as to constitute a breach of the peace or as to constitute a menace to the health, safety or general welfare of the public;
- (6) No longer has a valid licensee's bond, as provided for in this Chapter.

(B) **Notice.** Immediately upon such revocation, written notice shall be given by the City Clerk or the City Clerk's authorized representative to the license holder, in person, or by first class mail addressed to the applicant's address set forth in the license application. Such notice shall state the action taken and the reasons supporting such action. Immediately upon the delivery or mailing of such notice, the license shall become null and void.

#### **7-2-9**

#### **APPEAL OF LICENSE DENIAL OR REVOCATION.**

(A) **Notice of Appeal.** Any person denied a license or permit under this Article or any person who has had his license revoked pursuant to this Article may appeal to the Finance Commissioner by filing a written notice of appeal with the City Clerk's office no later than **five (5) business days** after the final action of denying or revoking the license has been initiated. Such appeal shall contain a written statement setting forth the grounds of the appeal. The appealing party shall submit whatever documentation it believes is relevant along with the written notice of appeal for the Finance Commissioner's consideration.

(B) **Decision of Finance Commissioner Final.** The Finance Commissioner shall grant or deny the appeal, with or without an evidentiary hearing, no later than **ten (10) business days** from the date the City Clerk receives notice of the appeal. Either way, the decision of the Finance Commissioner is final and the person aggrieved shall comply with the provisions of the Illinois Administrative Review Act.

(C) **Reapplication Waiting Period.** If a license or permit is denied or revoked either by the City Clerk, or the Finance Commissioner if an appeal is filed, no application for a merchant or vendor license shall be considered by the City for at least **six (6) months** from the date the denial or revocation is effective.

**7-2-10 LICENSE TO BE CARRIED ON PERSON AND EXHIBITED UPON REQUEST.** Every transient merchant or itinerant vendor shall carry the permit issued to him under this Article on his person at all times while conducting business as a transient merchant or itinerant vendor in this City. It shall also be the duty of every transient merchant or itinerant vendor to exhibit such permit and allow any information contained thereon to be documented when requested to do so by any law enforcement officer, any City official, or at the request of any citizen of this City.

**7-2-11 TRANSFER.** No license issued pursuant to this Article may be transferred, sold or assigned to another person.

**7-2-12 FAILURE TO OBTAIN LICENSE.**  
(A) **Impound Property of Merchant or Vendor.** If any person makes retail sales as a transient merchant or itinerant vendor without having obtained a license pursuant to this Article, the City may hold the inventory, truck or other personal property of the person until a license is obtained to conduct business as a transient merchant or itinerant vendor. If the property is held by the City for more than **sixty (60) days** and the person whose property is being held has not obtained a license pursuant to this Article, the City may petition the Circuit Court for an order for the sale of the property being held. If judgment is in favor of the City, proceeds of the sale of the property, less reimbursement to the City for the reasonable expenses of storage and sale of the property, shall be returned to the owner of said property. Said reimbursement expenses shall be deposited in the General Fund of the City.

(B) **Prima Facie Evidence.** It shall be prima facie evidence that a person is a transient merchant or itinerant vendor under this Article if the person does not transact business from a fixed location or if the person does not own or lease for a term of at least **six (6) months**, the property from which the business is conducted.

**7-2-13 EXEMPTIONS FROM FEE REQUIREMENTS.** The following persons or groups shall be required to obtain a license under this Article, but shall not be required to pay the fees provided for in this Article:

(A) Any person selling goods, wares or merchandise which are raised, produced or manufactured by him, including farmers, artisans or other persons wishing to peddle or to hawk farm products, orchard products or articles of their own make or labor, including milk, butter, chickens or other articles of their own make or ingenuity;

(B) Any person selling vegetables, fruit or perishable farm products which were grown, raised or produced by him at an established City market;

(C) Any person operating a stand or booth on or adjacent to property owned by him upon which he resides;

(D) Any person conducting sales of natural trees, wreaths or greenery during a holiday season;

(E) Any bona fide local charitable or civic organization that conducts sales of goods or merchandise for the purpose for which such charitable or civic organizations exists; and,

(F) All such persons or classes of persons exempted by State statute.

**(735 ILCS 5/3-101)**

**7-2-14                    EXEMPTIONS FROM LICENSE REQUIREMENTS.**

(A)                    **Youth Organizations.** Members of the Girl Scouts, the Boy Scouts, and other such youth organizations which are sponsored by the elementary and secondary schools in the City who sell merchandise on behalf of such organizations.

(B)                    **Nonprofit Organizations.** Sales, consumer shows or exhibitions of collectibles conducted or sponsored by governmental, civic, patriotic, fraternal, educational, religious or benevolent organizations which have been in active and continuous existence for at least **one (1) year** prior to the holding of the sale, or which are incorporated as a not-for-profit corporation by the State, unless done for the financial gain of the individual, corporation or other business entity so engaged in such activity.

(C)                    **Garage and Yard Sales.** "Garage and yard sales", as defined in **Section 7-2-1** of this Chapter.

(D)                    **Concessions.** Sales incidental to sporting events, concerts or performances of plays, circuses or similar presentations where said sales are conducted by the person producing the event.

(E)                    **Trade Shows.** Individuals or business enterprises participating in a consumer show or exhibition of collectibles for which a sponsor's license has been issued, where they are listed on the sponsor's license application.

(F)                    **Political Solicitations.** Persons soliciting on behalf of a candidate for public office or on behalf of a political party.

(G)                    **Delivery Carriers.** Any person delivering newspapers, fuel, dairy products, or bakery products to regular customers on established routes.

**7-2-15                    LICENSES GRANTED TO FIRMS OR CORPORATIONS.** It shall be unlawful for a nonresident of the City to enter into a business arrangement or agreement with a resident of the City for the purpose of evading this Article.

**7-2-16                    INTERSTATE COMMERCE.** Nothing in this Article shall be construed or enforced so as to be in derogation of interstate commerce.

**7-2-17                    PENALTY.** Any person who violates any provision of this Chapter shall be subject to a fine of not less than **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. A separate offense shall be deemed committed on each day that a violation continues. A violation of this Chapter is hereby determined to be a nuisance which may be abated or enjoined by the City. Nothing in this Chapter shall exempt the City or any person from seeking civil remedies against any person who is in violation of this Article.

**7-2-18 - 7-2-24                    RESERVED.**

### **DIVISION III – SOLICITORS**

#### **7-2-25      REGISTRATION REQUIRED.**

(A)      **Registration Required.** It shall be unlawful for any person to engage in business as a solicitor without first having registered with the City Clerk's office and receiving a solicitor's permit.

(B)      **Contents of Form.** An applicant registering as a solicitor shall complete a registration form supplied by the City Clerk's office containing the following:

- (1) The applicant's full name and residence addresses for the past **two (2) years**, the length of time of the applicant's residence at each address, and the applicant's business address, if other than the current residence address;
- (2) The applicant's date of birth, social security number, driver's license state and number, and brief physical description including height, weight, hair and eye colors;
- (3) If the applicant is employed by another person or entity, the name of the employer, its residential address and telephone number(s), and if the applicant is a corporation, the residential addresses and phone numbers of its officers;
- (4) The general location within the City in which the applicant intends solicit and the dates such solicitation will take place;
- (5) The nature of the business the applicant intends to conduct and proposed method of operating in the City;
- (6) The nature of the products or services in which the applicant is interested;
- (7) The names of the manufacturers of such products and/or of the organization he is representing;
- (8) Whether the applicant will receive any monetary compensation or portion of monies collected;
- (9) Information regarding the prior application, use or revocation of a solicitor's permit in this City, if any, including the date or approximate date of the previous application for a solicitor's permit;
- (10) Information regarding whether the registrant has been convicted of a criminal offense or ordinance violation (other than traffic or parking offenses) in any jurisdiction and, if so, a list of such convictions with date and prosecuting jurisdiction.

**7-2-26      REGISTRATION FEE.** Each applicant shall pay to the City Clerk an annual registration fee **One Hundred Fifty Dollars (\$150.00)** for the term **May 1** through **April 30** each fiscal year, or a fee of **Ten Dollars (\$10.00)** per day, per each individual solicitor on behalf of the license holder. If an annual fee is paid after **May 1**, then the fee shall be prorated on a monthly basis for the remainder of the license year. All fees shall be paid at time application is submitted and shall be nonrefundable.

**7-2-27      STANDARDS FOR SOLICITOR'S PERMIT ISSUANCE.** Upon receipt of a completed application for registration, the City Clerk shall cause copies thereof to be sent to the following City Departments no later than **five (5) days** after receipt of the application:

(A)      **Police Department.** The Chief of Police or the Chief of Police's designee who shall cause an investigation to be made as to the applicant's criminal record, if any, and compliance with all applicable laws and ordinances of the State and the City.

(B) **Finance Department.** The Finance Commissioner or the Finance Commissioner's designee who shall examine the City's records to determine if the applicant owed any outstanding fee, fine or other amount to the City.

**7-2-28** **ISSUANCE OF PERMIT.** No later than **five (5) business days** after receiving the reports from the City Departments referred to in this Article, the City Clerk shall issue a solicitor's permit if the City Clerk determines that:

- (A) The material statements made in the application are true;
- (B) The applicant has not been charged with or received a disposition of guilt either through supervision, probation or conviction for any offense involving theft, burglary, fraud, bribery or moral turpitude under the laws of the State of Illinois, of any other state, or of the United States within **five (5) years** of the date of application;
- (C) The applicant or his employer has not had a previously issued solicitor's permit revoked by the City or by any other municipality within **five (5) years** of the date of the application;
- (D) The applicant or his employer has not been convicted of violating any provisions of this Article within **five (5) years** of the date of application.

**7-2-29** **SOLICITOR'S PERMIT DENIAL.**

(A) **Notification of Denial.** If the City Clerk determines that the applicant has not met one or more of the above conditions, the City Clerk shall deny the issuance of the permit and shall give written notification of such denial to the applicant by first class mail to the applicant's address listed on the application.

(B) **Financial Obligations Outstanding.** No permit shall be issued to any applicant who has unpaid fines, fees, or other financial obligations outstanding with the City. Any applicant having unpaid fines or other fees owed the City for any purpose shall bring those accounts current prior to the issuance of a solicitor's permit.

**7-2-30** **REVOCATION OF PERMIT.**

(A) **Reasons for Revocation.** A permit issued under this Article shall be revoked by the City Clerk, or the City Clerk's authorized representative, if the holder of the permit:

- (1) violates any of the provisions of this Article or any ordinance of City, or of any State or Federal law; or,
- (2) ceases to possess the qualifications and character required in this Article for the original registration; or,
- (3) Has made false statements or misrepresentations in the registration application; or,
- (4) Conducts solicitation activities contrary to the conditions of the permit requirements; or,
- (5) Conducts solicitation activities in an unlawful manner or in such manner as to create a public nuisance or in such way as to constitute a danger to the health, safety or welfare of the public.

(B) **Notice of Revocation.** Immediately upon such revocation, written notice shall be given by the City Clerk or City Clerk's authorized representative to the permit holder, in person, or by first class mail, addressed to the address set forth in the registration application, stating the action taken and the reasons supporting such action. Immediately upon the delivery or mailing of such notice, the solicitor's permit shall become null and void.

**7-2-31** **APPEAL OF PERMIT DENIAL OR REVOCATION.**



(A) **Appeal.** Any person denied a solicitor's permit or whose solicitor's permit has been revoked may appeal such action to the Finance Commissioner by filing a written notice of appeal with the City Clerk.

(B) **Grounds of Appeal.** Appeals must be filed within **three (3) business days** after revocation or denial of the permit, and shall contain a written statement setting forth the grounds of the appeal. The appealing party shall submit whatever documentation it desires the Finance Commissioner to consider when ruling on the merits of the appeal.

(C) **Decision of Finance Commissioner Final.** The written decision of the Finance Commissioner shall be made available to the appealing party no later than **five (5) business days** after the City receives the appeal. The decision of the Finance Commissioner is final.

**7-2-32      PERMIT TO BE CARRIED ON PERSON AND EXHIBITED UPON REQUEST.**

Every solicitor shall carry the permit issued to him under this Article on his person at all times while conducting business as a solicitor in this City. It shall also be the duty of every solicitor to exhibit such permit when requested to do so by any law enforcement officer or other departmental personnel designated by the City Clerk.

**7-2-33      NONTRANSFERABLE.** No license issued pursuant to this Article may be transferred, sold or assigned to another person.

**7-2-34      DISCLOSURE REQUIREMENTS.**

(A) **Identification Required.** Every person soliciting shall, before entering any dwelling, identify himself to the occupant by name, state which individual, partnership, corporation, group, or association he represents; and state the identity of the merchandise or services he is offering to sell.

(B) **Sales Order for Later Delivery.** If the solicitor takes a sales order for the later delivery of the merchandise, then at the time the order is taken, the following information shall be provided the buyer in a written statement:

- (1) The terms of the agreement;
- (2) The amount paid in advance, whether full, partial, or no advance payment is paid;
- (3) The name, address and telephone number of the seller;
- (4) The delivery or performance date; and,
- (5) Whether a guarantee or warranty is provided and, if so, the terms thereof.

**7-2-35      POSTED PREMISES.**

(A) **Solicitation Prohibited.** No person shall solicit on any premises if the premises is posted against solicitation by means of a notice prominently displayed, on which is printed the following legend, or words of similar meaning:

***NO SOLICITORS, NO PEDDLERS***

(B) **Sign Displayed.** A premises shall be presumed to prohibit soliciting if there is exhibited, on or near the main entrance to the premises or on or near the main door, a sign of at least **three inches by four inches (3" X 4")** in size, which bears the above legend, or similar legend, in letters at least **one (1) inch** in height.

(C) **Duty of Solicitor.** It shall be the duty of each solicitor upon going into any premises in the City upon which soliciting is to take place to first examine the premises for the notice provided in subsection (B) above. If a notice is posted, then the solicitor, whether registered or not, shall immediately and peaceably depart.

**7-2-36                    PROHIBITED PRACTICES.**

(A)                    **False Representation.** A solicitor shall not misrepresent or make false, deceptive, or misleading statements concerning the quality, quantity, or character of any merchandise offered for sale, the purpose or his identity, or the identity of the organization he represents. A solicitor shall not sell or barter any goods, services, merchandise or wares other than those specified in his solicitor's permit.

(B)                    **Obstruct Rights-of-Way.** No person shall impede the free use of sidewalks or streets by pedestrians or vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(C)                    **Selling Upon Streets.** No person shall stand in or on a public street for the purpose of soliciting contributions from the occupant of a motor vehicle.

(D)                    **Refusal to Depart Premises.** No person shall solicit at, or remain on the premises of, any dwelling or business premises after having been asked by the occupant or business person thereof to leave the premises.

(E)                    **Bad Behavior.** No solicitor shall conduct himself in a disorderly or unlawful manner.

(F)                    **Create Noise.** No solicitor shall make, or cause to be made, any loud or obnoxious noise of such volume sufficient to disturb the peace of the residents of the City.

(G)                    **Disregard for Hours.** No person shall solicit at residential dwellings without prior written consent of the occupant except between the hours of **nine o'clock (9:00) A.M.** and **nine o'clock (9:00) P.M.** Monday through Saturday and **noon (12:00)** and **nine o'clock (9:00) P.M.** on a Sunday or on a State or national holiday. For solicitation on business premises, solicitation is only permitted during the hours that the business is open to the public.

**7-2-37                    EXCEPTIONS.**

(A)                    The registration and fee requirements of this Article shall not apply to the following:

- (1)                    Officers or employees of the City, County, State or Federal Government, or any subdivision thereof, when on official business.
- (2)                    Person soliciting funds on behalf of a "bona fide not-for-profit reorganization", as defined in Section 5-10-1 of this Title.
- (3)                    Persons soliciting on behalf of a candidate for public office or on behalf of a political party.
- (4)                    Any person under the age of **seventeen (17) years** is not required to register as a solicitor with the City Clerk's office, but shall disclose to any business or resident their organizational affiliation and purpose of the solicitation.

(B)                    This Section does not exempt these individuals from complying with the remaining requirements of this Article.

**7-2-38                    NO AGREEMENT TO EVADE.** It shall be unlawful for a nonresident of the City to enter into an oral or written business arrangement or agreement with a resident of the City for the purpose of evading this Article.

**7-2-39                    INTERSTATE COMMERCE.** Nothing in this Article shall be construed or enforced so as to be in derogation of interstate commerce.

**7-2-40                    REGULATIONS: INTERSECTIONS.**

(A)                    Entitles seeking permission to solicit on the streets of the City shall first obtain approval of the Chief of Police by completing and submitting to the Police Chief of the City an application

with all required documentation not less than **ten (10) days** in advance of the date requested for solicitation.

(B) The solicitation will only be approved for entities registered with the Attorney General as a charitable organization, as provided by "an act to regulate solicitation and collection of funds for charitable purposes, providing for violations thereof, and making an appropriation therefor," approved July 26, 1993, as amended, by the Illinois State Legislature, and as required by **625 ILCS 5/11-1006(C)(1)**.

(C) The requesting entity must be engaged in a state wide fund-raising activity.

(D) The soliciting entity must be liable for any injuries to any person or property during the solicitation, which is causally related to an act of ordinary negligence of the soliciting agent, and shall provide to the Chief of Police proof of insurance of liability coverage in an amount not less than **One Million Dollars (\$1,000,000.00)**.

(E) Any person engaged in the act of solicitation shall be **sixteen (16) years** of age or more and shall be wearing a high visibility vest.

(F) The solicitation may take place at a location that will not adversely affect the orderly flow of traffic at the location.

(G) The soliciting entity and any person soliciting therefor must otherwise comply with all applicable state law, including but not limited to **625 ILCS 5/11-1006**.

**(Ord. No. 01-27; 11-13-01)**

**7-2-41** **PENALTY.** Any person who violates any provision of this Article shall be subject to a fine of not less than **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. A separate offense shall be deemed committed on each day that a violation continues. All violations of this Article are hereby determined to be a nuisance which may be abated or enjoined by the City. Nothing in this Article shall exempt the City or any person from seeking civil remedies against any person who is in violation of this Article.

**7-2-42 - 7-2-43** **RESERVED.**

**(Unless Otherwise Noted Ord. No. 99-25; 09-27-99)**

#### **DIVISION IV – GARAGE AND YARD SALES**

**7-2-44** **TIME PERIOD FOR OPERATION.** Garage and yard sales, as defined in **Section 7-2-1** of this Chapter, are restricted from being held prior to **7:00 A.M.** or after **8:00 P.M.**

**7-2-45** **LIMITATION.** No garage and/or yard sales shall be conducted in **one (1) location** for more than **two (2) days** in a **four (4) week** period in a residential or business zoned area within the corporate City limits.

**7-2-46** **FINES.** Any person who violates this Division shall be subject to a fine of not more than **Fifty Dollars (\$50.00)**. A separate offense shall be deemed committed on each day that a violation continues. A violation of this Division is hereby determined to be a nuisance which may be abated or enjoined by the City. Nothing in this Division shall exempt the City or any person from seeking civil remedies against any person who is in violation of this Division.

**(Ord. No. 99-39; 11-22-99)**

## ARTICLE III - PEDDLERS

**7-3-1      LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor.

**7-3-2      DEFINITION. "Peddle"** shall mean the selling, bartering, or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways, or public places of this Municipality or from house-to-house, whether at one place thereon or from place-to-place, from any wagon, truck, pushcart, or other vehicle or from movable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall '**peddle**' be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

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

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

**7-3-4      INVESTIGATION OF APPLICANTS.** Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

**7-3-5      HOURS.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to engage in peddling as herein defined prior to **10:00 A.M.** or after **5:00 P.M.** of any weekday or at any time on a Sunday or on a State or National holiday.

**7-3-6      FRAUD.** No licensed peddler or hawker shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee while acting as a peddler in this Municipality, or shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license.

**7-3-7      PHOTOGRAPHS.** **Two (2) photographs** of the applicant and such of its employees as will be used in the peddling or merchandising, taken within **sixty (60) days** immediately prior to the filing of the application, which pictures shall be **two inches by two inches (2" x 2")**,

showing the head and shoulders of the applicant or its agent(s) and/or employee(s) in a clear and distinguishing manner.

**7-3-8            UNWANTED PEDDLING.** Nothing contained in this Chapter, nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents or employees are directed to depart from said private residence by the owner or person in charge thereof.

**7-3-9            PEDDLERS AS NUISANCE.** The practice of going in and upon private residences, business establishments or offices in the Municipality by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

**7-3-10          DUTY OF POLICE TO ABATE.** The Police Department of this Municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in **Section 7-3-9.**

**7-3-11          EXCLUSIONARY PROVISION.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the Municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the Municipality or anyone duly licensed.

**7-3-12          FEES.** The license fees per person to be charged for licenses to peddle in this Municipality, each payable in advance, are hereby fixed and established as follows:

- |     |                               |                                    |
|-----|-------------------------------|------------------------------------|
| (A) | <b><u>Daily License:</u></b>  | <b>\$10.00 per person per day</b>  |
| (B) | <b><u>Annual License:</u></b> | <b>\$75.00 per person per year</b> |

**7-3-13          DELINQUENT PAYMENT OF CITY DEBT.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purpose of this Section, "licensee" shall refer to the license applicant, its officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-15; 05-10-04)**

**(See 65 ILCS Sec. 5/11-42-5)**



## **ARTICLE IV - COIN-OPERATED MACHINES**

**7-4-1**        **DEFINITIONS.** Definitions of terms as used in this Article, unless the context otherwise clearly indicates, are as follows:

**"BOARD"** means the Illinois Gaming Board.

**"COIN-OPERATED AMUSEMENT DEVICE"** means any amusement machine or device operated by means of the insertion of a coin, token, or currency for the purpose of amusement or skill and for the playing of which a fee is charged. The term includes, but is not limited to juke boxes, electronic video games, pinball machines or other similar games. The term does not include vending machines in which there are not incorporated gaming or amusement features.

**"GAMBLING"** means: (i) the playing of a game of chance or skill for money or other thing of value including but not limited to baccarat, twenty-one, poker, craps, slot machines, a video game of chance, roulette, Klondike, punchboard, faro, keno, numbers ticket, push card, jar ticket, pull tab, bingo, lotteries, and raffles; (ii) wagering on the result of any game, contest or any political nomination, appointment or election; (iii) the playing or use of any gambling device or the operation, keeping, owning, use, purchase, exhibition, rental, sale, or bargain for the sale or lease of any gambling device; (iv) the ownership or possession of any books, instruments or apparatus by means of which bets or wagers have been recorded or registered; (v) sale of pools upon the result of any game or contest of skill or chance, political nominations, appointments or elections; (vi) the establishment or promotion of any lottery or the sale, or offering for sale, or to knowingly possess or transfer any policy ticket or similar device; and (vii) the knowing advertisement of any lottery or policy game including the drafting, printing or publishing of any lottery ticket, share, policy ticket or similar device, (viii) the knowing transmittal of information as to wagers, betting odds or chances by telephone, telegraph, radio, semaphore or similar means, or the knowing installation of equipment for telephone, telegraph, radio, semaphore or similar means, or the knowing installation of equipment for the transmission or receipt of such information except that nothing herein shall prohibit the transmission or receipt of such information for the use of news reporting of sporting events or contests.

**"GAMBLING DEVICE"** means any clock, tape machine, video machine, video gaming terminal, slot machine, mechanism, table, furniture, fixture, equipment, instrument or other thing used for the reception of money or other thing of value on chance or skill or upon which the action of money or other thing of value is staked, hazarded, bet, won or lost, or which is primarily for use for gambling. A "gambling device" shall not include: (i) a coin-operated mechanical device played for amusement which awards the player with the right to replay such mechanical device and is so constructed or devised as to make the result for the operation thereof depend, in part, upon the skill of the player and which does not return to the player money, property or right to receive money or property; or, (ii) vending machines by which full and adequate return is made for the money invested and there is no element of chance or hazard.

**"LICENSED ESTABLISHMENT"** means any licensed retail establishment where alcoholic liquor is drawn, poured, mixed or otherwise served for consumption on the premises and includes any such establishment that has a contractual relationship with an inter-track wagering location licensee under the Illinois Horse Racing Act of 1975, provided any contractual relationship shall not include any transfer or offer of revenue from the operation of video gaming under the Video Gaming Act, **230 ILC 40/1 et seq.**, to any licensee licensed under the Illinois Horse Racing Act of 1975. Provided, however, that the licensed establishment that has such a contractual relationship with an inter-track wagering location licensee may not, itself, be (i) an inter-track wagering location licensee, (ii) the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975, or (iii) the corporate subsidiary of a corporation that is also the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975. "Licensed establishment" does not include a facility operated by an

organization licensee, an inter-track wagering licensee, or an inter-track wagering location licensee

licensed under the Illinois Horse Racing Act of 1975 or a riverboat licensed under the Riverboat Gambling Act, except as provided in this paragraph.

**"LICENSED FRATERNAL ESTABLISHMENT"** means the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

**"LICENSED VETERANS ESTABLISHMENT"** means the location where a qualified veteran's organization that derives its charter from a national veteran's organization regularly meets.

**"LICENSED TRUCK STOP ESTABLISHMENT"** means a facility: (i) that is at least a **three (3) acre** facility with a convenience store; (ii) with separate diesel islands for fueling commercial motor vehicles; (iii) that sells at retail more than **ten thousand (10,000) gallons** of diesel or biodiesel fuel per month; and (iv) with parking spaces for commercial motor vehicles. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least **ten thousand (10,000) gallons** per month.

**"LOTTERY"** means any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes, whether such scheme or procedure is called a lottery, raffle, gift, sale, or some other name.

**"OPERATOR"** is hereby defined to be any person, firm, corporation, partnership, association or club who sets up for operation by another or leases or distributes for the purpose of operation by another, any device(s) herein defined, whether such setting up for operation, leasing or distributing be for a fixed charge or rental, or on the basis of a division of the income from such device or otherwise.

**"POLICY GAME"** means any scheme or procedure whereby a person promises or guarantees by an instrument, bill, certificate, writing, token or other device that any particular number, character, ticket or certificate shall, in the event of any contingency in the nature of a lottery, entitle the purchaser or holder to receive money, property or evidence of debt.

**"PROPRIETOR"** is hereby defined to be any person, firm, corporation, partnership, association or a club who, as the owner, lessee or proprietor has under his or its control any establishment, place or premises in or on which such device is placed or kept for use or play or on exhibition for the purpose of use or play.

**"VIDEO GAMING TERMINAL"** means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the play may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

**7-4-2      LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to operate, conduct or maintain for gain or profit, or to own when operated, conducted or maintained for gain or profit, any Pinball Machines, Electronic Games, Bowling Alley, Billiard Tables, Bagatelle Tables, Pigeon-Hole Tables, Pool Tables, or any other table or implement kept for a similar purpose in any place of public resort, and coin-operated machines designated for amusement purposes operated in the City, without first obtaining a license to do so, as hereinafter provided and set forth.

**7-4-3      APPLICATION.** Application for license shall be verified by oath or affidavit and contain the following information:

(A)            The name, age and address of the applicant in the case of an individual and, in the case of a co-partnership, of the persons entitled to share in the profits thereof; and in the case of a

corporation, the date of incorporation, the objects for which it was organized, the names and addresses

of the officers and directors; and if a majority in interest of the stock of such corporation is owned by one person or his nominee(s), the name and address of such person(s).

(B) The citizenship of the applicant, his place of birth; or if a naturalized citizen, the time and place of his naturalization.

(C) The address of the place where the applicant proposes to operate.

(D) A statement whether the applicant has made a similar application for a similar license on premises other than those described in the application and the disposition of such other application.

(E) A statement that the applicant has never been convicted of a felony and is not disqualified to receive the license under this Section.

**7-4-4 PROHIBITED LICENSEES.** No license under this Section shall be issued to:

(A) Any person who is not a citizen of the United States.

(B) Any person who is not of good character and reputation in the community.

(C) Any person who has been convicted of a felony under the laws of Illinois; or of being the keeper of a house of ill-fame; or of pandering or other crime or misdemeanor opposed to decency or morality.

(D) Any person whose license issued under this Chapter has been revoked for cause.

(E) Any partnership, unless all of the members of the partnership are qualified to obtain such license.

(F) Any corporation if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license for any reason other than citizenship or residency within this Municipality.

(G) Any person whose place of business is conducted by a manager or agent unless the manager or agent is of legal age and possesses the same qualifications required of the licensee.

(H) Any person who does not own the premises for which a license is sought, or does not have a lease therefor for the full period for which the license is to be issued.

**7-4-5 TERM OF LICENSE - FEES.** The license fee shall be paid annually, in advance, on the **first (1<sup>st</sup>) day of January** of each year. If additional machines or devices are to be installed or displayed from time to time, the license shall be obtained before display or installation. Machines or devices installed on or after **July 1<sup>st</sup>** of each year shall have a license fee of **one-half (1/2) or fifty percent (50%)** of the annual license fee. The license shall expire on the **31<sup>st</sup> of December** of each year. The licenses hereinabove set forth and required shall be issued for **one (1) year** duration from the date of issuance, and the amount of such license fees shall be as follows:

(A) For coin-operated machines and electronic games designated for amusement purposes, operated within the City, there shall be an annual fee of **Twenty-Five Dollars (\$25.00)** per machine.

(B) For business operating Bowling Alleys, Billiard Tables, Bagatelle Tables, Pigeon-Hole Tables, Pool Tables, and any other tables or implements kept for a similar purpose in any place of public resort, within the City, there shall be an annual fee of **One Hundred Twenty Dollars (\$120.00)**, payable at the rate of **Thirty Dollars (\$30.00)** per quarter, payable in advance.

(C) For Pinball Machines, operated within the City, there shall be an annual license fee of **Twenty-Five Dollars (\$25.00)** for each such machine, payable in advance.

(D) For the Video Gaming Terminals described under the Illinois Video Gaming Act, there shall be an annual license fee of **Two Hundred Fifty Dollars (\$250.00)** for each such machine. **(Ord. No. 2016-27; 11-28-16)**

**7-4-6 DELINQUENT PAYMENT OF CITY DEBT.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be

considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an

outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purpose of this Section, "licensee" shall refer to the license applicant, its officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-15; 05-10-04)**

**7-4-7            NON-ASSIGNABILITY OF LICENSE.** The location of a license may be changed only upon the written permission of the Mayor. Any license issued hereunder shall be non-assignable and non-transferable.

**7-4-8            PLACEMENT; GAMBLING PROHIBITED.**

(A) All licensed devices shall, at all times, be kept and placed in plain view of any person or persons who may frequent or be in any place of business where such devices are kept or used.

(B) **Prizes and Awards Prohibited.** It shall be unlawful, unless otherwise specified in this Section, for any person receiving a license pursuant to this Article to give or award a cash prize or equivalent to any person playing any of the tables, devices or machines enumerated hereinabove under tournament, league or any other individual or competitive play.

(C) **Licensed Establishments.** Any business, liquor or food licensee within the corporate limits of the City that allows gambling to occur on premises in violation of this Section shall be subject to having his/her/its license immediately revoked for a period of **sixty (60) days**. Any business, liquor or food licensee within the corporate limits of the City that allows gambling to occur on premises in violation of this Section a second time shall have his/her/its license permanently revoked and, thereafter, barred from obtaining a business, liquor or food license within the City.

(D) **Seizure of Unauthorized Gambling Devices and Gambling Funds.** Any gambling device which is not authorized by this Section shall be subject to immediate seizure and confiscation by the City. Any money or other thing of value intrinsically related to acts of gambling not authorized by this Section shall be seized and forfeited as contraband. Disposition of such gambling devices and funds seized or confiscated shall be made in accordance with the law.

(E) Except as otherwise permitted in this Section, it shall be unlawful for any person to gamble within the corporate City limits, or for any person or entity, owns, occupies, or controls an establishment within the corporate City limits, to knowingly permit others to gamble on said premises.

**7-4-9            PERMITTING GAMBLING.** The gambling prohibition shall not apply to any game or gaming even for which a license or permit has been by the Illinois Gaming Board pursuant to the *Illinois Video Gaming Act*, **230 ILCS 40/1 et seq.**, provided that such game or gaming event is conducted in full and complete compliance with all requirements of such act and all rules and regulations of the Illinois Gaming Board. Further, a licensee, licensed by the Illinois Department of Revenue may conduct and allow bingo play in accordance with the Bingo License and Tax Act, under **230 ILCS 25/1 et seq.**

**7-4-10           HOURS OF OPERATION.** If amusement devices licensed by this Article are operated in a place of business where the hours of such business are restricted, the operation of such devices therein is limited to the same hours.

**7-4-11           DISPLAY OF LICENSE.** Every licensee shall frame and hang his license in a conspicuous place in the licensed premises.

**7-4-12**        **RIGHT OF ENTRY.** The Chief of Police has the power to and shall inspect any place, building or premises in which any licensed device or devices are operated or set up for operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

**(Ord. No. 2012-15; 07-09-12)**



## ARTICLE V - JUNK DEALERS

### 7-5-1 DEFINITIONS.

**"JUNK"** as used in this Chapter shall be held to mean and include scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead or other base metals, scrap lumber, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds or sizes when the number of each kind or size is less than **one (1) gross**, any wrecked or dilapidated motor vehicle, engine, or machinery received, stored or held for more than **ninety (90) days**, and all articles and things discarded or no longer used as a manufactured article composed of or consisting of any **one (1)** or more of the materials or articles herein mentioned.

**"JUNK DEALER"** as used in this Chapter shall be held to mean and include every person, firm, partnership, or corporation that shall engage in the business of buying, selling, bartering or exchanging, or shall collect, receive, store or hold in possession for sale, barter or exchange, any of the things in and by this section defined as "junk".

**"JUNK YARD"** as used in this Chapter shall be held to mean and include the premises on which a junk dealer is engaged in the business of buying, selling, bartering, exchanging, or collecting, receiving, storing or holding in possession for sale, barter, or exchange, any of the things in and by this section defined as "junk"

**(Also see Chapter 24, Article VII and Chapter 25)**

**7-5-2 PHYSICAL REQUIREMENTS.** The minimum physical requirements at all times for each junk yard shall be as follows:

(A) The premises where the junk yard is located shall not have more than **two (2) entrances** thereto and **two (2) exits** therefrom, each of which shall not exceed **fifteen (15) feet** in width at the perimeter of the premises.

(B) The premises where the junk yard is located shall be enclosed on its perimeter with a solid, non-transparent, vertical wall or fence of a minimum height of **seven (7) feet** measured from ground level, excepting for the entrances and exits permitted by paragraph (A) above.

(C) The aforesaid solid, non-transparent wall or fence and the gates or doors, if any, at the aforesaid entrances and exits shall not contain any sign, poster or advertising matter of any kind whatsoever, excepting **one (1) sign** of the licensee thereon not exceeding **one hundred (100) square feet** in size.

(D) The public streets and alleys adjacent to the junk yard shall not have junk thereon. **(See Chapter 40 – Zoning)**

**7-5-3 LICENSE REQUIRED.** It shall be unlawful for any person to keep, maintain, conduct or operate a junk yard within the corporate limits of the City without first obtaining a license to do so as herein provided. A separate license shall be secured for each junk yard located on non-contiguous lots, blocks, tracts or parcels of land.

**7-5-4 APPLICATION.** Before any license under the provisions of this Section is issued, any person desiring to operate a junk yard in this City shall first make a verified application in writing to the Clerk in the absence of provision to the contrary, stating thereon the full name of the applicant, his residence address, the trade name of the applicant, the legal description of the premises where the junk yard is to be located, the size and approximate location of each entrance thereto and exit therefrom, whether or not the premises where the junk yard is to be located is enclosed on its perimeter with a solid, non-transparent wall or fence of a minimum height of **seven (7) feet**, measured from

ground level, excepting the entrances and exits, and whether or not the public streets and alleys adjacent

to the premises where the junk yard is to be located have junk thereon. If the applicant is a firm of partnership, the names and residence addresses of all the partners and in the case of a corporation, the names and residence addresses of the president and secretary shall be stated in the application.

**7-5-5            DISQUALIFICATION.** Any applicant for a license to keep, maintain, conduct or operate a junk yard shall be disqualified for any of the following reasons:

- (A)            Not a person of good character.
- (B)            Falsification of an application for a license hereunder.
- (C)            License for a junk yard theretofore issued to the applicant has been revoked during the preceding **twenty-four (24) months.**
- (D)            Failure to meet any one of the minimum physical requirements for a junk yard as specified in **Section 7-5-2** hereof.

**7-5-6            LICENSE.** Any and all licenses issued hereunder shall state that such license is issued in the name of the junk dealer solely for the purpose of keeping, maintaining, conducting and operating a junk yard, the expiration date thereof, the legal description of the premises where the junk yard is to be located, that the license shall be used and the privileges thereof exercised only at the described premises, and that such license is non-assignable and non-transferable.

Such license shall further provide that it is issued subject to all the provisions of this Chapter; that upon the first conviction for a violation of any of the provisions of this Chapter, in addition to the fine, such junk yard shall remain closed for a period of **thirty (30) days;** that upon the second conviction for a violation of any of the provisions of this Chapter, such license shall become null and void, and the licensee shall forfeit all sums paid for such license, and that the licensee, by the acceptance of such license expressly agrees to all the terms and conditions thereof, and to the terms and provisions of this Section and all amendments thereto.

**7-5-7            LICENSE FEE.** The annual license fee for each junk yard shall be **Two Hundred Dollars (\$200.00)** payable in advance with the filing of the application for license, and shall not be subject to pro rata reduction for a portion of the year, either because of the application for or because of revocation of a license; provided, however, that only **one (1)** annual license fee shall be payable for licenses which may be issued whenever the applicant desires to keep, maintain, conduct or operate junk yards on lots, blocks, tracts, or parcels of land which are situated on directly opposite sides of and abut upon each side of a public street or alley. Where such place of business is not located in the City, but the operator carries on the business of buying or collecting or bartering for the items heretofore enumerated within the City, the annual fee shall be **Two Hundred Dollars (\$200.00)** for each junk dealer. The fee is payable as provided in this Code.

**7-5-8            DELINQUENT PAYMENT OF CITY DEBT.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purposes of this Section, "licensee" shall refer to the license applicant, if officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-13; 05-10-04)**

**7-5-9            MINORS.** No licensee hereunder shall purchase or receive any article whatsoever from any minor, without the written consent of their parents or guardians.

**(See 65 ILCS Sec. 5/11-42-3)**

## **ARTICLE VI - TAXICABS**

**7-6-1        DEFINITIONS.** The following words and phrases, when used in this Article shall have the meanings set out herein:

**"Certificate"** means a Certificate of Public Convenience and Necessity issued by the City Clerk, authorizing the holder thereof to conduct a taxicab business in the City.

**"Cruising"** means the driving of a taxicab on the streets, alleys, or public places of the City in search of or soliciting prospective passengers for hire.

**"Driver's License"** means the permission granted by the City Council to a person to drive a taxicab upon the streets of the City.

**"Holder"** means a person to whom a Certificate of Public Convenience and Necessity has been issued.

**"Open Stand"** means a public place alongside the curb of a street or elsewhere, in the City, which has been designated by the City Council as reserved exclusively for the use of taxicabs.

**"Person"** includes an individual, a corporation, or other legal entity, a partnership, and any unincorporated association.

**"Taxicab"** means a motor vehicle regularly engaged in the business of carrying passengers for hire, carrying not more than **six (6) passengers** and not operated on a fixed route.

**"Waiting Time"** means the time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act or fault of a passenger or passengers.

**7-6-2        CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED.** No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the City, without having first obtained a Certificate of Public Convenience and Necessity from the City Clerk.

**7-6-3        APPLICATION FOR CERTIFICATE.** An application for a Certificate shall be filed with the City Clerk upon forms provided by the City, and that application shall be verified under oath and shall furnish the following information:

- (A)            The name and address of the applicant.
- (B)            The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments.
- (C)            The experience of the applicant in the transportation of passengers.
- (D)            The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.
- (E)            The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (F)            Such further information as the City Council of this City may require.

**7-6-4        ISSUANCE OF CERTIFICATE.** If the City Council finds that further taxicab service in the City is required by the public convenience and necessity and that the applicant is fit, willing and able to perform such public transportation and to conform to the provisions of this Chapter, and the rules promulgated by the City Council, then the City Clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under that certificate and the date of issuance; otherwise, the applicant shall be denied.

In making the above findings, the City Council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions and the character, experience and responsibility of the applicant.

**7-6-5        LIMITATION OF FRANCHISES.** No Certificate shall be issued or continued in operation unless the holder thereof has paid an annual license fee for the right to engage in the taxicab business. The license fees shall be for the municipal year and shall be in addition to any other license fees or

charges established by proper authority and applicable to said holder or the vehicle or vehicles under his operation and control.

**7-6-6                    LIABILITY INSURANCE REQUIRED.** No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless there is in full force and effect liability insurance coverage for each vehicle authorized in an amount meeting State requirements, for bodily injury to any **one (1)** or more persons sustained in the same accident and for the property damage resulting from any **one (1) accident.**

**7-6-7                    TRANSFER OF CERTIFICATES.** No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged or otherwise transferred without the consent of the City Council.

**7-6-8                    SUSPENSION AND REVOCATION OF CERTIFICATES.** A certificate issued under the provisions of this Chapter may be revoked or suspended by the City Council if the holder thereof has (a) violated any of the provisions of this Chapter; (b) discontinued operations for more than **thirty (30) days;** (c) has violated any law of the City, or the State of Illinois; the violations of which reflect unfavorably of the fitness and character of the holder to offer public transportation.

Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

**7-6-9                    TAXI DRIVER'S LICENSE.** No person shall operate a taxicab for hire upon the streets of the City, and no person who owns or controls a taxicab shall permit it to be so driven at any time for hire, unless the driver of that taxicab shall have first obtained a Taxicab Driver's License or Permit issued under the provisions of this Chapter which further comply with the requirements of the State of Illinois.

**7-6-10                  APPLICATION FOR DRIVER'S LICENSE.** An application for a Taxicab Driver's License shall be filed with the City Clerk on forms provided by the City and such application shall be verified under oath and shall contain the following information:

(A)                    Applicant must have a State Chauffeur's License or equivalent allowing one to operate a taxicab within the State of Illinois.

(B)                    Applicant must furnish **three (3) photos** as follows:

- (1)                    One to be placed on the license.
- (2)                    One to be filed with the City Clerk.
- (3)                    One to be filed with the Police Department.

**7-6-11                  ISSUANCE OF LICENSE; DURATION; ANNUAL FEE.** Upon approval of an application for a taxicab driver's license, the City Clerk shall issue a license to the applicant which shall bear the name, address, signature and photograph of the applicant.

**7-6-12                  DISPLAY OF LICENSE.** Every driver licensed under this Chapter shall post his driver's license in such a place as to be in full view of all passengers while such driver is operating a taxicab.

**7-6-13                  SUSPENSION AND REVOCATION OF LICENSE.** The City Council is hereby given the authority to suspend any driver's license issued under this Chapter for a driver's failing or refusing to comply with the provisions of this Chapter; such suspension to last for a period of not more than **ten (10) days.** The City Clerk is also given authority to revoke any driver's license for failure to comply with the provisions of this Chapter; however, a license may not be revoked unless the driver has received notice and has had an opportunity to present evidence on his/her behalf.

**7-6-14**      **FAILURE TO COMPLY WITH CITY, STATE AND FEDERAL LAWS.** Every individual licensed under this Chapter shall comply with all City, State and Federal laws. Failure to do so will justify the City Clerk's suspending or revoking a license.

**7-6-15**      **VEHICLES; EQUIPMENT; MAINTENANCE.**  
(A)      **Periodic Inspections.** Every vehicle operating under this Chapter may be periodically inspected by the Police Department or the City's designated representative up to **three (3) times** per year to insure the continued maintenance of safe operating conditions.

(B)      **Vehicles Must be Kept in a Clean and Sanitary Condition.** Every vehicle operating under this Chapter shall be kept in a clean and sanitary condition.

**7-6-16**      **REFUSAL OF PASSENGERS TO PAY LEGAL FARE.** It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this Chapter after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service. **(See 65 ILCS 5/11-42-6)**

**7-6-17**      **CERTIFICATE FEE.** The fee for each certificate issued under this Chapter shall be **One Hundred Dollars (\$100.00)** annually. The fee may be pro-rated on a quarterly basis.

**7-6-18**      **DELINQUENT PAYMENT OF CITY DEBT.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purposes of this Section, "licensee" shall refer to the license applicant, if officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-12; 05-10-04)**

**(Unless Otherwise Noted Ord. No. 09-04; 12-14-09)**

**(See 65 ILCS Sec. 5/11-42-2)**

## ARTICLE VII – RAFFLES AND POKER RUNS

**7-7-1 DEFINITIONS.** The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(A) **"Business":** A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

(B) **"Charitable Organization":** An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

(C) **"Educational Organization":** An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

(D) **"Fraternal Organization":** An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

(E) **"Hardship":** A non-profit fundraising organization that has not been in existence continuously for a period of **five (5) years** immediately before making application for a license that the County determines to be organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident, or disaster.

(F) **"Key Location":** The location where the poker run concludes and the prize or prizes are awarded.

(G) **"Labor Organization":** An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

(H) **"Licensee":** An organization which has been issued a license to operate a raffle.

(I) **"Net Proceeds":** The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle or poker run.

(J) **"Non-Profit":** An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation.

(K) **"Poker Run":** An event organized by an organization licensed under this Chapter in which participants travel to multiple predetermined locations, including a key location, drawing a playing card or equivalent item at each location, in order to assemble a facsimile of a poker hand or other numeric score. "Poker run" includes dice runs, marble runs, or other events where the objective is to build the best hand or highest score by obtaining an item at each location.

(L) **"Raffle":** A form of lottery, as defined in Section 28-2(b) of the Criminal Code of 2012, conducted by an organization licensed under this Act, in which:

- (1) the player pays or agrees to pay something of value for a chance, represented and differentiated by as number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;
- (2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.



(M) **"Religious Organization":** Any church, congregation, society, or organization founded for the purpose of religious worship.

(N) **"Veterans' Organization":** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

**7-7-2                    REQUIREMENT OF LICENSE.**

(A) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a raffle, or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

(B) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a poker run without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

**7-7-3                    APPLICATION FOR A LICENSE FOR A RAFFLE.**

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a raffle shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
- (5) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
- (6) The maximum retail value of each prize awarded by a licensee in a single raffle;
- (7) The maximum price which may be charged for each raffle chance issued or sold;
- (8) The maximum number of days during which chances may be issued or sold;
- (9) The area in which raffle chances will be sold or issued;
- (10) The time period during which raffle chances will be sold or issued;
- (11) The date, time, and name and address of the location or locations at which winning chances will be determined;
- (12) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (13) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a raffle shall be accompanied by a non-refundable filing fee. Such fee shall be paid by cash, credit card or cashier's check. The City Clerk shall refer the application to the Mayor.

**NOTE: The governing statute states that all licensing systems for raffles shall provide for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle, (2) the maximum retail value of each prize awarded by a licensee**

**in a single raffle, (3) the maximum price which may be charged for each raffle chance issued or sold and (4) the maximum number of days during which chances may be issued or sold.**

#### **7-7-4**

#### **APPLICATION FOR A LICENSE FOR A POKER RUN.**

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a poker run shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle or poker run, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, and any other members responsible for the conduct and operation of the raffle or poker run;
- (5) The name, address, and telephone number of all locations at which the poker run will be conducted;
- (6) The time period during which the poker run will be conducted;
- (7) The time of determination of winning chances and the location or locations at which the winning chances will be determined;
- (8) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (9) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a poker run shall be accompanied by a non-refundable **Twenty-Five Dollar (\$25.00)** filing fee. Such fee shall be paid by cash, cashier's check, or credit card. The City Clerk shall refer the application to the Mayor.

#### **7-7-5**

#### **LICENSEE QUALIFICATIONS.**

(A) Raffle licenses and poker run licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objects, or to a non-profit fundraising organization that the Mayor determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster. The Mayor may waive the **five (5) year** requirement under this Section for a bona fide religious, charitable, labor, business, fraternal, educational, or veterans' organization that applies for a license to conduct a raffle or poker run if the organization is a local organization that is affiliated with and chartered by a national or State organization that meets the **five (5) year** requirement. The following are ineligible for any raffle or poker run license;

- (1) Any person who has been convicted of a felony;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any person who is not of good moral character;
- (4) Any organization in which a person defined in subsection (1), (2) or (3) of this Section has a proprietary, equitable, or credit interest or in which such person is active or employed;
- (5) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is an officer, director, or employee, whether compensated or not; and

- (6) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is to participate in the management or operation of a poker run as defined in this Section.

**7-7-6****LICENSE ISSUANCE.**

(A) The Mayor shall review all raffle license applications and all poker run license applications. The Mayor shall, within **thirty (30) days** from the date of application, accept or reject a raffle or poker run license application. If an application is accepted, the Mayor shall forthwith issue a raffle or poker run license to the applicant.

(B) A raffle license or poker run license shall specify:

- (1) The area or areas within the County in which raffle chances will be sold or issued or a poker run will be conducted;
- (2) The time period during which raffle chances will be sold or issued or a poker run will be conducted; and
- (3) The time of determination of winning chances and the location or locations at which the winning chances will be determined.

(C) Any license issued under this Article shall be non-transferable.

(D) A license shall be valid for one raffle event or one poker run only, unless the Mayor specifically authorized a specified number of raffles or poker runs to be conducted during a specified period not to exceed **one (1) year**.

(E) A raffle license or poker run license may be suspended or revoked for any misrepresentation on the application, any violation of this Article or State law, or when such raffle or poker run or portion thereof is conducted so as to constitute a public nuisance or to disturb the peace, health, safety or welfare.

(F) **Prominent Display of License.**

- (1) A raffle license shall be prominently displayed at the time and location of the determination of the winning chances.
- (2) A poker run license shall be prominently displayed at each location at which the poker run is conducted or operated.

(G) **Miscellaneous Provision for Poker Run License.** Any poker run license issued shall cover the entire poker run, including locations other than the key location. Each license issued shall include the name and address of each location at which the poker run will be conducted.

**7-7-7****CONDUCT OF RAFFLES AND POKER RUNS.**

(A) The operation and conduct of raffles and poker runs are subject to the following restrictions:

- (1) The entire net proceeds of any raffle or poker run must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- (2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle or poker run.
- (3) No person may receive any remuneration or profit for participating in the management or operation of the raffle or poker run.
- (4) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Article. A premises where a poker run is held is not required to obtain a license if the name and location of the premises is listed as a predetermined location on the license issued for the poker run and the premises does not charge for use of the premises.
- (5) Raffle chances may be sold or issued only within the area specified on the raffle license and winning chances may be determined only at those locations specified on the license for a raffle. A playing card or equivalent item may be drawn only within the area specified on the poker run license and winning hands or scores may be determined only at those locations specified on said license.

- (6) A person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances or poker runs only with the permission

of a parent or guardian. A person under the age of **eighteen (18) years** may be within the area where winning chances in a raffle or winning hands or scores in a poker run are being determined only when accompanied by his parent or guardian.

(B) If a lessor rents premises where a winning chance on a raffle or a winning hand or score in a poker run is determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the City.

**7-7-8                    MANAGER - BOND.**

(A) All operations of and conduct of raffles and poker runs shall be under the supervision of a single poker run manager designated by the organization. The manager or operator of the raffle or poker run must be a bona fide member of the organization holding the license for such a raffle or poker run and may not receive any remuneration or profit for participating in the management or operation of the raffle or poker run.

(B) The manager shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the City not less than **thirty (30) days** prior to its cancellation.

(C) The Mayor is authorized to waive this bond requirement by including a waiver provision in the license issued to an organization under this Article provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

**7-7-9                    RECORDS.**

(A) Each organization licensed to conduct raffles and chances or poker runs shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances in a raffle or winning hands or scores in a poker run are determined. All deductions from the gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffles or poker runs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles or poker runs. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles or poker runs shall not be the same person who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles or poker runs shall report monthly to its membership, and to the City Clerk, its gross receipts, expenses and net proceeds from raffles or poker runs, and the distribution of net proceeds itemized as required by this Section.

(D) Records required by this Section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of poker runs for public inspection at reasonable times and places.

(E) The City shall maintain the records required by this Section in compliance with the "Raffles and Poker Runs Act" and the Local Records Act, **50 ILCS 205/1 et seq.**

**7-7-10                    LIMITED CONSTRUCTION.** Nothing in this Article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity, or device other than raffles or poker runs as provided for herein.



**7-7-11            DELINQUENT PAYMENT OF CITY DEBT.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purposes of this Section, "licensee" shall refer to the license applicant, if officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-11A; 05-10-04)**

## ARTICLE VIII – ADULT ENTERTAINMENT

**7-8-1 PURPOSE AND INTENT.** It is the purpose and intent of this Article to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the City, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses.

**7-8-2 DEFINITIONS.** The words and phrases defined herein shall have the meanings hereinafter ascribed to them unless a different meaning is clearly indicated by the context.

(A) **Adult Entertainment Facility** means any commercial establishment, except an adult theater, semi-nude model studio, or sexual encounter center, including but not limited to a nightclub, bar, restaurant, or gentlemen's club, which regularly features any one or more of the following:

- (1) persons who appear semi-nude or in a state of semi-nudity;
- (2) live performances which are characterized by their emphases upon exposure of "specified sexual activities" or "specified anatomical areas".

(B) **Adult Motel** means a motel, hotel or similar commercial establishment which offers private accommodations to the public, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of such sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and which (i) offers a sleeping room for rent for a period of time less than **ten (10) hours** or (ii) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than **ten (10) hours**.

(C) **Adult Store or Adult Bookstore** means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that are characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas"; or
- (2) instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities";
- (3) films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by their emphasis upon matters exhibiting or describing "specified sexual activity" or "specified anatomical areas" and which are shown within a viewing room as hereinafter defined on still or motion picture projectors, slide projectors or similar machines or computers or other image producing machines.

A principal business purpose exists if the establishment has a significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial section of its sales or display or floor space to the sale or rental for any form of consideration any one or more of the items described above. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult store. Such other business purposes will not serve to exempt such commercial establishments from being

categorized as an adult store so long as one of its principal business purposes are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

(D) **Adult Theater** means a theater, concert hall, auditorium or similar commercial establishment which has a room(s) for viewing or viewing areas, each of which are **one hundred fifty (150) square feet** or greater in size and which for any form of consideration regularly features any one of the following:

- (1) films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration;
- (2) persons who appear semi-nude or in a state of semi-nudity or live performances which are characterized by their emphasis upon the exposure of "specific sexual activities" or "specific anatomical areas".

(E) **Semi-Nude Model Studio** means any place where a person, who regularly appears in a state of semi-nudity is provided for money or any form of consideration to be viewed or observed or sketched or drawn or painted or sculptured or photographed or similarly depicted by other persons. Semi-nude Model Studio shall not include a modeling class operated:

- (1) by a college, junior college, or university supported entirely or partly by taxation; or
- (2) by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) in a structure:
  - (a) which has no sign visible from the exterior of the structure and other advertising that indicates a semi-nude person available for viewing and
  - (b) where, in order to participate in a class a student must enroll at least **three (3) days** in advance of the class; and
  - (c) where no more than one model is on the premises at any one time.

(F) **Special Encounter Center** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (1) physical contact in the form of wrestling or tumbling between persons of the opposite sex;
- (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of semi-nudity.

(G) **Escort** means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie for another.

(H) **Escort Agency** means a person or business association who furnishes, offer to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(I) **Nude or State of Nudity** means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or anal cleavage with less than a fully opaque and non-transparent covering, the showing of the female breast with less than a fully opaque and non-transparent covering of any part of the nipple and areola, or the showing of the covered male genitals in a discernibly turgid state.

(J) **Semi-Nude or Semi-Nudity** means a state of dress in which non-transparent and opaque clothing covers from view no more than the human buttocks, anus, anal cleft and cleavage, pubic area, male genitals, female genitals, vulva and the female breast below a horizontal line across the top of the areola at its highest point and the human male genitals in a discernibly turgid state, even if completely and opaquely covered. This definition shall include the entire lower portion of the human female breasts, but shall not include any portion of the cleavage of the human breasts exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola and nipple are not exposed in whole or in part.

(K) **Operate or Cause to Operate or Operator** shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually

oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, or has an ownership interest in the business.

(L) **Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(M) **Premises** means the real property upon which the sexually oriented business is located, and all appurtenances thereto and the structure and buildings thereon, including but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee.

(N) **Public Park or Recreation Area** means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths or similar public land open to the public within the City which is under control, operation, or management of the City or other governmental, charitable, or not-for-profit authority.

(O) **Public Place** means any location frequented by the public or where the public is present or likely to be present or any location where a person may reasonably be expected to be observed by members of the public or any location that is readily visible to the public or any location where the public has a right to go or is invited.

(P) **Regularly Features** means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the establishment.

(Q) **Religious Institution** means any church, synagogue, mosque, temple, regular place of worship or building which is used primarily for religious worship and related religious activities.

(R) **Residential District or Use** means the R-1 (Low-Density Residential), R-2 (Medium-Density Residential), R-3 (Medium Density), R-4 (High Density).

(S) **School** means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergarten, elementary schools, primary schools, intermediate schools, junior high schools, high schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

**7-8-3 LOCATION OF SEXUALLY ORIENTED BUSINESSES.** It shall be prohibited within the City to locate an adult entertainment facility, adult store/bookstore, adult movie theater, adult motel, semi-nude model studio, escort service or special encounter center within **one thousand (1,000) feet** of the property boundaries of any of the following:

- (A) a religious institution;
- (B) a school;
- (C) a public park;
- (D) a cemetery;
- (E) public housing;
- (F) the boundary of any residential district;
- (G) any property actually occupied, devoted to or utilized for residential use, regardless of zoning designation.

**7-8-4 LICENSE REQUIRED.**

(A) No person shall operate a sexually oriented business without a valid sexually oriented business license issued by the City.

(B) No person who operates a sexually oriented business shall employ a person to work and/or perform services on the premises of a sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license issued to such employee by the City.

(C) No person shall obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the City.

**7-8-5                    APPLICATION FOR SEXUALLY ORIENTED BUSINESS LICENSE.**

(A) An application for a sexually oriented business license, whether original or renewal, must be made by each operator or operators of the sexually oriented business on a form provided by the City. The application must be submitted to the City Clerk and shall be marked by the City Clerk with the date and time of receipt. The application shall be subject to approval or denial by the Zoning Administrator and Fire Chief. The application form shall request and the applicant shall be required to provide information described within subparagraph (B) herein.

(B) The application for a sexually oriented business license and the applicant shall be required to provide the following information:

- (1) The name and current mailing address of the applicant(s);
- (2) Written proof of age in the form of a certified birth certificate or picture identification issued by a governmental agency of person signing application;
- (3) The street address and legal description of the tract of land on which the establishment is to be located;
- (4) An affirmative statement that the applicant(s) within the preceding **twelve (12) months** has not had any similar license issued revoked.

(C) The applicant has an affirmative duty to supplement an application with information received subsequent to the date that the application is filed with the City. None of the items set forth within paragraph (A) and (B) herein, except the name and current address of the applicant(s) shall be required for a renewal application if the applicant states in writing under oath that the documents and information previously furnished to the City with the original application or previous renewals thereof remain correct and current.

**7-8-6                    APPLICATION FOR A SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE.**

(A) Applications for a sexually oriented business employee license to work and/or perform services as an employee in a sexually oriented business, whether original or renewal, must be personally submitted to the City Clerk by the person to whom the employee license shall issue; the City Clerk shall mark each application with the date and time of receipt. Each application for an employee license shall be accompanied by the application fee. Application forms shall be supplied by the City.

(B) Each applicant for an employee license shall be required to give the following information on the application form:

- (1) The applicant's name;
- (2) Written proof of age with a certified form of a birth certificate or picture identification issued by a governmental agency;
- (3) Current mailing address;
- (4) An affirmative statement that the applicant within the preceding **twelve (12) months** has not had any similar license revoked.

**7-8-7                    FEES.**

(A) Every application for a sexually oriented business license (whether for a new license or for renewal of existing license shall be accompanied by a **One Thousand Dollar (\$1,000.00)** non-refundable application, inspection and license fee, which shall be paid annually.

(B) All license applications and fees shall be submitted to the City Clerk.

**7-8-8            INSPECTION.** Each applicant, licensee, or operator of a sexually oriented business shall permit representatives of the City, including but not limited to Building, Inspection, Zoning, Police & Fire personnel, and representatives of State agencies and entities to inspect the premises of and the activities upon a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business or any period that any employee or the licensee is on or within the premises. If an applicant for new license is pending and if the sexually oriented business is not open for business inspection shall occur between the hours of **8:00 A.M. to 5:00 P.M.**

**7-8-9            EXPIRATION OF LICENSE.** A sexually oriented business license shall be an annual license and shall expire on **November 1** of each year and may be renewed only by making application as provided in this Article. Application for renewal shall be made at least **thirty (30) days** before the expiration date. No application for renewal shall be made sooner than **sixty (60) days** before expiration.

**7-8-10          SUSPENSION.** The City may suspend a sexually oriented business license or employee license for a period not to exceed **thirty (30) days** if it determines by a preponderance of the evidence that the licensee has knowingly:

- (A)                violated or is not in compliance with any provision of this Article;
- (B)                refused to allow an inspection of the sexually oriented business premises as authorized by this Article or given false information during an inspection.

**7-8-11          REVOCATION.**  
(A)                The City shall revoke or shall deny renewal of a sexually oriented business license if it determines by a preponderance of the evidence that any one of the following has occurred:

- (1)                A licensee gave false or misleading information in the responses, drawings, or the material submitted during the application process;
- (2)                A licensee has engaged in or with knowledge permitted any act which violates any Federal, State or Local Statute or Ordinance;
- (3)                A licensee has engaged in or with knowledge permitted the possession, use, or sale of controlled substances on the premises;
- (4)                A licensee has engaged in or with knowledge permitted the sale, use, possession, or consumption of alcoholic beverages on the premises;
- (5)                A licensee has engaged in or with knowledge permitted prostitution on the premises;
- (6)                A licensee has engaged in or with knowledge permitted gambling on the premises;
- (7)                A licensee has engaged in or with knowledge permitted any act of sexual intercourse, sodomy, or copulation or masturbation to occur in or on the licensed premises;
- (8)                A licensee has with knowledge permitted a person under **eighteen (18) years** of age to enter the establishment or to remain on the premises;
- (9)                A licensee has attempted to sell his business license or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee of the business;
- (10)               A licensee has with knowledge permitted another person to possess and use or represent the licensee's license as his own;
- (11)               A licensee has engaged in or with the knowledge permitted a person or persons to engage in "specified sexual activities" on the premises of the sexually oriented business; provided that this subsection (11) shall not apply to the erotic movements or the erotic touching of one's own genitals, pubic area, buttocks, anus, or breasts, whether covered or



uncovered, by a dancer or performer during the course of a live performance.

- (12) A licensee has with knowledge operated the sexually oriented business or has been employed by a sexually oriented business during a period of time when the licensee's license was suspended.

A revocation shall occur as a result of any of the above referenced activities performed or initiated by the licensee, owner, employee or agent acting on behalf of the licensee.

(B) When the City revokes a license, the revocation shall continue for **one (1) year**, and the licensee shall not be issued a sexually oriented business license nor a sexually oriented business employee license for **one (1) year** from the date the revocation became effective. No period of any stay pending or during an appeal shall be included within the **one (1) year** revocation period.

#### **7-8-12                    LICENSING PROCEDURE AND LICENSING DECISIONS.**

(A) Subject to this Article, if the City Clerk or his designee determines that facts exist for denial of a new license or denial of a renewal or suspension of a license or revocation of a license, the City Clerk or his designee shall notify the applicant or licensee (respondent) in writing of the denial or of the intent to suspend or revoke the license, including the grounds therefore, by personal delivery or by U.S. certified mail. The notification shall include a statement of the respondent's rights of appeal under this subsection. The notification shall be personally served or mailed by certified mail to the mailing address on file with the City Clerk for the respondent. Within **ten (10) business days** of receipt of such notice, the respondent may provide to the City Clerk or his designee a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended or revoked. If no response is received by the City Clerk then a final notice of denial, suspension, or revocation shall be served upon respondent by personal service or certified mail. If a response is received, within **five (5) business days** of the receipt of the response, the City Clerk or Hearing Officer shall notify respondent in writing of a hearing date on the respondent's denial, suspension or revocation proceeding. Within **ten (10) business days** of the receipt of respondent's written response the Hearing Officer shall conduct a hearing at which hearing the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, to present evidence and witnesses on his own behalf and to cross-examine witnesses; witnesses shall be sworn and the proceeding recorded. The City Clerk shall also be represented by counsel and shall bear the burden of proving by a preponderance of the evidence the grounds for denying, suspending, or revoking the license. The Hearing Officer shall issue and serve upon respondent by personal service or by U.S. certified mail a written opinion within **five (5) business days** after conclusion of the hearing. If applicable, respondent shall receive a final notice of denial or suspension or revocation which shall be included in the Hearing Officer's Order; said final notice shall include a statement advising the respondent of the right to appeal under this subsection. If the Hearing Officer finds that no grounds exist for denial of the license then the City Clerk or his designee shall issue the license to the applicant, or if the City Clerk fails to issue said license within **two (2) business days**, the Hearing Officer shall issue the license. Business day means any day that City Hall is open to the public for the transaction of business.

(B) When a decision to deny, suspend or revoke a license becomes final, the applicant or licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to seek judicial review and to appeal or challenge such action to any court competent jurisdiction and proper venue. If a court action challenging the Hearing Officer's decision is initiated, the City shall timely and without delay prepare and transmit to the court a transcript of the hearing.

(C) An applicant for a new sexually oriented business license, as opposed to a renewal, may but is not required to participate in the appeal (hearing) process set forth within paragraph (A) above. An applicant whose application for a new license has been denied by the City Clerk and who disagrees with the decision may at the applicant's sole election:

- (1) participate in the appeal process as set forth within paragraph (A) above  
or

- (2) give written notice to the City Clerk after notice of denial of the license, of the applicant's "Intent to Open" the sexually oriented business without a license on the **tenth (10<sup>th</sup>)** calendar day after the date of the Written Notice of Intent to Open is filed in the Office of the City Clerk; upon filing, said Notice shall be marked by the City Clerk with the date and time of filing.

If the applicant elects to give Written Notice of Intent to Open as provided above, then the City must within the **ten (10) day** period designated within the Notice of Intent to Open petition the Illinois Second Judicial Circuit Court or any Court of competent jurisdiction and proper venue and obtain injunctive relief or other appropriate relief. The Court in which the petition for injunctive relief or other judicial relief is filed shall determine whether the applicant meets the requirements for issuance of a sexually oriented business license and to determine the validity of any provision thereof that the applicant does not meet and shall in accordance with Article XI, Part I of the Illinois Code of Civil Procedure or other applicable statute grant such relief as the Court deems necessary and appropriate. If the City fails to petition for injunctive relief or if the Court fails to issue the injunctive relief or grant such other relief as requested denying the license or enjoining the sexually oriented business from opening prior to expiration of the **ten (10) day** period described within the Notice of Intent to Open, the license shall be deemed to be issued, although the licensee and the licensed premises must still comply with all provisions of this Article, the same as if the license had been issued by the City Clerk, as a failure or inability of the City to obtain injunctive relief or other judicial relief does not excuse compliance by the licensee with any provision of this Article, except the license requirement or such requirement as determined by a Court not to be applicable or enforceable. The license and licensee shall, except as provided within this Article, also be subject to all provisions of a license. If the City does not petition for injunctive relief or other judicial relief within the **ten (10) day** period described within the Notice of Intent to Open and if the license is deemed to be issued, the City may nonetheless petition the Court of injunction relief or other judicial relief for initiate proceedings under this Article, to suspend or revoke the license; provided, however, that a "license deemed to be issued" shall be entitled to the same stay of proceedings to preserve the status quo as provided for a license actually issued by the City Clerk. In addition, if an applicant elects to seek an appeal to the City Hearing Officer of a decision of the City Clerk denying a license, the applicant shall still retain and be entitled to exercise its rights under this subparagraph and give the "Written Notice of Intent to Open" after the Hearing Officer issues a final notice of denial.

(D) An applicant for a new sexually oriented business employee license, as opposed to a renewal, may but is not required to participate in the appeal (hearing) process set forth within paragraph (A) above. An applicant whose application for a new employee license has been denied by the City Clerk and who disagrees with the decision may at the applicant's sole election:

- (1) participate in the appeal process as set forth within paragraph (A) above or
- (2) give written notice to the City Clerk after notice of denial of the license, of the applicant's "Intent to Be Employed" by the sexually oriented business without a license upon expiration of **twenty-four (24) hours** from the date and time the Written Notice of Intent to be Employed is filed in the Office of the City Clerk; upon filing, said Notice shall be marked by the City Clerk with the date and time of filing.

If the applicant elects to give Written Notice of Intent to be Employed as provided above, then the City must within the **twenty-four (24) hour** period designated within the Notice of Intent to be Employed Petition the Illinois Second Judicial Circuit Court or any court of competent jurisdiction and proper venue and obtain injunctive relief or other appropriate relief. The Court in which the petition for injunctive relief or other judicial relief is filed shall determine whether the applicant meets the requirements for issuance of a sexually oriented business employee license and determine the validity of any provision thereof that the applicant does not meet and shall in accordance with Article XI, Part I of the Illinois Code of Civil Procedure or other applicable statute grant such relief as the court deems necessary and appropriate. If the City fails to petition for injunction relief or if the Court fails to issue the injunctive relief or grant such other relief as requested denying the license or enjoining the applicant

from being employed prior to expiration of the **twenty-four (24) hour** period described within the Notice of Intent to be Employed, the license shall be deemed to be issued, although the licensee must still comply

with all provisions of the license issuing process the same as if the license had been issued by the City Clerk, as a failure or inability of the City to obtain injunctive relief does not excuse compliance by the licensee with any provision of this Article, except the license requirement. The license and licensee shall, except as provided within this Article shall be subject to all its provisions relating to renewal of a license, suspension of a license, or revocation of a license. If the City does not petition the Court for injunctive relief or other judicial relief within the period described within the Notice of Intent to be Employed and if the license is deemed to be issued, the City may nonetheless petition for injunctive relief or other judicial relief or initiate proceedings under this Article to suspend or revoke the license; provided, however, that a "license deemed to be issued" shall be entitled to the same stay of proceedings to preserve the status quo as provided for a license actually issued by the City Clerk. In addition, if an applicant elects to seek an appeal to the City Hearing Officer of a decision of the City Clerk denying a license, the applicant shall still retain and be entitled to exercise its rights under this subparagraph and give the "Written Notice of Intent to be Employed" after the Hearing Officer issues a final notice of denial.

(E) Notwithstanding any provisions of this subsection, in the event the licensee appeals the denial of a renewal application or the suspension of a license or revocation of a license, the status quo immediately prior to such denial, suspension or revocation shall be maintained throughout the pendency of the appeal including the hearing process within subparagraph (A) above up to and including judicial review as provided within subparagraph (B) above. Upon a judicial decision being entered, the stay to preserve the status quo provided herein shall cease and the order or decision of the court shall determine whether an additional stay is appropriate, required or permitted by law.

**7-8-13            TRANSFER OF LICENSE.** A licensee shall not transfer his/her license to another person, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the premises designated in the application.

**7-8-14            ALCOHOLIC BEVERAGES.** The sale, use, possession, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited. A business license shall have an affirmative duty to deny entry to any person in possession of alcoholic liquor and shall have an affirmative duty not to permit or allow any person in possession of alcoholic liquor to remain on premises. No licensee, employee, agent, patron or any other person shall sell, possess, use or consume alcoholic beverages upon the premises of a sexually oriented business.

**7-8-15            EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.**  
(A) No licensee of a sexually oriented business shall allow any semi-nude employee or the merchandise or activities of the sexually oriented business (except the parking, traffic, and pedestrian access activities of patrons) to be visible from any place outside the structure in which the sexually oriented business is situated. The licensee shall not permit any patron or patrons or other person to stand, congregate, loiter, or to gather in groups upon the exterior premises of the sexually oriented business or allow the vehicular parking and traffic areas and the pedestrian access areas to be used for any purpose except movement of traffic, parking of motor vehicles and access of patrons and other persons to and from the sexually oriented business establishment.

(B) No licensee of a sexually oriented business shall allow the exterior portion of the sexually oriented business to have flashing lights, search lights, spot lights, photographs, silhouettes, drawings or pictorial representations in any manner. No exterior portion of the establishment shall be painted any color than an achromatic color, although this subparagraph does not require the painting of an otherwise unpainted exterior portion of a sexually oriented business. "Exterior portion" shall mean any part of the physical structure of an establishment, including a wall, veneer, door, fence, roof, roof covering, window, or similar item which is visible from the public right-of-way or from any property adjoining the premises of the sexually oriented business or from any location off of the premises of the sexually oriented business. "Achromatic" means colorless, zero in saturation, or lacking in hue; for purposes of this subsection, the definition of achromatic shall include, without limitation, white, black,

grays, tans, and light earth tones, but any bold, vivid, neon, fluorescent, or extremely bright coloration that attracts attention shall be excluded from the definition of achromatic.

(C) Notwithstanding any other City Ordinance, Code, or Regulation to the contrary, no operator of a sexually oriented business, no sexually oriented business nor any other person shall erect, construct, or maintain any sign for a sexually oriented business except one freestanding on-premises sign and one wall-flush mount on-premises sign, each of which shall comply with all zoning requirements. The display surface of each sign shall:

- (1) not contain any flashing lights;
- (2) be a flat plane, rectangular or square in shape;
- (3) not contain any photographs, silhouette, drawing or pictorial representation in any manner;
- (4) each letter forming a word shall be of solid color and each letter shall be of the same print type, size and color; the background behind such lettering on the display surface shall be of a uniform and solid color.

#### **7-8-16**

#### **ADDITIONAL REGULATIONS FOR ADULT MOTELS.**

(A) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated **two (2)** or more times in a period of time that is less than **ten (10) hours** creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Article.

(B) No person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, shall rent or subrent a sleeping room to a person and, within **ten (10) hours** from the time the room is rented, rent or subrent the same sleeping room again.

(C) For purposes of subsection (B) of this Section, the terms "rent" or "subrent" means the act of permitting a room to be occupied for any form of consideration.

(D) Notwithstanding the provisions of any other building or applicable code, the sleeping room shall not have less than **one hundred fifty (150) square feet** of floor space.

(E) An adult motel shall not provide closed circuit television transmissions, films, motion pictures, video cassette slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specific anatomical areas" within any room or area, except within a sleeping room.

(F) The licensee of an adult motel shall insure that each sleeping room and accessory rooms are clean and sanitary. Such duty shall be fulfilled if the licensee:

- (1) maintains a regular cleaning schedule of at least **one (1)** cleaning per rental of the room, documented by appropriate logs;
- (2) all garbage, trash, body fluids, and excrement discovered during each inspection and cleaning are immediately removed and all areas where same are present are cleaned with disinfectant;
- (3) all solid waste and debris generated within a room are removed from the room each time that a room is cleaned and placed in closed trash receptacles and all waste, debris and garbage generated by the adult motel is removed from the premises of the adult motel at least once each week by a garbage or trash service or other lawful means;
- (4) not less often than once each week the entire room shall be cleaned with a disinfectant, including at least the floors, all walls within **forty-eight (48) inches** of the floor, and all surface areas of any furniture, fixtures or appliances; and
- (5) all linen, including but not limited to towels, sheets and other similar non-disposal personal hygiene items shall be changed and removed with each rental of a sleeping room and shall be laundered with soap or other disinfectant prior to re-use.

(G) Neither the business licensee nor any employee of an adult motel shall be nude or semi-nude when upon the premises of the sexually oriented business except within the sleeping room

or other room occupied as the private personal room of same when no patron is present or during the bona fide use by same of a single sex restroom for its intended purpose. No patron shall be nude or semi-nude when a business licensee or any employee of the adult motel is present. No live entertainment shall be provided by a licensee within any room rented to or occupied by a patron nor within any room or other area upon the premises of an adult motel.

**7-8-17            ADDITIONAL REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS IN VIEWING ROOMS.**

(A)            No sexually oriented business, except an adult store shall exhibit on the premises in a viewing room of less than **one hundred fifty (150) square feet** of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas.

(B)            An adult store having one or more viewing rooms on the premises shall comply with the following requirements:

- (1)            Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, specifying the location of each viewing room, and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed **thirty-two (32) square feet** of floor area with no dimension greater than **eight (8) feet**. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus **six (6) inches**. The City shall waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (2)            The above-described diagram shall be sworn to be true and correct by the applicant.
- (3)            No alteration in the configuration or location of a manager's station or a viewing room shall be made without the prior approval of the City.
- (4)            The licensee of the premises shall ensure that at least one licensed employee is on duty for each manager's station and situated in each manager's station at all times that any patron is present inside the premises.
- (5)            The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Each viewing room shall have one side completely open, with the open side being of the same width and height as the directly opposite wall of the viewing room. A viewing room shall have no other means or point of access except the open side. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premise shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted to access for any purpose from at least one of the manager's stations. The view

required in this subsection must be by direct line of sight from the manager's station.



- (6) The licensee shall ensure that at all times the view area specified in subsection (B)(5) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, benches, chairs, or other materials or in any manner.
- (7) Each viewing room must be illuminated at all times in the manner described within subparagraph (8) below; no person shall enter or remain in any viewing room which is not illuminated.
- (8) Each viewing room and the entire premises of the sexually oriented business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than **five (5) foot-candles** as measured at the floor level. The lighting control or switch shall be inaccessible to any patron or other person except the licensee or an employee of the sexually oriented business.
- (9) The licensee and each employee present on the premises shall ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (10) No licensee or employee present on the premises shall allow openings of any kind to exist between viewing rooms or between a viewing room and any restroom or other adjoining room or to exist in any wall of a viewing room.
- (11) No person shall make or attempt to make an opening of any kind between viewing rooms or other adjoining rooms.
- (12) No door, curtain, or other covering or obstruction shall be attached, situated, or installed on any viewing room which obstructs or may obstruct the direct line of sight, in whole or in part, into the viewing room or any part thereof from the manager's station. No person (including a patron) shall obstruct the direct line of sight into the viewing room with any curtain, covering, or other article or item or in any manner.
- (13) The licensee or an employee shall, during each business day, at hourly intervals inspect the walls within each viewing rooms to determine if any openings or holes exist.
- (14) The licensee shall cause all floor coverings in viewing rooms to be nonporous, easily cleanable surfaces, with no rugs or carpeting. The licensee shall cause all wall surfaces and ceiling surfaces in viewing rooms to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used as the exterior surface within a viewing room within **forty-eight (48) inches** of the floor.
- (15) The licensee shall cause all walls of a viewing room to be constructed of material not readily susceptible to breach or any opening without the aid of a drill, saw or similar device or tool.
- (16) The licensee and each employee present on the premises shall ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (B)(1) of this Article.
- (17) The licensee and each employee present on the premises shall ensure that no specified sexual activity occurs in or on the licensed premises.
- (18) The licensee and each employee present on the premises shall ensure that not more than **one (1) person** is present in viewing room at any time. No person (including an employee) shall enter a viewing room that is occupied by another person.

- (19) A licensee or employee who discovers **two (2)** or more patrons or other persons in a viewing room or discovers any person making or attempting

- to make an opening of any kind between viewing rooms shall immediately escort such persons from the premises.
- (20) A licensee or employee who discovers an opening of any kind in a wall of a viewing room shall immediately upon discovery secure such room and prevent entry into the room by any patron until such time as the wall has been repaired to remove the opening. Repair of any opening in a viewing room shall be in a manner that is as structurally substantial as the original construction.
- (21) The licensee shall post a conspicuous sign at each entrance within the interior of the sexually oriented business and within each viewing room, which sign shall state all of the following:
- (a) That no loitering is permitted in viewing room.
  - (b) That the occupancy of viewing rooms is limited to **one (1) person.**
  - (c) That the open side of a viewing room is not permitted to be blocked or obstructed by any covering or article.
  - (d) That any specified sexual activity on the premises is prohibited.
  - (e) That the making of openings between viewing rooms or any wall of a viewing room is prohibited.
  - (f) That violators will be required to leave the premises; repeat violators will be permanently barred from the premises.
  - (g) That violations of subparagraphs (b), (c), (d) and (e) of this paragraph are unlawful.
- (22) The licensee shall ensure that each viewing room is clean and sanitary. Such duty shall be fulfilled if the licensee complies with the following cleaning procedures:
- (a) The licensee shall maintain a regular cleaning schedule of at least **one (1)** thorough cleaning per day, documented by appropriate logs.
  - (b) The licensee shall direct and require an employee to inspect at hourly intervals each viewing room for garbage, trash, body fluids and excrement and to immediately upon discovery remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to collection, solid waste shall be stored in a manner that prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.
  - (c) Thorough cleaning of the entire interior of a viewing room (except that portion **four (4) feet** above the floor surface and the ceiling) shall be done using a disinfectant. Cleaning shall include floors, walls, seating, monitors, video cameras, and windows and other surfaces.

A person having a duty or required to perform an act under subsection (1) through (22) of subsection (B) above commits a violation if he knowingly fails to perform the act or fails to fulfill that duty.

(C) No sexually oriented business, except an adult store, shall have a viewing room as defined within this Article. No viewing room shall exhibit a live performance. No adult store shall exhibit any film, videocassette, or other video reproduction, except within a viewing room.

#### **7-8-18**

#### **ADDITIONAL REGULATIONS FOR ADULT THEATERS.**

(A) Each adult theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on couches, benches or any other multiple

person seating structures. The number of seats shall equal the maximum number of persons who may occupy the adult theater.

(B) Each adult theater shall have a continuous main aisle alongside the seating area in order the each person seated in the adult theater shall be visible from the aisle at all times. Excluding any public entrance(s) from the exterior of the sexually oriented business, each adult theater shall have its door or entryway or point of access constructed of such material and in such manner that not less than **fifty percent (50%)** of its door or entryway or point of access permits unobstructed visibility into adjoining area from outside the door or entryway.

(C) Each adult theater shall have a sign posted at a conspicuous place at or near each entranceway to the auditorium or similar area that lists the maximum number of persons that may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.

(D) Each adult theater shall have an attendant on duty within each theater at all times that a theater is occupied by **one (1)** or more patrons. No attendant, licensee, nor any other employee nor any patron upon the premises of an adult theater shall be nude or semi-nude, except as provided within this Article.

(E) Each theater shall be inspected at the conclusion of each film or performance or every **five (5) hours**, whichever occurs more often, and any area of seating, aisle or floor where any semen, body fluid or other foreign substance is discovered shall be cleaned with a disinfectant and all debris or items discarded by patrons shall be removed from the theater and placed in a closed trash receptacle; provided all chairs and seats, aisles and floors shall in all events be disinfected at least one time daily. All debris and trash shall be removed from the premises at least once each week by a garbage or trash service or other lawful means.

#### **7-8-19                      ADDITIONAL REGULATIONS CONCERNING ALL SEXUALLY ORIENTED BUSINESSES.**

(A) No person shall knowingly within any area where a patron is permitted access or within any area visible to a patron within or upon a sexually oriented business premises, appear nude or in a state of nudity regardless of whether such nudity is expressive in nature. This subparagraph shall not be construed to apply to a person engaged in the bona fide use of a single sex restroom for its intended purpose or to an occupant(s), not otherwise visible to the public, within a room of an adult motel rented by one or more of the occupants when no licensee or employee of the sexually oriented business is present.

(B) No person shall, knowingly in a sexually oriented business engage in specified sexual activity, provided that this subparagraph (B) shall not apply to nor prohibit the erotic movements or the erotic touching of one's own genitals, pubic area, buttocks, anus, or breasts by a dancer or performer during the course of a live performance.

(C) Except as otherwise provided within this Article, no person shall knowingly within any area where a patron is permitted access or within any area visible to a patron within or upon a sexually oriented business premises appear semi-nude unless the person is an employee who, while semi-nude (1) shall be at least **four (4) feet** from any patron or customer and (2) shall be on a permanent, securely fastened raised stage at least **two (2) feet** above the floor and (3) shall be within the interior of the structure of the sexually oriented business. This provision requires that the outer edge of the entire stage shall be at least **four (4) feet** from any patron or patron seating; said **four (4) foot** distance shall be clearly designated by a rail, by floor markings or by the seating and table arrangement; and, in addition, the licensee shall post clearly visible signs upon the stage, visible from all area of patron seating near the stage, informing patrons of the **four (4) foot** requirement. No patron shall knowingly enter upon any stage occupied by a semi-nude employee nor enter within **four (4) feet** of the edge of the stage occupied by a semi-nude employee nor otherwise enter or remain at a distance within **four (4) feet** or less from any semi-nude employee within a sexually oriented business. If any body part of either the semi-nude employee or the patron or customer is within a distance of **four (4) feet**, same shall be considered to be an entry into the **four (4) foot** prohibited area. This subparagraph shall not be construed to apply to a person engaged in the bona fide use of a single sex restroom for its intended

purpose or to an occupant(s), not otherwise visible to the public, with a room of an adult motel rented by one or more of the occupants when no licensee or employee of the sexually oriented business is present.

(D) No employee, while semi-nude in a sexually oriented business, shall receive any pay or gratuity from any patron or customer, nor shall any patron or customer pay or give any gratuity to any employee while said employee is semi-nude in a sexually oriented business; except, however, that tips or gratuities for dancers or performers while semi-nude may be paid or given if placed in a designated receptacle(s) within the premises not located on the dancing or performing stage and not located in violation of the distance requirement stated within subparagraph (C) above.

(E) No employee, while semi-nude, shall knowingly touch in any manner a patron or customer or the clothing of a patron or customer knowingly touch in any manner an employee or the clothing of any employee while said employee is semi-nude in a sexually oriented business.

(F) No licensee or any employee upon the premises shall knowingly permit or allow any person upon the licensed premises to engage in or participate in any conduct which violates any provision of this Article.

(G) A sign stating the provisions of paragraph (A), (B), (C), (D), and (E) above shall be posted near each entrance of the sexually oriented business in such a manner as to be clearly visible to all patrons, employees or other persons upon entering the sexually oriented business.

(H) Except as provided within this Article, the interior premises of each sexually oriented business, except the sleeping room of an adult motel, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place in which patrons are permitted access at an illumination of not less than **two (2) foot candles** as measured at the floor level. The licensee and any employee present on the premises shall insure that the illumination described above is maintained at all times that the premises is occupied by patrons or is open for business. The lighting control or switch shall be inaccessible to any patrons or other person except the licensee or an employee of the sexually oriented business.

(I) No business licensee nor any employee present on the premises shall knowingly permit any patron access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Article. Each such area where patrons are not permitted access shall be marked by an appropriate sign denying access. No patron shall enter or attempt to enter or remain in any area of the sexually oriented business which has been designated by a sign as an area in which patrons are not permitted.

(J) Except for a viewing room within an adult store or a sleeping room and its accessory room within an adult motel, no sexually oriented business shall have a private room or an individual room or a personal room for use by any patron; moreover, except within an adult motel, no area upon the same floor level within a building of a sexually oriented business where patrons are permitted access, excluding restrooms, shall be separated from other areas where patrons are permitted access by any door, curtain, obstruction, or other barrier which blocks entry or access or which blocks visibility into said area; and no area within a structure of a sexually oriented business where patrons are permitted access but which is situated upon another floor level or within another building shall be separated by any locked door or other inaccessible barrier which blocks entry or access into said area and any such area shall have its door, entryway, or point of access constructed of such material and in such manner that not less than **fifty percent (50%)** of its door or entryway or point of access permits unobstructed visibility into adjoining areas from outside the door or entryway. Except for a sleeping room in an adult motel, no door or passageway or point of access or means of entry or access to any area within an sexually oriented business when patrons are permitted access shall have any lock or be capable of being barricaded or otherwise obstructed from other areas where patrons are permitted access; provided the public entrances on the exterior of a sexually oriented business may have a lock, although said public entrances shall remain unlocked at any time that a patron is upon the premises. Nothing here shall prohibit a conference room, party room, or similar group facility upon the premises of a cabaret for which patron access is restricted by an attendant provided such room or facility meets all of the requirements of this Article.

(K) All restrooms in a sexually oriented business shall be equipped with standard toilets sinks, and other traditional lavatory facilities. Not less often than daily, restrooms shall be inspected by the sexually oriented business and cleaned with disinfectant, and any item discarded by a patron and other wastes shall be removed and each trash receptacle emptied. The interior of each restroom shall be equipped with overhead lighting fixtures sufficient intensity to illuminate every place

within the restroom at an illumination of not less than **fifteen (15) foot candles** as measured at the

floor level. It shall be the duty of the licensee and of any employee present on the premises to insure that the illumination described herein is maintained at all times that the sexually oriented business premises is occupied by patrons or open for business; the lighting control or switch shall be inaccessible to any patron or other person or other person except the licensee or an employee of the sexually oriented business. No live performance nor any printed matter or video reproductions or similar materials characterized by or depicting or describing of "specified sexual activities" or "specified anatomical area" shall be provided, allowed or present at any time in the restrooms of the sexually oriented business. Separate male and female restrooms shall be provided for and used by the patrons and employees of the sexually oriented business. No female person shall use a restroom designated for a male person and no male person shall use a restroom designated for a female person. No restroom shall be used as a dressing room for any employee. The interior of each restroom shall not be visible to any person except from within the interior of the restroom.

(L) Separate male and female dressing rooms shall be provided for exclusive use by employees of the sexually oriented business and no patron shall be permitted or allowed access to said dressing rooms; nor shall the interior of the dressing room be visible to any person except from within the interior of the dressing room. No person, except the licensee or an employee of the sexually oriented business shall enter into any dressing room or other room provided for the exclusive benefit and use of an employee of a sexually oriented business; provided that the subparagraph shall not apply to an employee of another business solely on the sexually oriented business premises to deliver goods or materials, foods and beverages, or to perform maintenance or repairs to the premises, provided, however, that any such person shall remain in such areas only for the purpose and to the extent and time necessary to perform their job duties.

(M) The failure of a licensee to erect or maintain any sign or the failure of the sign to be visible shall not excuse any patron or other person from compliance with any provisions of this Article nor shall same be a defense to any action against any patron or other person under this Article.

## **7-8-20 PROHIBITION AGAINST MINORS IN A SEXUALLY ORIENTED BUSINESS.**

(A) No person shall knowingly allow a person under the age of **eighteen (18) years** to be employed by a sexually oriented business nor shall any person knowingly allow a person under the age of **eighteen (18) years** to enter upon or remain upon the premises of a sexually oriented business nor shall a person knowingly allow a person under the age of **eighteen (18) years** to purchase any good or serviced from any sexually oriented business.

(B) No person under the age of **eighteen (18) years** shall be employed by a sexually oriented business nor shall any person under the age of **eighteen (18) years** enter upon or remain upon the premises of a sexually oriented business nor shall a person under the age of **eighteen (18) years** of age make any purchase of goods or services from a sexually oriented business.

(C) Each sexually oriented business shall insure that any employee is stationed as an attendant at each public entrance to the interior of the sexually oriented business at all times during such sexually oriented business' regular business hours. The attendant shall prohibit any person under the age of **eighteen (18) years** from entering the sexually oriented business. For purposes of preventing the violation of this subsection, the sexually oriented business may refuse to permit entry to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is **eighteen (18) years** or older.

The licensee shall not permit entry of any person (except an employee of the sexually oriented business) into the sexually oriented business without first demanding and receiving from said person the presentation of some form of positive identification containing proof of age **eighteen (18) years** or older issued by a public officer in the performance of his official duties. A reasonable belief by the licensee or his agent or his employee that a person is **eighteen (18) years** of age or over shall not be a defense to any action under this Article unless said licensee, agent or employee shall have demanded and received some form of positive identification as above described that such person is **eighteen (18) years** of age or over.



No person shall give or furnish to any person under the age **eighteen (18) years** any false or fraudulent written, printed or photostatic evidence of the age and identity of such person nor any person give or furnish to any person under the age of **eighteen (18) years** evidence of age and identification of

any other person; nor shall any person under the age of **eighteen (18) years** present or offer to any licensee, licensee's agent or employee any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purposes of obtaining entry into a sexually oriented business, nor shall any person under the age of **eighteen (18) years** have in his or her possession any false or fraudulent written, printed or photostatic evidence of age and identity.

**7-8-21                    HOURS OF OPERATION.**

(A) No sexually oriented business, except for an adult motel, may remain open at any time except as follows:

(1) **Monday – Saturday.** Between the hours of **12:00 P.M.** and **12:00 A.M.** on each day.

(2) **Sunday.** All sexually oriented businesses shall be closed.

(B) Each licensee shall require and shall have all non-employees (which specifically includes but is not limited to all patrons and customers) off of the premises as defined within this Article within **ten (10) minutes** after the closing time provided herein and shall require and have all employees, except cleaning and maintenance employees described within this subparagraph (D), off of the premises within **twenty (20) minutes** after the closing times provided herein, which **ten (10) minutes** and **twenty (20) minutes** respectively shall be considered a grace period to all times for closing and for the named persons to leave the premises. Notwithstanding the grace period herein all business activities shall cease at the closing hours specified herein.

(C) Whenever time is referred to in this subsection, it shall be understood and is hereby enacted that the same shall be consistent with the official time of the City, whether the same shall be central standard time or central daylight savings time.

(D) No person, including but not limited to any employee, licensee or patron, except the business licensee (i.e., licensed operator) or a paid employee who is on duty for and actually engage in cleaning or maintenance of the premises shall remain in or at a licensed premises after the closing and grace times specified herein above.

**7-8-22                    NOTICES.**

(A) Any notice required or permitted to be given by the City Clerk or any other City office, division, department or other agency under this Article to any applicant or licensee may be given either personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application filed with the City Clerk, or within any written notice of address change that has been received by the City Clerk. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail to a sexually oriented business is returned by the postal service, the City Clerk or his designee shall within **twenty-four (24) hours** cause it to be posted at the principal entrance to the business, although only the mailing is required to be completed within any other time period or deadline established by this Article.

(B) Any notice required or permitted to be given to the City Clerk by any person under this Article shall not be deemed given until and unless it is received in the office of the City Clerk.

(C) It shall be the duty of each applicant who is designated on the license application and each licensee to furnish notice to the City Clerk in writing of any change of mailing address.

**7-8-23                    CALCULATION OF TIME.** The time within which any act required by this

Article is to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday, Sunday, or a Federal or State of Illinois holiday, in which case it shall be excluded. If the day immediately following each Saturday, Sunday or holiday is also a Saturday, Sunday or holiday then such succeeding day shall also be excluded.



**7-8-24                    INJUNCTION, PENALTIES AND REMEDIES.**

(A)                    A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this Article or any person who violates any provision of this Article is subject to a suit for injunction in any court of competent jurisdiction.

(B)                    In addition, if any person, including but not limited to any licensee, employee, customer or patron, fails or refuses to obey or comply with or violates a provision of this Article, such person, upon conviction of such violation by a court of competent jurisdiction shall be punished by a fine of not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Each violation or noncompliance shall be considered a separate and distinct offense. Each day of continued violation or noncompliance shall be considered as a separate offense.

(C)                    All remedies and penalties provided for in this Article shall be cumulative and independently available to the City and the City shall be authorized to pursue any and all remedies to the fullest extent allowed by law.

**7-8-25                    NUISANCE DECLARED.** Any sexually oriented business established in violation of this Article or operated or maintained with repeated or multiple violations of the provision of this Article shall be and the same is hereby declared to be unlawful and a public nuisance. For purposes of determining whether violations are "repeated" or "multiple" violations, any and all violations of this Article occurring within **twelve (12) month** calendar period shall be considered. The City may, in addition, to or in lieu of any other remedy set forth herein commence an action to enjoin or remove or abate such nuisance in such manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing operating or maintaining a sexually oriented business contrary to the provisions of this Article.

**(Ord. No. 2011-22; 07-25-11)**

## ARTICLE IX – FIREWORKS CODE

**7-9-1 DEFINITIONS.** As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

**Common Fireworks:** Any fireworks designed primarily to produce visual or audible effects by combustion.

(A) The term includes:

- (1) Ground and hand-held sparkling devices, including items commonly known as dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;
- (2) Smoke devices;
- (3) Fireworks commonly known as helicopters, aerials, spinners, roman candles, mines and shells;
- (4) Class C explosives classified as common fireworks by the United States Department of Transportation, by regulations found in the Code of Federal Regulations.

(B) The term does not include fireworks commonly known as firecrackers, salutes, chasers, skyrockets, and missile-type rockets.

**Dangerous Fireworks:** Any fireworks not defined as a "common firework".

**Fireworks:** Any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks.

**Special Fireworks:** Any fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes:

(A) Fireworks commonly known as skyrockets, missile-type rockets, firecrackers, salutes, and chasers; and

(B) Fireworks not classified as common fireworks.

**7-9-2 SALE OF FIREWORKS UNLAWFUL.** It is unlawful for any person to sell any fireworks within the City other than those fireworks designated in **Section 7-9-5** of this Article, provided that this prohibition shall not apply to duly authorized public displays.

**7-9-3 POSSESSION, USE AND DISCHARGE OF DANGEROUS FIREWORKS UNLAWFUL.** It is unlawful for any person to sell, possess, use, transfer, discharge or explode any dangerous firework within the City; provided that this prohibition shall not apply to duly authorized public displays.

**7-9-4 PERMIT REQUIRED TO SELL OR DISPLAY FIREWORKS.** It is unlawful for any person to engage in the retail sale of or to sell fireworks or to hold, conduct, or engage in a public display of fireworks within the City without first having obtained a valid permit issued pursuant to the provisions of this Article.

**7-9-5 TIME LIMIT SET ON SALE AND USE.** No permit holder shall offer for retail sale or sell any fireworks within the City except from **12:00 Noon** on the **28<sup>th</sup> of June** to **12:00 Noon** on the **6<sup>th</sup> of July** of each year. No fireworks may be sold or discharged between the hours of **11:00 P.M.** and **9:00 A.M.** Provided, the sale and use of fireworks as provided in this Section shall be limited to the following:

Dipped stick, sparklers and smoke devices.

**7-9-6                    PERMIT FEES.** The annual fee for a “seller’s permit” for the sale of fireworks as may be authorized under this Article, shall be **One Hundred Dollars (\$100.00)** per year for each seller’s permit, payable in advance. The fee for a “public display permit” for the public display of fireworks shall be **One Hundred Dollars (\$100.00)**, payable in advance, unless waived by the City Council.

**7-9-7                    ISSUANCE – NONTRANSFERABLE VOIDING.**  
(A) **Sellers.** Each seller’s permit issued under this Article shall be for only one retail outlet. The number of seller’s permits shall not be limited as long as all conditions are met as stated in **Section 7-9-11** of this Article. Each seller’s permit issued pursuant to this Article shall be valid only for the current year, shall be used only by the designated permittee and shall be nontransferable.

(B) **Public Display Permit.** Each public display permit issued pursuant to this Article shall be valid for the specific authorized public display event only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is violation of this Article and shall void the permit granted in addition to all other sanctions provided in this Article.

**7-9-8                    APPLICATION FOR PUBLIC DISPLAY PERMIT.** Applications for a permit to conduct a public display of fireworks shall be made to the Fire Chief at least **fourteen (14) days** prior to the scheduled event. Applicants shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display, and as set forth in **Section 7-9-12** of this Article.

**7-9-9                    APPLICATION FOR SELLER’S PERMIT—CONDITIONS FOR ISSUANCE.**  
Applications for seller’s permits shall be made to the City Clerk annually on or after **April 1<sup>st</sup>** of the year for which the permit is issued and the filing period shall close on **April 15<sup>th</sup>** of such year unless extended by action of the City Council. Applications shall be signed by the retail seller, if an individual, or by the duly authorized officer, if an association or corporation. It is unlawful for a fireworks manufacturer, wholesaler or supplier to make application for or to obtain a retail sales permit on behalf of any retailer. Seller’s permits for the sale of those fireworks allowed pursuant to **Section 7-9-4** of this Article shall be issued only to applicants meeting the following conditions:

(A) The retailer or person in charge and responsible for the retail operation shall be **twenty-one (21) years** of age or older, of good moral character and of demonstrated responsibility.

(B) The applicant shall have a valid and current license issued by the State of Illinois authorizing the holder to engage in the retail sale of fireworks. **(See 425 ILCS 35)**

(C) The applicant shall own or have the right to possess a temporary fireworks stand complying with the requirements of this Article.

(D) The applicant shall procure and maintain a policy or policies of public liability and property damage insurance issued by a company or companies authorized to do business in the State of Illinois in the following minimum amounts: **Five Hundred Thousand Dollars (\$500,000.00)** for injuries to any one person in one accident or occurrence; **One Million Dollars (\$1,000,000.00)** for injuries to two or more persons in any one accident or occurrence; **Five Hundred Thousand Dollars (\$500,000.00)** for damage to property in any one accident or occurrence; **One Million Dollars (\$1,000,000.00)** combined single limit for any one accident or occurrence. In addition, the City is to be an additional named insured and the policy shall provide for the immediate notification of the City by the insurer of any cancellation of any policy.

(E) The permit holder’s location or place of business shall be only in those areas or zones within the City where commercial activities are authorized under applicable zoning law; provided, that the sale of those fireworks authorized by **Section 7-9-5** of this Article shall not be deemed an enlargement of an existing nonconforming use.

(F) The applicant shall post with the City a performance bond or a cash deposit in an amount not less than **Two Hundred Dollars (\$200.00)** conditioned upon the prompt removal of the temporary fireworks stand and the cleaning up of all debris from the site of the stand, which deposit shall be returned to the applicant only in the event that the applicant removes the temporary stand and cleans up all debris to the satisfaction of the City. In the event the applicant fails to do so, the performance bond or cash deposit shall be forfeited. In no event shall the applicant be entitled to the return of the performance bond or cash deposit if he or she has failed to remove the stand and clean up all debris by the **tenth (10<sup>th</sup>) of July** following the sales period.

(G) No seller's permit shall be issued for a location which fails to meet the criteria set forth in **Section 7-9-11** of this Article, including the minimum stand separation requirement. When necessary, in order to determine priority as to a proposed location, the earliest date and time of filing of an application for a seller's permit with the City Clerk shall be controlling.

**7-9-10 SALE FROM STANDS – EXCEPTIONS.** All approved fireworks as set forth in **Section 7-9-5** of this Article except toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick or novelty device not classified as common fireworks, shall be sold and distributed only from temporary stands.

**7-9-11 STANDARDS FOR TEMPORARY STANDS.** The temporary stands of all seller's permit holders shall conform to the following minimum standards and conditions:

(A) Temporary fireworks stands need not comply with all provisions of the Building Code; provided, however, that all such stands be erected under the supervision of the City Building Inspector, who shall require all stands to be constructed in a safe manner ensuring the safety of attendants and patrons. In the event any temporary stand is wired for electricity, the wiring shall conform to the electrical code.

(B) No temporary fireworks stand shall be located within **fifty (50) feet** of any other building or structure, nor within **two hundred fifty (250) feet** of any gasoline station, oil storage tank or premises where flammable liquids or gases are kept or stored.

(C) Each temporary fireworks stand must have at least two exits, which shall be unobstructed at all times.

(D) Each temporary fireworks stand shall have, in a readily accessible place, at least two, **two and one-half (2½) gallon** pressurized water fire extinguishers which are in good working order.

(E) All weeds, grass, and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area to a distance of not less than **twenty-five (25) feet**, measured from the exterior walls of the temporary fireworks stand.

(F) No smoking shall be permitted in or near a temporary fireworks stand for a distance of not less than **fifty (50) feet** measured from the exterior walls of the temporary fireworks stand. Signs stating: **"No Smoking Within 50 Feet"** shall be posted on the exterior of each wall of the temporary fireworks stand.

(G) Each temporary fireworks stand shall have a person who is **eighteen (18) years** old or older in attendance at all times the stand is stocked. Stock from the stand shall not be removed and stored in any other building during the sales period without the express approval of the Fire Chief.

(H) All unsold stock and accompanying litter shall be removed from the temporary fireworks stand by **12:00 Noon** on the **seventh (7<sup>th</sup>) day of July** of each year.

(I) No temporary fireworks stand shall be located within **five hundred (500) feet** of any other temporary fireworks stand.

(J) Each temporary fireworks stand shall have provisions for sufficient off-street parking, at least **fifteen (15) spaces**, to avoid impeding a continuous flow of traffic at entrances and exits from the premises.

(K) No person shall discharge any fireworks within **two hundred fifty (250) feet** of the exterior walls of any temporary fireworks stand. Signs stating: **"No discharge of fireworks within 250 feet."** shall be posted on the exterior of all walls of the temporary fireworks stand.

**7-9-12 STANDARDS FOR PUBLIC FIREWORKS DISPLAYS.** All public fireworks displays shall conform to the following minimum standards and conditions:

(A) All public fireworks displays shall be planned, organized and discharged by pyrotechnician, "Pyrotechnician" means an individual who by experience and training has demonstrated the required skill and ability for safety setting up and discharging displays of special fireworks. All individuals shall have a license under the provisions of the Pyrotechnic Distributor and Operator Licensing Act. **(225 ILCS 227)**

(B) A permit must be obtained from the City and approved by the Fire Chief or designee prior to any display of public fireworks. The permit shall include the name of the applicant and his or her address, the name of the Pyrotechnician and his or her address; the exact location, date and time of the proposed display; the number, type and class of fireworks to be displayed the manner in which the fireworks are being stored prior to the public fireworks display; and shall include the name and address of the insurance company providing the bond required.

(C) A drawing shall be submitted to the Fire Chief showing a plan view of the fireworks discharge site and the surrounding area within a **five hundred (500) foot** radius. The drawing shall include all structures, fences, barricades, street fields, streams and any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.

(D) When, in the opinion of the Fire Chief, such requirement is necessary to preserve the public health, safety and welfare, the permit may require that a Fire Department pumper and a minimum of two trained firefighters shall be on site **thirty (30) minutes** prior to and after the shooting of the event. The exhibitor shall repay the City for all costs to firefighters for such time.

(E) All combustible debris and trash shall be removed from the area of discharge for a distance of **three hundred (300) feet** in all directions.

(F) All unfired or "dud" fireworks shall be disposed of in a safe manner.

(G) A minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket shall be required to be at the fireworks discharge site.

(H) The permit shall be immediately revoked at any time the Fire Chief or a designee deems such revocation is necessary due to noncompliance, weather conditions such as, but not limited to, extremely low humidity or high winds. The display shall also be cancelled by accidental ignition of any form of combustible or flammable material in the vicinity due to falling debris from the display.

(I) Areas of public access shall be determined by the Fire Chief or designer and maintained in an approved manner.

**7-9-13 USE OF FIREWORKS IN PUBLIC PARKS.** It shall be unlawful for any person to discharge or possess any fireworks upon public land or in any public park, owned by the City, provided, however, that such use shall be permitted under the following circumstances:

(A) This provision shall not apply to possession of fireworks in the otherwise lawful use of public rights of way such as sidewalks and planting strips. This subsection shall not be a defense to a charge of obstructing traffic or otherwise obstructing a public right of way.

(B) The Fire Chief shall designate limited areas for use during the hours permitted by the Article for the discharge of fireworks as allowed by **Section 7-9-5** of this Article. Otherwise lawful discharge and possession of fireworks as allowed by **Section 7-9-5** in such areas shall not be a violation of this Section. In doing so, the Fire Chief shall consider:

- (1) The sensitivity of the area's environment, wildlife and wildlife habitat;
- (2) The inconvenience and nuisance to abutting property owners;
- (3) The safety and suitability of the area as a place for the discharge of fireworks; and



(4) Danger of fire or other destruction of public property and improvements from the use of the fireworks.

(C) Upon designation of any area, it shall be signed and posted by **July 1<sup>st</sup>** of each year fro use on **July 4<sup>th</sup>** between the hours of **9:00 A.M.** and **11:00 P.M.** Designation of any area may be appealed in writing to the City Council by any citizen of the City. The decision of the City Council shall be final.

(D) Nothing in this Article shall be deemed to limit the authority of the City Council to allow event display of special fireworks under a permit issued in accordance with the provisions of the Code and State statutes.

**7-9-14**      **SPECIAL EFFECTS FOR ENTERTAINMENT MEDIA.** This Code does not prohibit the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio, or television productions, theatricals or operas when such use and display is a necessary part of the production and such person possesses a valid permit issued by the City in accordance with **Sections 7-9-7** and **7-9-8** of this Code.

**7-9-15**      **NONPROHIBITED ACTS.** This Code does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities.

**7-9-16**      **APPLICABILITY.** The provisions of this Code shall not be applicable to toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick nor to novelty device not classified as common fireworks.

**7-9-17**      **STATUS OF STATE LAW.** This Code is intended to implement applicable State law, to wit, **Chapters 225 ILCS 227 and 425 ILCS 35**, and shall be construed in connection, with that law and any and all rules or regulations issued pursuant to that law.

**7-9-18**      **ENFORCEMENT.** The Fire Chief or designee, is authorized to enforce all provisions of this Code and, in addition to criminal sanctions or civil remedies, may revoke any permit issued pursuant to this Code upon any failure or refusal of the permittee to comply with the lawful orders and directives of the Fire Chief or designee, or to comply with any provisions of this Code or the requirements of the community development code relating to temporary structures.

**7-9-19**      **RECKLESS DISCHARGE OR USE PROHIBITED.** It is unlawful for any person to discharge or use fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another.

**OFFICIAL BUSINESS LICENSE**

**STATE OF ILLINOIS** )  
**COUNTY OF FRANKLIN** ) ss.  
**CITY OF BENTON** )

**ILLINOIS SALES TAX NUMBER** \_\_\_\_\_

**TO ALL TO WHOM THESE PRESENTS SHALL BECOME GREETINGS:**

**WHEREAS** \_\_\_\_\_, having  
complied with all the requirements of the laws of the State of Illinois and the ordinances of the  
**City of Benton, Illinois** in this behalf made and required license is, by authority of the **City of**  
**Benton, Illinois** given and granted to the \_\_\_\_\_ to \_\_\_\_\_  
\_\_\_\_\_ at \_\_\_\_\_ in the  
**City of Benton, County of Franklin, and State of Illinois**, from the \_\_\_\_\_ date  
hereof until the \_\_\_\_\_ day of \_\_\_\_\_, 20, said \_\_\_\_\_  
\_\_\_\_\_ to be subject to all laws of the State of Illinois and all ordinances of the  
**City of Benton, Illinois**, not in conflict therewith, which are now or hereafter may be in force  
touching the premises.

(L.S.)

Given under the hand of the Mayor of the **City of Benton, County of Franklin,**  
**Illinois** and the seal thereof, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**MAYOR**  
**CITY OF BENTON**

**COUNTERSIGNED:**

\_\_\_\_\_  
**CITY CLERK**  
**CITY OF BENTON**

**(SEAL)**

## **APPLICATION FOR RAFFLE LICENSE**

Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

Type of Organization: \_\_\_\_\_

Length of Existence of Organization: \_\_\_\_\_

If organization is incorporated, what is the date and state of incorporation?

Date: \_\_\_\_\_ State: \_\_\_\_\_

List the organization's presiding officer, secretary, raffle manager, and any other members responsible for the conduct and operation of the raffle.

PRESIDENT:

SECRETARY: \_\_\_\_\_ Birth Date: \_\_\_\_\_

Address: \_\_\_\_\_

Social Security No.: \_\_\_\_\_ Phone No.: \_\_\_\_\_

RAFFLE MANAGER: \_\_\_\_\_ Birth Date: \_\_\_\_\_

Address: \_\_\_\_\_

Social Security No.: \_\_\_\_\_ Phone No.: \_\_\_\_\_

List any other members responsible for the conduct and operation of the raffle on the back of this page. List name, date of birth, address, social security number, and phone number.

\_\_\_\_\_ This request is for a single raffle license.

\_\_\_\_\_ This request is for a multiple raffle license.

The aggregate retail value of all prizes to be awarded: \$ \_\_\_\_\_

Maximum retail value of each prize to be awarded in the raffle: \$ \_\_\_\_\_

The maximum price charged for each raffle chance issued: \_\_\_\_\_

The area or areas in which raffle chances will be sold or issued: \_\_\_\_\_

Time period during which raffle chances will be issued or sold: \_\_\_\_\_

The date, time and location at which winning chances will be determined: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Location: \_\_\_\_\_

If multiple raffles license is requested, list on a separate sheet, the date, time, and location for each raffle to be held within the one (1) year period of time from the date of the issuance of the license.

**THE APPLICATION FEES ARE NONREFUNDABLE EVEN SHOULD THE APPLICATION BE REJECTED BY THE CITY COUNCIL.**

**APPLICATION FOR RAFFLE LICENSE**

**SWORN STATEMENT**

The following officers attest to the not-for-profit character of the applicant organization.

\_\_\_\_\_  
(NAME OF ORGANIZATION)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
SECRETARY

STATE OF ILLINOIS        )  
                                  ) ss.  
COUNTY OF FRANKLIN    )

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
SECRETARY

\_\_\_\_\_  
NOTARY PUBLIC

**SINGLE RAFFLE LICENSE**

License No.: \_\_\_\_\_

Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

Area or areas in which raffle chances may be sold or issued: \_\_\_\_\_

\_\_\_\_\_

Period of time during which raffle chances may be sold: \_\_\_\_\_

\_\_\_\_\_

Maximum price charged for each raffle chance issued or sold: \$\_\_\_\_\_

Date, time and location at which winning chance will be determined:

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Location: \_\_\_\_\_

**THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.**

**WITNESS** the hand of the Mayor of the City of Benton and the Corporate Seal thereof,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR  
CITY OF BENTON

\_\_\_\_\_  
CITY CLERK  
CITY OF BENTON

**(SEAL)**

**MULTIPLE RAFFLE LICENSE**

License No.: \_\_\_\_\_

Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

Area or areas in which raffle chances may be sold or issued: \_\_\_\_\_

\_\_\_\_\_

Period of time during which raffle chances may be sold: \_\_\_\_\_

\_\_\_\_\_

Maximum price charged for each raffle chance issued or sold: \$\_\_\_\_\_

This is a license for multiple raffles to be held within the maximum period of one (1) year from date of this license. The date, the and location of each raffle is as set forth on Exhibit 1, attached hereto and hereby incorporated by reference.

**THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.**

**WITNESS** the hand of the Mayor of the City of Benton and the Corporate Seal thereof, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR  
CITY OF BENTON

\_\_\_\_\_  
CITY CLERK  
CITY OF BENTON

**(SEAL)**

## EXHIBIT 1

The following is the date, time and location at which winning chances will be determined for multiple raffles to be held within a maximum period of one (1) year from the date of issuance of this license.

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

## **BUSINESS LICENSE APPLICATION**

**APPLICATION NO.** \_\_\_\_\_ **ANNUAL LICENSE FEE DUE MAY 1ST: \$** \_\_\_\_\_

**(PLEASE TYPE OR PRINT)**

1. Applicant's Name: \_\_\_\_\_ PHONE (    ) \_\_\_\_\_
2. Applicant's Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_
3. Length of resident at above address \_\_\_\_\_ years \_\_\_\_\_ months
4. Applicant's Date of Birth \_\_\_\_/\_\_\_\_/\_\_\_\_ Social Security No. \_\_\_\_\_
5. Marital Status \_\_\_\_\_ Name of Spouse \_\_\_\_\_
6. Citizenship of Applicant \_\_\_\_\_
7. Business Name \_\_\_\_\_ PHONE (    ) \_\_\_\_\_
8. Business Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_
9. Length of Employment \_\_\_\_\_ years \_\_\_\_\_ months
10. All residences and addresses for the last three (3) years if different than above:  
\_\_\_\_\_  
\_\_\_\_\_
11. Name and Address of employers during the last three (3) years if different than above:  
\_\_\_\_\_  
\_\_\_\_\_
12. List the last three (3) municipalities where applicant has carried on business immediately preceding the date of application:  
\_\_\_\_\_  
\_\_\_\_\_
13. A description of the subject matter that will be used in the applicant's business:  
\_\_\_\_\_
14. Has the applicant ever had a license in this municipality? [    ] Yes [    ] No  
If so, when \_\_\_\_\_
15. Has a license issued to this applicant ever been revoked? [    ] Yes [    ] No  
If "yes", explain: \_\_\_\_\_
16. Has the applicant ever been convicted of a violation of any of the provisions of this Code, etc.?  
[    ] Yes [    ] No If "yes", explain: \_\_\_\_\_
17. Has the applicant ever been convicted of the commission of a felony? [    ] Yes [    ] No  
If "yes", explain: \_\_\_\_\_
18. LICENSE DATA:      Term of License \_\_\_\_\_  
                            Fee for License \$ \_\_\_\_\_  
                            Sales Tax Number \_\_\_\_\_  
                            License Classification \_\_\_\_\_
19. LIST ALL OWNERS IF LICENSE IS FOR LOCAL BUSINESS (PERMANENT):  
\_\_\_\_\_  
\_\_\_\_\_



## CITY OF BENTON

### SELLER'S INFORMATION

**The following information must be completed for every person who will be in contact with the public for the purposes of stocking, transporting, delivering, and/or selling the goods, wares or merchandise. Any new individuals must have a complete information form on file with the City Clerk's office within 24 hours of beginning work.**

Name of Applicant \_\_\_\_\_

Home Address of Applicant \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Local Address of Applicant \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone (\_\_\_\_\_) \_\_\_\_\_ Local Phone (\_\_\_\_\_) \_\_\_\_\_

Driver's License # \_\_\_\_\_ State of Issuance \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

Please list your home address(es) for the past two years and the length of time you lived at each address:

1. \_\_\_\_\_ How Long? \_\_\_\_\_

2. \_\_\_\_\_ How Long? \_\_\_\_\_

3. \_\_\_\_\_ How Long? \_\_\_\_\_

4. \_\_\_\_\_ How Long? \_\_\_\_\_

Have you ever been convicted of a criminal offense or ordinance violation (other than a traffic violation) in any jurisdiction? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, please list each individual offense and/or violation, the date and the prosecuting jurisdiction. Attach additional sheet(s) if necessary:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### CERTIFICATION

I, the undersigned, do hereby certify that to the best of my knowledge and belief the above information is true, correct, and complete. I understand that failure to correctly and completely answer the above questions will be cause for denial of this license.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

(Please contact the City Clerk's Office for additional copies of this page.)

**CITY OF BENTON**

**APPLICATION FOR TRANSIENT MERCHANT – ITINERANT VENDOR LICENSE**

**Please print legibly or type**

**A Transient Merchant-Itinerant Vendor License may only be obtained by filing this application with the City Clerk's office no less than 10 business days in advance of the proposed activity.**

**DEFINITIONS:**

- **Transient Merchant:** A person/business temporarily in the retail sale of goods, wares, or merchandise in this City and who, for the purpose of conducting such business occupies any building, room, vehicle, structure of any kind, vacant lot or parcel of property.
- **Itinerant Vendor:** A person/business who transports tangible personal property for retail sale within the City who does not maintain in this City an established office, distribution house, sales house, warehouse, service center, or residence from which such business is conducted.

Name of Business \_\_\_\_\_

Street Address of Business \_\_\_\_\_

PO Box of Business \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Business Phone (\_\_\_\_) \_\_\_\_\_ Business Fax (\_\_\_\_) \_\_\_\_\_

Location from which Applicant intends to sell \_\_\_\_\_

Date (s) from which Applicant intends to sell \_\_\_\_\_

Nature of Business proposed to be conducted. Include the type(s) of goods to be sold and how those goods will be sold (out of a truck, from a stand, etc.) Be Specific.

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Describe the Vehicle to be Used (If Applicable)

Make and Model \_\_\_\_\_ Color \_\_\_\_\_

License # \_\_\_\_\_ State \_\_\_\_\_

List all licenses to conduct business as a transient merchant and/or itinerant vendor obtained within the State of Illinois within the last 12 months:

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Have you ever made a previous application for a transient merchant and/or itinerant vendor license in the City of Benton? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, was that license approved? \_\_\_\_\_ Yes \_\_\_\_\_ No

If no, what was the reason? \_\_\_\_\_

---

BUSINESS OWNERSHIP INFORMATION

NAME OF OWNER/PRESIDENT \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

CITY/STATE/ZIP \_\_\_\_\_

PHONE NUMBER (\_\_\_\_) \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

DRIVER'S LICENSE # \_\_\_\_\_ STATE OF ISSUANCE \_\_\_\_\_

Please attach the following:

- ☐ Cash or certified check in the amount of \$100.00. Vendor and/or Solicitors \$150.00.
- ☐ Surety bond issued by an insurance company having authority to do business in the State of Illinois or a cash deposit equal to fifty percent (50%) of the wholesale value of the merchandise to be offered for sale. (Not less than \$1,000.00 nor more than \$10,000.00).
- ☐ Notarized statement from the property owner authorizing you to sell from his/her property through April 30<sup>th</sup> of the current City fiscal year.
- ☐ Illinois Retailer's Occupation Tax (Sales Tax) Certificate.
- ☐ Complete inventory of goods to be sold.
- ☐ Franklin County Health Permit (if applicable).
- ☐ State or Federal Tax Identification Number (FEIN).
- ☐ A completed Seller Information Form (attached) for the applicant whose signature appears below and every person who will be in contact with the public for the purpose of stocking, transporting, delivering, and/or selling the goods, wares or merchandise. Additional forms may be obtained from the City Clerk's Office.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

Subscribed and sworn to me this  
\_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public

This application and supporting documents may be sent to the City Clerk's Office, City Hall, 500 W. Main, Benton, IL 62812. No facsimiles will be accepted.

**APPLICANT/FIELD CHECK****INFORMATION CARD**

Name			Location	Date	Time	
Residence Address			D.L.#			
Business Address			Vehicle	Color	Yr.	Body
Occupation			License Info			
Social Security Number			Vehicle Modifications:			
Race			Sex	Height		
Weight			Eyes	Hair		
Complexion			Date of Birth			
Unusual Features:						
			Comments:			
Hat			Coat			
Cap			Jacket			
Blouse			Dress			
Shirt			Sweater			
Skirt			Trousers			

## **CHAPTER 8 - CABLE TELEVISION**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>CABLE/VIDEO SERVICE PROVIDER FEE AND PEG ACCESS FEE</i></b>	
	<i>Section 8-1-1 - Definitions</i>	<i>8-1</i>
	<i>Section 8-1-2 - Cable/Video Service Provider Fee Imposed</i>	<i>8-3</i>
	<i>Section 8-1-3 - PEG Access Support Fee Imposed</i>	<i>8-3</i>
	<i>Section 8-1-4 - Accounting Principles</i>	<i>8-3</i>
	<i>Section 8-1-5 - No Impact on Other Taxes Due From Holder</i>	<i>8-3</i>
	<i>Section 8-1-6 - Audits of Cable/Video Service Provider</i>	<i>8-4</i>
	<i>Section 8-1-7 - Late Fees/Payments</i>	<i>8-4</i>
<b><i>II</i></b>	<b><i>CABLE AND VIDEO CUSTOMER PROTECTION LAW</i></b>	
	<i>Section 8-2-1 - Customer Service and Privacy Protection Law</i>	<i>8-5</i>
	<i>Section 8-2-2 - Enforcement</i>	<i>8-5</i>
	<i>Section 8-2-3 - Customer Credits</i>	<i>8-5</i>
	<i>Section 8-2-4 - Penalties</i>	<i>8-5</i>
<b><i>III</i></b>	<b><i>NEW WAVE CABLE FEE</i></b>	
	<i>Section 8-3-1 - Annual Provider Fee</i>	<i>8-6</i>
	<i>Section 8-3-2 - Paid Quarterly</i>	<i>8-6</i>
	<i>Section 8-3-3 - Fee Based on Gross Revenue</i>	<i>8-6</i>
	<i>Section 8-3-4 - Revenues Excluded</i>	<i>8-6</i>
	<i>Section 8-3-5 - Unconstitutional Rulings</i>	<i>8-6</i>

## CHAPTER 8

### CABLE TELEVISION

#### ARTICLE I - CABLE/VIDEO SERVICE PROVIDER FEE AND PEG ACCESS FEE

**8-1-1**      **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A)      **"Cable Service"** means that term as defined in 47 U.S.C. § 522(6).  
(B)      **"Commission"** means the Illinois Commerce Commission.  
(C)      **"Gross Revenues"** means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the City.

- (1) Gross revenues shall include the following:
  - (a) Recurring charges for cable or video service.
  - (b) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
  - (c) Rental of set top boxes and other cable service or video service equipment.
  - (d) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
  - (e) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
  - (f) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
  - (g) A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the City. The allocation shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
  - (h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).
  - (i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
  - (j) The service provider fee permitted by 220 ILCS 5/22-501.

- (2) Gross revenues do not include any of the following:
- (a) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/22-501.
  - (b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
  - (c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
  - (d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City and pay the fee permitted by 220 ILCS 5/22-501 with respect to the service.
  - (e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
  - (f) Security deposits collected from subscribers.
  - (g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- (3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/22-501) which would otherwise be paid by the cable service or video service.

(D) **"Holder"** means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/22-501.

(E) **"Service"** means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/22-501.

(F) **"Service Provider Fee"** means the amount paid under this Article and 220 ILCS 5/22-501 by the holder to a City for the service areas within its territorial jurisdiction.

(G) **"Video Service"** means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

**8-1-2                    CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.**

(A)                    **Fee Imposed.** A fee is hereby imposed on any holder providing cable service or video service in the City.

(B)                    **Amount of Fee.** The amount of the fee imposed hereby shall be **five percent (5%)** of the holder's gross revenues.

(C)                    **Notice to the City.** The holder shall notify the City at least **ten (10) days** prior to the date on which the holder begins to offer cable service or video service in the City.

(D)                    **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the City. The holder's liability for the fee shall commence on the first day of the calendar month following **thirty (30) days** after receipt of the ordinance adopting this Article by the holder. The ordinance adopting this Article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/22-501 to the City.

(E)                    **Payment Date.** The payment of the service provider fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F)                    **Exemption.** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the City in which a fee is paid.

(G)                    **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/22-501(c) with credit to prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under the law.

**8-1-3                    PEG ACCESS SUPPORT FEE IMPOSED.**

(A)                    **PEG Fee Imposed.** A PEG access support fee is hereby imposed on any holder providing cable service or video service in the City in addition to the fee imposed pursuant to **Section 8-1-2(B)**.

(B)                    **Amount of Fee.** The amount of the PEG access support fee imposed hereby shall be **one percent (1%)** of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the City or its designee for PEG access support in the City.

(C)                    **Payment.** The holder shall pay the PEG access support fee to the City or to the entity designated by the City to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in **Section 8-1-2(D)**.

(D)                    **Payment Due.** The payment of the PEG access support fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(E)                    **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to **220 ILCS 5/22-501** shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that the operator owed under **Section 8-1-3(B)**.

**8-1-4                    APPLICABLE PRINCIPLES.** All determinations and calculations under this Article shall be made pursuant to generally accepted accounting principles.

**8-1-5                    NO IMPACT ON OTHER TAXES DUE FROM HOLDER.** Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to



cable service or video service. A State-issued authorization shall not affect any requirement of the holder

with respect to payment of the City's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

**8-1-6                    AUDITS OF CABLE/VIDEO SERVICE PROVIDER.**

(A)                    **Audit Requirement.** The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the City imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recomputed any amounts determined to be payable under the requirements of the City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* found in Chapter 36. No acceptance of amounts remitted should be construed as an accord that the amounts are correct. **(See Chapter 36 - Taxation)**

(B)                    **Additional Payments.** Any additional amount due after an audit shall be paid within **thirty (30) days** after the municipality's submission of an invoice for the sum.

**8-1-7                    LATE FEES/PAYMENTS.** All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

**(See 220 ILCS 5/22-501)**

**(Ord. No. 2016-16; 05-23-16)**

## ARTICLE II - CABLE AND VIDEO CUSTOMER PROTECTION LAW

### **8-2-1            CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.**

(A)            **Adoption.** The regulations of 220 ILCS 5/22-501 are hereby adopted by reference and may applicable to the cable or video providers offering services within the City's boundaries.

(B)            **Amendments.** Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to cable or video providers offering services within the City's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the City.

**8-2-2            ENFORCEMENT.** The City does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the City.

**8-2-3            CUSTOMER CREDITS.** The City hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/22-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

**8-2-4            PENALTIES.** The City, pursuant to 220 ILCS 5/22-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed **Seven Hundred Fifty Dollars (\$750.00)** for each day of the material breach, and shall not exceed **Twenty-Five Thousand Dollars (\$25,000.00)** for each occurrence of a material breach per customer.

(A)            Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(B)            The City shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least **thirty (30) days** from the receipt of the notice to remedy the specified material breach.

(C)            A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in (B).

**(Ord. No. 2016-17; 05-23-16)**

## **ARTICLE III – NEW WAVE CABLE FEE**

**8-3-1      ANNUAL PROVIDER FEE.** Telecommunications Management LLC, dba NewWave shall pay an annual service provider fee to the City in an amount equal to **five percent (5%)** of annual gross revenues derived from the provision of cable or video service to households located within the City. The **twelve (12) month** period for the computation of the service provider fee shall be a calendar year.

**8-3-2      PAID QUARTERLY.** The service provider fee payment shall be due quarterly and payable within **forty-five (45) days** after the close of the preceding calendar quarter. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation. If mailed, the fee shall be considered paid on the date it is postmarked.

**8-3-3      FEE BASED ON GROSS REVENUE.** For purposes of the calculation of the service provider fee, “gross revenues” shall mean consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by Telecommunications Management LLC, dba NewWave for the operation of its cable system to provide cable system to provide cable or video service within the City, including the following: (i) recurring charges for cable service or video service; (ii) event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges; (iii) rental of set-top boxes and other cable service or video service equipment; (iv) service charges related to the provision of cable service or video service, including, but not limited to, activation, installation, and repair charges; (v) administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges; (vi) late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments; (vii) a pro rata portion of all revenue derived by the cable system from advertising or for promotion or exhibition of any products or services; and (viii) a pro rata portion of compensation derived by the cable system from the promotion or exhibition of any products or services sold by “home shopping” channels or similar services carried by the cable system.

**8-3-4      REVENUES EXCLUDED.** For purposes of the calculation of the service provider fee, “gross revenues” shall not include: (i) revenues not actually received, even if billed, such as bad debt; (ii) the service provider fee or any tax, fee or assessment of general applicability; (iii) any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, voice over internet protocol (VoIP) services, information services, the provision of directory or Internet advertising, or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder’s books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders; (vi) security deposits collected from subscribers, or (vii) any amounts paid by subscribers to “home shopping” or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

**8-3-5      UNCONSTITUTIONAL RULINGS.** If any section, paragraph, subdivision, clause, sentence or provision of this Article shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

**(Ord. No. 2018-06; 06-25-18)**

**CHAPTER 10**

## **COMMUNICATIONS REGULATIONS**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>WIRELESS COMMUNICATION FACILITIES</i></b>	
	<i>Section 10-1-1 - Statement of Intent</i>	<i>10-1</i>
	<i>Section 10-1-2 - Definitions</i>	<i>10-1</i>
	<i>Section 10-1-3 - Applicability</i>	<i>10-2</i>
	<i>Section 10-1-4 - Shared Facilities and Collocation Policy</i>	<i>10-2</i>
	<i>Section 10-1-5 - Inventory of Existing Sites</i>	<i>10-3</i>
	<i>Section 10-1-6 - Preference Locations for Wireless Communication; Facilities</i>	<i>10-3</i>
	<i>Section 10-1-7 - Review Procedures</i>	<i>10-3</i>
	<i>Section 10-1-8 - Required Submittals for Tower and/or Antenna Use Permit (TAP)</i>	<i>10-4</i>
	<i>Section 10-1-9 - Approval Process</i>	<i>10-4</i>
	<i>Section 10-1-10 - Development Standards</i>	<i>10-6</i>
	<i>Section 10-1-11 - Nonconforming Wireless Communication Facilities</i>	<i>10-8</i>
	<i>Section 10-1-12 - Removal of Abandoned Wireless Communication Facilities</i>	<i>10-8</i>
	<i>Section 10-1-13 - Revocation of Tower and Antenna Use Permits</i>	<i>10-9</i>
<b><i>II</i></b>	<b><i>SMALL WIRELESS FACILITIES</i></b>	
	<i>Section 10-2-1 - Purpose and Scope</i>	<i>10-10</i>
	<i>Section 10-2-2 - Definitions</i>	<i>10-10</i>
	<i>Section 10-2-3 - Regulation of Small Wireless Facilities</i>	<i>10-11</i>
	<i>Section 10-2-4 - Dispute Resolution</i>	<i>10-18</i>
	<i>Section 10-2-5 - Indemnification</i>	<i>10-18</i>
	<i>Section 10-2-6 - Insurance</i>	<i>10-19</i>
	<i>Section 10-2-7 - Severability</i>	<i>10-19</i>

## CHAPTER 10

### COMMUNICATIONS REGULATIONS

#### ARTICLE I – WIRELESS COMMUNICATION FACILITIES

**10-1-1 STATEMENT OF INTENT.** The purpose of this Chapter is to establish general guidelines for the siting of Wireless Communication Facilities (WCFs) and to encourage the orderly development of WCFs for the benefit of the community and to protect the character of residential neighborhoods. In the interest of protecting the public's health, safety and general welfare, and to advance sound planning principles, it is important that the City encourage the delivery of new wireless technologies throughout the City while controlling the proliferation of transmission towers. The objectives of the Wireless Communication Facilities Siting Regulations and Development Standards are the following:

- (A) To protect residential areas from the uncontrolled development of WCFs by requiring reasonable siting conditions;
- (B) To encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;
- (C) To provide a range of locations for WCFs throughout the City's zoning jurisdiction;
- (D) To promote the use of suitable land for the location of wireless antennas, towers and/or other WCFs;
- (E) To encourage collocation and site sharing of existing and new WCFs;
- (F) To encourage the location of WCFs onto existing structures to reduce the number of new communication towers needed within the City's zoning jurisdiction;
- (G) To regulate the type of tower facility constructed when towers are permitted;
- (H) To enhance the ability of providers of wireless communications services to provide such services to the community; and,
- (I) To establish development standards to address the siting of WCFs which are consistent with the requirements of the Federal Telecommunications Act of 1996 and are in the best interest of the future of the City.

In furtherance of these objectives, the City shall give due consideration to the City's Comprehensive Plan, Zoning Map, existing land use and the location of environmentally sensitive areas in approving sites for the location of WCFs.

**10-1-2 DEFINITIONS.** Words and phrases used in this Chapter shall have the common meaning unless defined below or in Section 15-2A-3.

**"Antenna Array":** One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The Antenna Array does not include the Support Structure defined below.

**"Attached Wireless Communication Facility (Attached WCF)":** An Antenna Array that is attached to an existing building or structure, which structures shall include but not be limited to utility poles, signs, or water towers, with any accompanying pole or device which attaches the Antenna Array to the structure, and associated connection cables and an Equipment Facility.

**"Collocation/Site Sharing":** Use of a common WCF, or common site by more than one wireless communication license holder, or by one wireless communication license holder for more than one type of communications technology and/or placement of an Antenna Array on a structure.

**"Equipment Facility":** Any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a built out of an existing structure, pedestals and other similar structures.

**"FAA":** Federal Aviation Administration.

**"FCC":** Federal Communications Commission.

**"FTA":** Federal Telecommunications Act of 1996.

**"Height":** When referring to a WCF, height shall mean the vertical distance measured from the base of the tower to the highest point on the WCF, excluding the Antenna Array.

**"Setback":** The required distance from the property line of the parcel on which the WCF is located to the base of the Support Structure and Equipment Facility where applicable, or in the case of the guy-wire supports, the guy anchors.

**"Support Structure":** A structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire-support tower and other similar structures.

**"Temporary Wireless Communication Facility (Temporary WCF)":** A WCF to be placed in use for **sixty (60)** or fewer days.

**"Tower and/or Antenna Use Permit (TAP)":** A permit issued by the City specifically for location, construction, use and compliance with the development standards of a proposed WCF.

**"Wireless Communications":** Any personal, wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that in the future may be developed.

**"Wireless Communication Facility (WCF)":** Any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an Antenna Array, connection cables, Equipment Facility and a Support Structure to achieve the necessary elevation.

### **10-1-3            APPLICABILITY.**

(A)            **New Wireless Communication Facility.** No person, firm or corporation shall install or construct any new WCF, unless and until, a Tower and/or Antenna Use Permit (TAP) has been issued by the Development Services Director pursuant to the requirements of this Chapter.

(B)            **Pre-Existing Wireless Communication Facility.** WCFs which exist prior to the effective date of this Chapter shall not be required to meet the requirements of this Chapter, unless expansion or additions are requested. Alterations to a Support Structure, or the addition of Antenna Arrays to a structure, must meet the requirements of this Chapter and may be compared after appropriate permits are issued.

(C)            **Exemptions.** The provisions of this Chapter do not apply to a single ground or building mounted receive-only radio or television antenna used for residential purposes; a ground or building mounted citizens band radio antenna, if the height does not exceed **thirty-five (35) feet**; licensed amateur (ham) radio facilities, if the height does not exceed **thirty-five (35) feet**; and satellite dish antennas for residential or commercial purposes when used as an accessory use of the property.

**10-1-4            SHARED FACILITIES AND COLLOCATION POLICY.** All new Wireless Communication Facilities shall be engineered, designed and constructed to be capable of sharing the facility with other applicants, to collocate with other existing WCFs and to accommodate the future collocation of other WCFs. A Tower and/or Antenna Use Permit (TAP) shall not be issued until the



applicant proposing a new WCF shall demonstrate that it has made, in reasonable good faith, an attempt to locate its WCF onto an existing structure. Competitive conflict and financial burden alone are not deemed to be adequate reasons against collocation.

**10-1-5      INVENTORY OF EXISTING SITES.** Upon adoption of this Chapter, all wireless communication service providers operating in the City are required to register with the City. Registering service providers shall provide to the Development Services Department, an inventory of existing WCF towers and/or antennas that are within the zoning jurisdiction of the City, which includes all areas in the City limits and within **one and one-half (1 ½) miles** of the border thereof; including specific information about the location, height and design of each tower.

**10-1-6      PREFERENCE LOCATIONS FOR WIRELESS COMMUNICATION FACILITIES.** The order of preference for locating new wireless communication facilities within the City's zoning jurisdiction shall be as follows:

(A) Locating Antenna Attachments to existing Support Structures or to existing buildings or other structures which shall include but not be limited to utility poles, signs and water towers. All Antenna Attachments shall be permitted by administrative approval subject to the Development Standards of **Section 10-1-10** of this Chapter.

(B) Locating new Support Structures on land that meet the following requirements:

- (1) The site is located on property zoned A-1, A-2, A-3, A-4 and I-1, I-2, I-3, and I-4.
- (2) The site has a setback distance of **five hundred (500) feet** from residentially zoned property (R-1, R-2, R-3, R-4, R-5, P-MH, M-1, M-2).
- (3) The site has a minimum spacing requirement distance of **one thousand (1,000) feet** from any other transmission tower.

Support Structures on these lands shall be permitted by administrative approval subject to the Development Standards of **Section 10-1-10** of this Chapter.

(C) Locating new Support Structures on any other lands not meeting the requirement in (B) above and within the City's zoning jurisdiction. Support Structures on these lands shall only be permitted by means of approval of a Special Use and subject to the Development Standards of **Section 10-1-10** of this Chapter. When applying for a Special Use, the applicant shall provide the City with adequate information to establish that no lands included in (A) or (B) above can be made suitable for the applicant's proposed WCFs in accordance with **Section 10-1-4** of this Chapter.

**10-1-7      REVIEW PROCEDURES.**

(A) **Permitted Wireless Communications Facilities.** Attached WCFs, with or without new building construction, that meet the Development Standards prescribed in **Section 10-1-10** of this Chapter, may be permitted by administrative review. All WCFs with Support Structures that are located on land in accordance with the requirements prescribed in **Section 10-1-6(B)** of this Chapter and meet the Development Standards prescribed in **Section 10-1-10** of this Chapter may be permitted by administrative review.

(B) **Wireless Communications Facilities Permitted by Special Use.** All other proposed WCFs not included in (A) above shall be subject to the Special Use approval process.

(C) **Temporary Wireless Communications Facilities.** Temporary WCFs may be permitted by administrative approval in the case of an emergency (e.g., storm damage to an existing tower or other circumstances resulting in the interruption of existing service) for a term not to exceed **sixty (60) days**. One granted, a temporary WCF permit may be extended for an additional **sixty (60) days** upon evidence of need by the applicant. Upon termination of the administrative approval for the temporary WCF, the temporary WCF shall be removed at the owner's expense.

(D) **Wireless Communication Facilities Requiring a Certificate of Appropriateness.** Any Wireless Communication Facilities, regardless of type, to be located within an established National Register or Benton Register Historic District or Landmark, shall be subject to review by the Preservation Commission in accordance with Section 15-2D.LF, the Preservation District section of the Zoning Code.

**10-1-8                      REQUIRED SUBMITTALS FOR TOWER AND/OR ANTENNA USE PERMIT (TAP).**

(A) All requests for a WCF, regardless of type, shall submit an application for a Tower and/or Antenna Use Permit (TAP) on forms prescribed by the City and attach the following documents and exhibits:

- (1) Scaled site plan.
- (2) Scaled elevation view.
- (3) Color rendering and/or photo simulation(s) of the proposed tower with its antenna, all facilities and required landscaping viewed from the nearest adjacent street or streets.
- (4) Copy of the FCC of each proposed user of the tower.
- (5) Other supporting drawings, calculations and other documentation, signed and sealed by appropriate Illinois licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the Development Services Director to be necessary to assess compliance with this Chapter.
- (6) Copy of a Collocation Agreement wherein the applicant acknowledges that a condition to granting any Tower and/or Antenna Use Permit is the applicant's ongoing commitment to make available and reasonably market collocation sites on each new tower.
- (7) Evidence of compliance with **Section 10-1-4**, Shared Facilities and Collocation Policy, and **Section 10-1-5**, Inventory of Existing Sites, of this Chapter.

**10-1-9                      APPROVAL PROCESS.**  
(A) **Administrative Review Procedures.** The following administrative review process shall apply to all WCF applications eligible for administrative review.

- (1) **Review Authority.** Review of proposed WCFs under this Section shall be conducted by the Development Services Director, or his/her designee, upon filing a TAP application. The Development Services Director may waive or amend specific requirements in **Section 10-1-8** for the submittal of a TAP application, if it is determined by the Development Services Director that the goals of this Chapter would be better served thereby.
- (2) **Review Criteria.** Each TAP application shall be reviewed for compliance with the Development Standards specified in **Section 10-1-10** of this Chapter.
- (3) **Timing of Decision.** The Development Services Director shall render a decision on the TAP application by written response to the applicant within **twenty (20) business days** after receipt of the complete application, except that an extension may be agreed upon by the applicant.
- (4) **Application Approval.** If the TAP application is in compliance with the Development Standards in **Section 10-1-10**, and otherwise meets the

requirements of this Chapter, the Development Services Director shall issue a TAP.

- (5) **Application Denial/Appeal Process.** If administrative approval is denied by the Development Services Director, the reason for denial must be made to the applicant in writing. The applicant may appeal the denial to the Mayor. The Mayor shall hear the appeal within **ten (10) days** of receiving a written request from the applicant. The Mayor shall submit his/her written determination on the appeal to the applicant and to the **Development Services Director** within **five (5) working days** of the conclusion of the appeal hearing. If administrative approval is denied by the Mayor, the applicant may appeal the denial to the City Council for the final determination in approving or denying the TAP application.

(B) **Special Use Review Procedure.** The following shall apply to all TAP applications requiring submission to the Planning Commission for review in accordance with Section 15-2H, the Special Use section of the Zoning Code. The Planning Commission shall consider the following in reaching a decision for recommendation to the City Council.

- (1) **Review Criteria.** Each TAP application shall be reviewed for compliance with the Development Standards set forth in **Section 10-1-10** of this Chapter.
- (2) **Tower Siting Conditions.** The Planning Commission may recommend to the City Council that conditions and restrictions be imposed on the application, or on the premises benefitted by the TAP, as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the WCF with the surrounding property, in accordance with the purposes and intent of this Chapter.
- (3) **Factors in Granting Special Use Permit for Towers.** In addition to any standards for consideration of Special Use permit applications pursuant to Section 15-2H-2 of the Zoning Code, the Planning Commission and City Council shall consider the following factors when reviewing TAP applications for new towers:
  - (a) Height of the proposed tower;
  - (b) Proximity of the tower to residential structures and residential district boundaries;
  - (c) Nature of uses on adjacent and nearby properties;
  - (d) Surrounding topography;
  - (e) Surrounding tree coverage and foliage; and
  - (f) Proposed ingress and egress.
- (4) **Availability of Suitable Existing Towers, Other Structures or Alternative Technology.** No new Support Structure shall be permitted unless the applicant submits a written brief demonstrating that no existing tower, structure, or alternative technology that does not require the use of towers or structures, can accommodate the applicant's proposed WCF. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed WCF shall be prepared by a qualified and licensed Illinois professional engineer and may consist of one or more of the following:
  - (a) Existing towers or structures are not located within a reasonable geographic area which meet the applicant's engineering requirements.
  - (b) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

- (c) Existing towers or structures cannot be altered to provide sufficient structural strength to support applicant's proposed antenna and related equipment.

- (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (e) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure, or to adapt an existing tower or structure for sharing, are unreasonable based upon market information provided to the Development Services Director. Costs exceeding new tower development are presumed to be unreasonable.
- (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (g) The applicant demonstrates that an alternative technology that does not require the use of towers or structures is unsuitable.
- (h) Applicants are required to demonstrate by providing proof of certified mailings or other reasonable means:
  - (i) that they have contacted the owners of reasonably suitable structures within a **one thousand (1,000) foot** radius of the proposed site, and which from a location standpoint, could provide part of a network for transmission of signals;
  - (ii) have asked for permission to install the antenna on those structures; and
  - (iii) were denied for reasons other than economic feasibility.

**10-1-10 DEVELOPMENT STANDARDS.** Development Standards for Wireless Communications Facilities shall include the following standards:

(A) **Height Standards.** The following height standards shall apply to all WCF installations:

- (1) WCFs in the RR, R-1, R-1-D, R-2, R-2.4, R-2.8, R1viH, MHS, and PAR Districts shall be restricted to **thirty (30) feet** in height.
- (2) WCFs in the R-3, PUD, NB, PA, SB, BPL, BWA, BPR, BI, and BRD Districts shall be restricted to **one hundred fifty (150) feet** in height. In addition, any WCF with a Support Structure in these districts shall be engineered and constructed to accommodate at least **three (3)** Antenna Array.
- (3) WCFs in the F, AG, LI, GI, and II Districts shall have no height restriction. All WCFs with a Support Structure up to a height of **one hundred fifty (150) feet** shall be engineered and constructed to accommodate at least **three (3)** Antenna Arrays. All WCFs with a Support Structure of greater than **one hundred fifty (150) feet** shall be engineered and constructed to accommodate at least **four (4)** Antenna Arrays.

(B) **Setback Standards.** The following setback standards shall apply to all WCF installations:

- (1) All Support Structures shall be constructed to comply with the setback provisions of the zoning district in which they are located, or as may be required by the site distance or spacing requirements prescribed in **Section 10-1-6(B)** of this Chapter, but in no instance shall any Support Structure be less than **ten (10) feet** from any lot line.
- (2) Attached WCFs are exempt from any setback standard. An Antenna Array may extend up to **five (5) feet** horizontally beyond the edge of

an attachment structure so long as the Antenna Array does not encroach upon an adjoining parcel.

- (3) Equipment Facilities and guy anchors, if permitted, must satisfy the minimum setback requirements of the zoning district in which they are located.

(C) **Landscaping.** The following landscaping requirements shall be maintained by the applicant and shall apply to all new WCF installations:

- (1) Support Structures and Attached WCFs with new building construction shall be landscaped around the perimeter of the security fencing by a row of evergreen trees or evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least **ten (10) feet**. Trees shall be a minimum of **1.5 inch caliper**, or shrubs a minimum of **twenty-four (24) inches** tall, at the time of planting.
- (2) **Land Form Preservation.** Existing mature tree growth and natural land form on the site shall be preserved to the extent feasible, provided that vegetation that causes interference with the antennas or inhibits access to the Equipment Facility may be trimmed or removed.
- (3) **Existing Vegetation.** Existing vegetation on a WCF site may be used in lieu of required landscaping where approved by the Development Services Director.
- (4) **Minimum Site Disturbance.** Grading for the new WCF shall be limited only to the area necessary for the new facility.

(D) **Aesthetics, Materials and Colors.** The following standards shall apply to all WCFs installations:

- (1) Support Structures shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, or such shades as are appropriate and compatible with the surrounding environment, so as to reduce visual obtrusiveness.
- (2) Antenna Array attachments and supporting electrical and mechanical equipment shall be of a color that is identical to, or closely compatible with, the color of the attachment structure so as to make the Antenna Array and related equipment as visually unobtrusive as possible.

(E) **Security Fencing.** WCFs with Support Structures shall be enclosed by an opaque security fence not less than **six (6) feet** in height. Security features may be incorporated into the buffer, landscaping and screening requirements for the site. Nothing herein shall prevent security fencing that is necessary to meet requirements of State or Federal agencies.

(F) **Lighting.** The following lighting requirements shall apply to all WCF installations. WCFs shall not be artificially illuminated, directly or indirectly, except for:

- (1) Security and safety lighting of equipment buildings, if such lighting is appropriately down shielded to keep light within the boundaries of the site; and,
- (2) Such illumination of the WCF as may be required by the FAA, or other applicable authority, installed in a manner to minimize impacts on adjacent residences.

(G) **Signage.** WCFs shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a message containing provider identification and emergency telephone numbers and other information as may be required by local, state or federal regulations governing WCFs.

(H) **Radio Frequency Emissions/Sound.** The following radio frequency emissions standards shall apply to all WCF installations:

- (1) **Radio Frequency Impact.** Applicants for WCFs shall be required to provide information with the application on the measurement of the effective radiated power of the facility to document that the facility complies with all applicable FCC standards.
- (2) **Sound Prohibited.** No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.

(I) **Structural Integrity.** WCFs with Support Structures shall be constructed to the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Support Structures," (or equivalent), as it may be updated and amended. Each Support Structure shall be capable of supporting multiple Antenna Arrays.

(J) **Collocation Support Structure Design.** To encourage Collocation of WCFs, all WCFs shall be designed to accommodate multiple Antenna Arrays in accordance with the Development Standards prescribed in Section 10-1-1 OA (Height Standards) of this Chapter.

(K) **Collocation Agreement.** All applicants for WCFs are required to submit a Collocation Agreement with the Tower and/or Antenna Use Permit (TAP) application agreeing to allow and reasonably market collocation opportunities to other WCF users. The agreement shall include the applicant's policy regarding the collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged to other providers. The Collocation Agreement shall be considered a condition of issuance of a TAP. A TAP shall not be issued unless the applicant complies with the Shared Facilities and Collocation Policy outlined in **Section 10-1-4** of this Chapter.

(L) **Other Application Regulations.**

(1) **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Chapter shall bring such towers and antennas into compliance with such revised standards and regulations within **six (6) months** of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(2) **Building Code Requirements.** Construction of all WCFs, within the corporate limits of the City, shall comply with the requirements of the Benton Building Codes and permitting process in addition to the requirements of this Chapter.

**10-1-11 NONCONFORMING WIRELESS COMMUNICATION FACILITIES.** WCFs in existence on the date of the adoption of this Chapter, which do not comply with requirements of this Chapter, shall be considered a Nonconforming Wireless Communications Facility and are subject to the following provisions:

(A) **Expansion.** Nonconforming WCFs may continue in use for the purpose now used, but may not be expanded without complying with this Chapter, except as further provided in this Section.

(B) **Additions.** Nonconforming WCFs may add additional antennas (belonging to the same provider or other providers) subject to administrative review under this Chapter.

(C) **Repairs or Reconstruction.** Nonconforming WCFs which become damaged due to any reason or cause, may be repaired and restored to its former use, location, and physical dimensions subject to the provisions of this Chapter. Provided, however, that if the damage to the WCF exceeds **fifty percent (50%)** of the replacement cost, said WCF may only be reconstructed or repaired in compliance with this Chapter.

(D) Any WCF not in use as a WCF for **twelve (12) months** shall be deemed abandoned and all rights as a nonconforming use shall cease.

**10-1-12 REMOVAL OF ABANDONED WIRELESS COMMUNICATION FACILITIES.** Any WCF that is not operated for a continuous period of **twelve (12) months** shall be considered



abandoned, and the City, at its election, may require the WCF owner to remove the WCF within **ninety**

**(90) days** after notice from the City to remove the WCF. If there are **two (2)** or more users of a single WCF, this provision shall not become effective until all provide3rs cease to use the wireless communication. If the owner of an abandoned WCF cannot be located, or is no longer in business, the requirements of this Section shall be the responsibility of the landowner on whose property the WCF is located.

**10-1-13      REVOCATION OF TOWER AND ANTENNA USE PERMITS.** Any Tower and/or Antenna Use Permit (TAP) issued pursuant to this Chapter may be revoked after a hearing as provided hereinafter. If the Development Services Director finds that any permit holder has violated any provision of this Chapter, or the conditions, restrictions or additional Development Standards of an approved Special Use; or has failed to make, in reasonable good faith, efforts to provide or seek collocation, the Development Services Director shall notify the permit holder in writing that the TAP is revocable due to the permit holder's noncompliance with the conditions of the permit, and the Development Services Director shall convene a meeting with the permit holder no later than **thirty (30) days** from the date of the letter. The Development Services Director may require the permit holder to correct the violation within a reasonable amount of time or the Director may recommend to the Mayor that the TAP be revoked.

The Mayor shall notify the permit holder, in writing, of the specific areas of noncompliance and specify the date by which such deficiencies must be corrected. The time for correction of the deficiencies shall not exceed **sixty (60) days**. The permit holder shall provide the Mayor with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the Mayor shall request that the City Council convene a public hearing to consider revocation of the TAP. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the City not less than **fifteen (15) days** prior to the hearing. The permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The City Council may impose reasonable restrictions with respect to time and procedure. The proceedings shall be recorded. After the appropriate public hearing, the City Council may revoke the TAP upon such terms and conditions, if any, that the City Council may determine.

**(Ord. No. 01-06; 04-23-01)**

## ARTICLE II – SMALL WIRELESS FACILITIES

### 10-2-1 **PURPOSE AND SCOPE.**

(A) **Purpose.** The purpose of this Article is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the City's jurisdiction, or outside the rights-of-way on property zoned by the City exclusively for commercial or industrial use, in a manner that is consistent with the Act.

(B) **Conflicts and Other Articles.** This Article supersedes all ordinances or parts of ordinances adopted prior to hereto that are in conflict herewith, to the extent of such conflict.

(C) **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 wireless provider shall comply with the requirements of this Article to the maximum extent possible without violating federal or state laws or regulations.

**10-2-2 DEFINITIONS.** For the purposes of this Article, the following terms shall have the following meanings:

**Antenna:** Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

**Applicable codes:** Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

**Applicant:** Any person who submits an application and is a wireless provider.

**Application:** A request submitted by an applicant to the City for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

**Collocate or collocation:** To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

**Communications service:** Cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53) as amended; or wireless service other than mobile service.

**Communications service provider:** A cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

**FCC:** The Federal Communications Commission of the United States.

**Fee:** A one-time charge.

**Historic district or historic landmark:** A building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the City pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

**Law:** A federal or state statute, common law, code, rule, regulation, order, or local ordinance or resolution.

**Micro wireless facility:** A small wireless facility that is not larger in dimension than **twenty-four (24) inches** in length, **fifteen (15) inches** in width, and **twelve (12) inches** in height and that has an exterior antenna, if any, no longer than **eleven (11) inches**.

**Municipal utility pole:** A utility pole owned or operated by the City in public rights-of-way.

**Permit:** A written authorization required by the City to perform an action or initiate, continue, or complete a project.

**Person:** An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

**Public safety agency:** The functional division of the federal government, the state, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

**Rate:** A recurring charge.

**Right-of-way:** The area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include City-owned aerial lines.

**Small wireless facility:** A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than **six (6) cubic feet** in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than **six (6) cubic feet**; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than **twenty-five (25) cubic feet** in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

**Utility pole:** A pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

**Wireless facility:** Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (1) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

**Wireless infrastructure provider:** Any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the City.

**Wireless provider:** A wireless infrastructure provider or a wireless services provider.

**Wireless services:** Any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

**Wireless services provider:** A person who provides wireless services.

**Wireless support structure:** A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

## **10-2-3**

### **REGULATION OF SMALL WIRELESS FACILITIES.**

(A) **Permitted Use.** Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in **Section 10-2-3(C)(9)** regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

(B) **Permit Required.** An applicant shall obtain one or more permits from the City to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

- (1) **Application Requirements.** A wireless provider shall provide the following information to the City, together with the City's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:
- (a) Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
  - (b) The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;
  - (c) Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
  - (d) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
  - (e) A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
  - (f) Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
  - (g) In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the City, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.
- (2) **Application Process.** The City shall process applications as follows:
- (a) The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
  - (b) An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the City fails to approve or deny the application within **ninety (90) days** after the submission of a completed application.  
However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City in writing of its intention to invoke the deemed approved remedy no sooner than **seventy-five (75) days** after the submission of a completed application.  
The permit shall be deemed approved on the latter of the **ninetieth (90<sup>th</sup>) day** after submission of the complete application or the **tenth (10<sup>th</sup>) day** after the receipt of the deemed approved notice by the City. The receipt of the deemed

approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Article.

- (c) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within **one hundred twenty (120) days** after the submission of a completed application. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City in writing of its intention to invoke the deemed approved remedy no sooner than **one hundred five (105) days** after the submission of a completed application. The permit shall be deemed approved on the latter of the **one hundred twentieth (120<sup>th</sup>) day** after submission of the complete application or the **tenth (10<sup>th</sup>) day** after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Article.
- (d) The City shall deny an application which does not meet the requirements of this Article. If the City determines that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider. The City shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the City denies an application. The applicant may cure the deficiencies identified by the City and resubmit the revised application once within **thirty (30) days** after notice of denial is sent to the applicant without paying an additional application fee. The City shall approve or deny the revised application within **thirty (30) days** after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within **thirty (30) days** of denial shall require the application to submit a new application with applicable fees, and recommencement of the City's review period. The applicant must notify the City in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application. Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.
- (e) **Pole Attachment Agreement.** Within **thirty (30) days** after an approved permit to collocate a small wireless facility on a municipal utility pole, the City and the applicant shall enter into a Master Pole Attachment Agreement, provided by the City for the initial collocation on a municipal utility pole by the application.



For subsequent approved permits to collocate on a small wireless

facility on a municipal utility pole, the City and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

- (3) **Completeness of Application.** Within **thirty (30) days** after receiving an application, the City shall determine whether the application is complete and notify the applicant. If an application is incomplete, the City must specifically identify the missing information. An application shall be deemed complete if the City fails to provide notification to the applicant within **thirty (30) days** after all documents, information and fees specifically enumerated in the City's permit application form are submitted by the applicant to the City.

Processing deadlines are tolled from the time the City sends the notice of incompleteness to the time the applicant provides the missing information.

- (4) **Tolling.** The time period for applications may be further tolled by:
- (a) An express written agreement by both the applicant and the City; or
  - (b) A local, State or federal disaster declaration or similar emergency that causes the delay.

- (5) **Consolidated Applications.** An applicant seeking to collocate small wireless facilities within the jurisdiction of the City shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to **twenty-five (25)** small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

If an application includes multiple small wireless facilities, the City may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The City may issue separate permits for each collocation that is approved in a consolidated application.

- (6) **Duration of Permits.** The duration of a permit shall be for a period of not less than **five (5) years**, and the permit shall be renewed for equivalent durations unless the City makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable City codes or any provision, condition or requirement contained in this Article.

If the Act is repealed as provided in Section 90 therein, renewals of permits shall be subject to the applicable City code provisions or regulations in effect at the time of renewal.

- (7) **Means of Submitting Applications.** Applicants shall submit applications, supporting information and notices to the City by personal delivery at the City's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

(C) **Collocation Requirements and Conditions.**

- (1) **Public Safety Space Reservation.** The City may reserve space on municipal utility poles for future public safety uses, for the City's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the City reasonably determines that the municipal utility pole cannot accommodate both uses.

- (2) **Installation and Maintenance.** The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition

and good repair and in compliance with the requirements and conditions of this Article. The wireless provider shall ensure that its employees, agents or contracts that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.

(3) **No Interference with Public Safety Communication Frequencies.**

The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment.

Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.

If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

The City may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

(4) The wireless provider shall not collocate small wireless facilities on City utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

However, the antenna and support equipment of the small wireless facility may be located in the communications space on the City utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

(5) The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.

(6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a City ordinance, written policy adopted by the City, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

(7) **Alternate Placements.** Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocation small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application

for the collocation of a small wireless facility associated with a new utility

pole, the City may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within **one hundred (100) feet** of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

If the applicant refuses a collocation proposed by the City, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

- (8) **Height Limitations.** The maximum height of a small wireless facility shall be no more than **ten (10) feet** above the utility pole or wireless support structure on which the small wireless facility is collocated. New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:
- (a) **ten (10) feet** in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the City, that is located within **three hundred (300) feet** of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the City, provided the City may designate which intersecting right-of-way within **three hundred (300) feet** of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or
  - (b) **forty-five (45) feet** above ground level.
- (9) **Height Exceptions or Variances.** If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a special permit in conformance with procedures, terms and conditions set forth in the Revised Code.
- (10) **Contractual Design Requirements.** The wireless provider shall comply with requirements that are imposed by a contract between the City and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
- (11) **Ground-mounted Equipment Spacing.** The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.
- (12) **Undergrounding Regulations.** The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.
- (13) **Collocation Completion Deadline.** Collocation for which a permit is granted shall be completed within **one hundred eighty (180) days** after issuance of the permit, unless the City and the wireless provider agree to extend this period or a delay is caused by make-ready work for

a municipal utility pole or by the lack of commercial power or backhaul

availability at the site, provided the wireless provider has made a timely request within **sixty (60) days** after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed **three hundred sixty (360) days** after issuance of the permit. Otherwise, the permit shall be void unless the City grants an extension in writing to the applicant.

(D)

**Application Fees.** Application fees are imposed as follows:

- (1) Applicant shall pay an application fee of **Six Hundred Fifty Dollars (\$650.00)** for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and **Three Hundred Fifty Dollars (\$350.00)** for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.
- (2) Applicant shall pay an application fee of **One Thousand Dollars (\$1,000.00)** for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
- (3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.
- (4) The City shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
  - (a) routine maintenance;
  - (b) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the City at least **ten (10) days** prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with (d) under the Section titled Application Requirements; or
  - (c) the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are string between existing utility poles in compliance with applicable safety codes.
- (5) Wireless providers shall secure a permit from the City to work within rights-of-way for activities that affect traffic patterns or require lane closures.

(E)

**Exceptions to Applicability.** Nothing in this Article authorizes a person to collocate small wireless facilities on:

- (1) property owned by a private party or property owned or controlled by the City or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;
- (2) property owned, leased, or controlled by a part district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or
- (3) property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Article do not apply to an electric or gas public utility or such utility's wireless



facilities

if

the

facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act. For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Article shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Article.

(F) **Pre-Existing Agreements.** Existing agreements between the City and wireless providers that relate to the collection of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on City utility poles, that are in effect on **June 1, 2018**, remain in effect for all small wireless facilities collocated on the City's utility poles pursuant to applications submitted to the City before **June 1, 2018**, subject to applicable termination provisions contained therein. Agreements entered into after **June 1, 2018**, shall comply with this Article.

A wireless provider that has an existing agreement with the City on the effective date of the Act may accept the rates, fees and terms that the City makes available under this Article for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject to an application submitted **two (2) or more years** after the effective date of the Act by notifying the City that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the City's utility poles pursuant to applications submitted to the City before the wireless provider provides such notice and exercises its option under this paragraph.

(G) **Annual Recurring Rate.** A wireless provider shall pay to the City an annual recurring rate to collocate a small wireless facility on a City utility pole located in a right-of-way that equals (i) **Two Hundred Dollars (\$200.00)** per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the City utility pole.

If the City has not billed the wireless provider actual and direct costs, the fee shall be **Two Hundred Dollars (\$200.00)** payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

(H) **Abandonment.** A small wireless facility that is not operated for a continuous period of **twelve (12) months** shall be considered abandoned. The owner of the facility shall remove the small wireless facility within **ninety (90) days** after receipt of written notice from the City notifying the wireless provider of the abandonment.

The notice shall be sent by certified or registered mail, return receipt requested, by the City to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within **ninety (90) days** of such notice, the City may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

A wireless provider shall provide written notice to the City if it sells or transfers small wireless facilities within the jurisdiction of the City. Such notice shall include the name and contact information of the new wireless provider.

**10-2-4 DISPUTE RESOLUTION.** The Circuit Court of Franklin County, Illinois shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the City shall allow the collocating person to collocate on its poles at annual rates of no more than **Two Hundred Dollars (\$200.00)** per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

**10-2-5 INDEMNIFICATION.** A wireless provider shall indemnify and hold the City harmless against any and all liability or loss from personal injury or property damage resulting from or

arising out of, in whole or in part, the use or occupancy of the City improvements or right-of-way

associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Article and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the City or its employees or agents. A wireless provider shall further waive any claims that they may have against the City with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

**10-2-6        INSURANCE.** The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

- (A)            property insurance for its property's replacement cost against all risks;
- (B)            workers' compensation insurance, as required by law; or
- (C)            commercial general liability insurance with respect to its activities on the City improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of City improvements or rights-of-way, including coverage for bodily injury and property damage.

The wireless provider shall include the City as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the City in a commercial general liability policy prior to the collocation of any wireless facility.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the City. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the City.

**10-2-7        SEVERABILITY.** If any provision of this Article or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Article that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Article is severable.

**(Ord. No. 2018-07; 06-25-18)**

## **CHAPTER 12**

### **EMPLOYEE PERSONNEL CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 12-1-1 - Purpose</i>	<i>12-1</i>
	<i>Section 12-1-2 - Definitions</i>	<i>12-1</i>
	<i>Section 12-1-3 - Equal Employment</i>	<i>12-1</i>
	<i>Section 12-1-4 - Hiring Policy; Residency</i>	<i>12-2</i>
	<i>Section 12-1-5 - Wages and Classifications</i>	<i>12-3</i>
	<i>Section 12-1-6 - Leave</i>	<i>12-3</i>
	<i>Section 12-1-7 - Other Benefits</i>	<i>12-8</i>
	<i>Section 12-1-8 - Regulations and Restrictions</i>	<i>12-8</i>
	<i>Section 12-1-9 - Rights of Employees</i>	<i>12-10</i>
	<i>Section 12-1-10 - Rights of Employer</i>	<i>12-10</i>
	<i>Section 12-1-11 - Length of Service</i>	<i>12-11</i>
	<i>Section 12-1-12 - Discipline</i>	<i>12-11</i>
<b><i>II</i></b>	<b><i>ANTI-BULLYING POLICY</i></b>	
	<i>Section 12-2-1 - Application of Policy</i>	<i>12-14</i>
	<i>Section 12-2-2 - Definition</i>	<i>12-14</i>
	<i>Section 12-2-3 - Bullying Prohibited</i>	<i>12-14</i>
	<i>Section 12-2-4 - Disciplinary Action</i>	<i>12-14</i>
	<i>Section 12-2-5 - Reporting and Complaint Procedure</i>	<i>12-15</i>
<b><i>III</i></b>	<b><i>DOMESTIC AND SEXUAL VIOLENCE POLICY</i></b>	
	<i>Section 12-3-1 - Purpose of Policy</i>	<i>12-16</i>
	<i>Section 12-3-2 - Definition</i>	<i>12-16</i>
	<i>Section 12-3-3 - Victims' Economic Security and Safety Act (VESSA)</i>	<i>12-16</i>
	<i>Section 12-3-4 - Policy</i>	<i>12-16</i>
<b><i>IV</i></b>	<b><i>SOCIAL MEDIA POLICY</i></b>	
	<i>Section 12-4-1 - Mission Statement</i>	<i>12-20</i>
	<i>Section 12-4-2 - Purpose</i>	<i>12-20</i>
	<i>Section 12-4-3 - Policy</i>	<i>12-20</i>
	<i>Section 12-4-4 - Rules and Regulations</i>	<i>12-20</i>
	<i>Appendix "A" - Drug Free Workplace Policy</i>	
	<i>Appendix "B" - Employee Notification of Personnel Code and Drug Free Workplace Policy and Disclaimer of Employment</i>	
	<i>Appendix "C" - Employee Code: Discipline Form</i>	
	<i>Appendix "E" - Americans with Disability Act Grievance Procedure</i>	
	<i>Appendix "F" - Request for Family or Medical Leave</i>	
	<i>Appendix "G" - Request for Special Leave</i>	

## CHAPTER 12

### EMPLOYEE PERSONNEL CODE

#### ARTICLE I - GENERALLY

**12-1-1 PURPOSE.** The purpose of the Employee Code is to implement and maintain a uniform system of employment within all departments of the City and shall hereinafter be referred to as the "**Code**". The Code is designed to provide employees and management with information pertaining to the employment policies and procedures applicable to all City employees.

All policies and procedures contained in this Code originally shall go into effect immediately upon passage by the City Council and approval by the Mayor.

All employees shall be required to adhere to the policies and procedures as they are outlined in this Code.

Upon adoption by the City Council, this Code shall be the nonexclusive policy of all departments of the City concerning terms and/or conditions of employment.

In order to implement and carry out the express provisions and the intent of this Code, all Elected Officials/Department Heads may pronounce policies consistent with this Code. A copy of any such policy shall be distributed to the Mayor and the City Council.

Nothing in this Code shall in any way affect the City's and Superintendent's right to develop and disseminate information concerning the operations of any department and employee's job functions, duties and job position description.

#### **12-1-2 DEFINITIONS.**

(A) **Employer.** The term employer, as used in this Code, means the City.

(B) **Employee.** The term employee, as used in this Code, means a person working as a volunteer or for remuneration for services rendered to the City. For purposes of this Code, an Elected Official is not an employee whose personal rights are affected by the Code.

(C) **Department.** The term department, as used in this Personnel Code, shall mean the governmental unit for whom the employee is directly working for and rendering services.

(D) **Elected Official/Department Head.** The term Elected Official/Department Head, as mentioned in this Code, means the one individual ultimately responsible for all operations of the department. The term Elected Official/Department Head includes city elected public office holders such as Mayor and City Council. The term Elected Official and/or Department Head applies to individual who are responsible for the operations of the department and to City elected office holders unless specifically indicated otherwise in this Code. The Elected Official/Department Head may designate a representative as being responsible for carrying out the immediate functions as enumerated in this Code, and that representative, upon designation, shall be considered the Elected Official and/or Department Head.

(E) **Immediate Supervisor.** The term immediate supervisor, as used in this Code, shall mean the individual to whom the employee shall immediately report and be responsible for his work. An immediate supervisor may be the Elected Official/Department Head.

(F) **Immediate Family.** The term "immediate family" includes spouse, child, parent, brother, sister, mother, father, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law and grandparents-in-law.

**12-1-3 EQUAL EMPLOYMENT.** No person shall be discriminated against in any aspect of employment on the basis of race, color, religion, sex, national origin, age, handicap or disability, ancestry, marital status, political affiliation, or any other prohibited form of discrimination under Federal or State law or government contract or grant regulations.

All employees shall adhere to this nondiscriminatory policy. Any and all affirmative action plans in effect shall also apply with regard to equal opportunity employment.

Sexual harassment in the workplace is considered by the City to be a form of sex discrimination, and no employee shall engage in any form of sexual harassment in the workplace.

Any employee, person or individual who feels in any way wronged, harassed, interfered with, or discriminated against should feel free to contact the City Council. This City Council will investigate the matter. No employee shall be retaliated against by co-employees or supervisors for making contact with the City Council or otherwise complaining of any form of discrimination.

**12-1-4                    HIRING POLICY; RESIDENCY.**

(A)                    **Requirements.** Employment is based on each applicant's qualifications as compared with the requirements of the available position. Consideration is given to ability, experience; education, training and character.

No consideration shall be given to the applicant's political party affiliation or support in regard to any decisions on hiring, promotion, transfer, or recall.

(1)                    **Residency.** All new non-collective bargaining unit City Officers, Personnel, and Employees must be residents of the area contained within the Benton Grade School District #47 or the City limits within **twelve (12) months** of the commencement of their employment.

**(Ord. No. 12-11; 04-09-12)**

(2)                    **Police and Fire Department.**

(a)                    **Physical Examination – Annual.** Members of the Fire and Police Departments, except clerical personnel shall be required to submit to an annual physical by a doctor or doctors designated by the City. The cost of said member's physical exam shall be paid by the City. **(Ord. No. 1030; 09-24-79)**

(b)                    **Report to Commissioner.** The results of any physical administered hereunder shall be submitted to the Commissioner of Public Health and Safety for his inspection.

(c)                    **Compliance to Report.** All members of the Police and Fire Departments submitting to any such physical examination specified hereinabove shall use all due diligence to comply with any recommendations or recommendations given by the doctor to promote sound physical and mental condition in any such member.

(d)                    **Weight Requirements.** Included in any such physical shall be a determination of a minimum and maximum weight for any such member, considering his age, height, and general physical condition. All members shall be required to meet said minimum and maximum weight standards within **one (1) year** of the date of the physical establishing said minimum and maximum weight limitations.

(e)                    **Failure to Comply.** All members who shall fail to comply with any provisions of this Section shall be subject to possible suspension or termination according to the provisions established by the Board of Police and Fire Commissioners. **(Ord. No. 1030; 09-24-79)**

(f)                    Any policeman or fireman who does not serve, except in case of involuntary discharge instituted by the City, at least **one (1) year** after completion of his/her probation period as a City policeman or fireman shall, at the termination or within **sixty (60) days** thereafter, repay to the City actual costs incurred by the City in education and training for the officer.

Provided, however, that in the event that such policeman or fireman resigns and the resignation is accepted, and that the

individual does not begin employment with a governmental



Police or Fire Department within **one (1) year** of the termination of employment with the City, such repayment shall not be required. **(Ord. No. 1324; 10-26-92)**

(B) **Probationary Period.** A minimum of **twelve (12) months** of employment will be designated as a probationary period for patrolmen and firemen. To assure that new employees are aware of the expectations and functions of their job and to answer any questions the probationary employee may have, a formal evaluation will be made at the end of the probationary period by the employee's supervisor. The probationary period is tolled during periods of approved leave of absences.

## **12-1-5 WAGES AND CLASSIFICATIONS.**

(A) **Employment Classifications.** Employees are classified according to the following guidelines:

**Salaried Exempt.** This classification includes all Elected Officials and Department Heads and supervisory and administrative personnel. Salaried Exempt employees are exempt from overtime. Salaried Exempt employees are paid at a fixed salary rate with the expectation that the work load will dictate the number of hours worked.

**Full-Time.** Those employees scheduled to work a minimum of **forty (40) hours** per work week on a continuous basis. Full-time employees are eligible for overtime pay and compensatory time.

**Special Assignment.** Those employees hired for a specific project for a limited period and may include those hired to fill in summer vacations, illness and the like. Such employees are hired with the understanding that their employment is to terminate upon completion of the project or at the end of the period. Special Assignment may be either full-time or part-time as determined by the requirements of the job.

**Volunteers.** Those individuals who accept on an unpaid basis various work assignments for any department. These individuals receive no wages or benefits.

(B) **Paychecks.** Employees shall receive their paycheck on a biweekly basis. Employees shall work at least **two (2) weeks** before being paid, creating a **two (2) week** lag, which will be paid upon termination of employment. The paycheck actually issued will be for the preceding pay period.

(C) **Compensation.** The basic rate of pay shall be set forth in the Union contract(s) and the pay resolutions adopted by the City Council.

(D) **Overtime.** Overtime shall be based upon the Union Contract.

(E) **Salary Increases.** Employees are eligible for a salary increase according to their longevity or as the City Council deems appropriate for non-union personnel or by union contract wage agreements.

**12-1-6 LEAVE.** For all types of leaves, the Elected Official/Department Head may require employees to use vacation, sick leave, comp time or any other type of accumulate3d or accrued benefits before the employee is placed on leave without pay status.

Employees shall be granted an excused leave of absence for the following:

(A) **Special Leave.** All full-time and salary exempt employees who have completed **one (1) full year** of continuous service may request a special leave. Special leave will only be granted for personal reasons, and must be approved by the employee's Elected Official/Department Head. Special leave shall be granted without pay. The period for special leave shall not exceed **six (6) months**. An extension may be granted up to a maximum of **six (6) months** for a total of **one (1) year**. In order to continue to receive medical and insurance benefits during a special leave, the employee shall contribute both the employee and the employer's share of IMRF and insurance costs. Length of service or benefits shall not accrue or accumulate during a special leave. A person either hired or promoted to fill the position vacated by the person on leave shall be considered in that position temporarily and shall relinquish it upon the employee's return.

If a special leave is approved by the City Council, coverage under Illinois Municipal Retirement Fund may be maintained pursuant to IMRF rules and regulations.

(B) **Military.** Any full-time, salaried exempt, or part-time employee who is a member of a Reserve component of the Armed Service, the Illinois National Guard, or the Illinois Naval Militia, shall be allowed annual leave with pay for **one (1) full pay period** and such additions or extensions thereof without pay as may be necessary for the employees to fulfill the military reserve obligation. Such leaves will be granted without loss of length of service or other accrued benefits.

In case of an emergency call up (or order to state active duty) by the Governor, the leave shall be granted for the duration of said emergency with pay and without loss of length of service or other accrued benefits.

Military earnings during the military reserve obligation or for the emergency call must be submitted and assigned to the City, and the City shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earning for the period, the City Council shall return the difference to the employee.

To be eligible for military reserve leave or emergency call up pay, the employee must provide the City with a certificate from the commanding officer of the employee's unit that the leave taken was for either such purpose.

Full-time employees entering into military service as a result of voluntary enlistment, induction into the service by draft, or conscription will be afforded all of the privileges provided by the **Illinois Compiled Statutes, Chapter 330, Section 60/1 et seq.**

(C) **Jury Duty.** An employee shall be excused from work for days in which the employee serves on Jury Duty. The employee shall receive his regular pay for jury service. The employee shall present proof of jury service and the amount of pay received is to be deposited in the City treasury. The employee shall also turn over to the City any expense allowances paid by the court, if the jury duty is located at the County Courthouse. If an employee is given an early release from jury duty, the employee shall then report to his or her regular work assignment.

(D) **Witness.** An employee shall be excused from work when lawfully subpoenaed to serve as a witness. The employee must present written proof of the summons to testify to qualify for an excused absence. Notice to employee's supervisor should be made in advance of appearing in court. An employee's excused absence from work shall be on an unpaid basis, unless the employee's witness activity is work related and the witness activity is requested by the City. The employee shall turn over to the City any witness fee when the employee's witness activity is work related.

(E) **City Disability Leave.** To be eligible for City Disability Leave, the employee must submit to the Personnel Department a medical opinion that the employee cannot work in his normal job position, and a medical opinion that the employee may possibly be able to return to work within the next **six (6) months**. Employees are not eligible for disability benefits until they have been employed at least **one (1) year**. Employees may be required to use their accrued sick or vacation time to continue regular wages.

Employees must submit a letter requesting disability leave to their immediate supervisor within a reasonable amount of time before disability leave is taken. Upon return to work, employees must submit a release statement from their physician to the Elected Official/Department Head. If the Elected Official/Department Head has reason to believe that the employee is unable to perform the normal duties or the employee is able to perform duties and is still absent, they may seek and rely upon the decision of an impartial physician. The Elected Official/Department Head will select a physician who is not a City employee to act as an impartial physician.

(F) **Family and Medical Leave Act.** It is the policy of the City to comply with the provisions of the Federal Family and Medical Leave Act of 1993 (the "FMLA") and the regulations described hereunder. Employees are to be able to participate in early child rearing of their children, to care for family members with serious health conditions, or be absent from work due to their own serious health conditions, without being forced to choose between such family obligations and job security. Accordingly, all eligible City employees shall be entitled to a Family Medical Leave, on a gender-neutral basis, provided the leave is taken in accordance with the following provisions.

(1) **Eligible Employee.** The minimum requirements for an employee to be eligible for FMLA are:

(a) worked for the City at least **twelve (12) months**;

- (b) worked at least **one thousand two hundred fifty (1,250) hours** in the **twelve (12) months** prior to when the leave will commence;
  - (c) has not used all available FMLA leave in the **twelve (12) months** looking back from the date the requested leave will begin; and
  - (d) there is a qualifying event.
- (2) **Qualifying Event.** Under FMLA, there are only **four (4)** qualifying events:
- (a) birth and care of the employee's newborn child;
  - (b) placement of a child with the employee for adoption, or by the State for foster care; (private placement does not qualify.)
  - (c) to care for the employee's spouse, child or parent with a serious health condition (this does not include in-laws); and
  - (d) the employee's own serious health condition (an illness, impairment, or physical or mental condition) that prevents him or her from performing the essential functions of the job.
- (3) **Definitions.**
- (a) A child means a biological, adopted, foster, step child or legal ward, or a child of a person standing in *loco parentis*, who is either under the age **eighteen (18)**, or **eighteen (18) years** of age or older, but is incapable of self-care because of a mental or physical disability. Leave for placement of a child must be taken within **one (1) year** of the date of birth or placement.
  - (b) Spouse means a husband or wife.
  - (c) A parent means the biological parent of an employee or an individual who stood in *loco parentis* to an employee when the employee was a son or daughter.
  - (d) A serious health condition involves one of the following:
    - (i) Any period of incapacity or treatment connected with inpatient care in a hospital, hospice or residential medical care facility, and any additional treatment in connection with that inpatient care;
    - (ii) A health condition, including treatment and recovery, lasting more than **three (3) consecutive days** and any later treatment or incapacity (absence from work) relating to the same condition that also includes treatment **two (2)** or more times by a health care provider with a continuing regimen of treatment;
    - (iii) Pregnancy or prenatal care;
    - (iv) Chronic conditions requiring medical treatment;
    - (v) Permanent/long term conditions requiring supervision;
    - (vi) Non-chronic conditions requiring multiple treatments.
- (4) **Amount and Time of Leaving.** Eligible employees may take up to **twelve (12) weeks** of leave during a rolling **twelve (12) month** period. The **twelve (12) month** period is determined by measuring from the date an employee starts FMLA leave. Spouses who are employed by the City and who request FMLA leave for the birth, adoption or foster care placement of a child with the employee, are eligible for a combined **twelve (12) weeks** between the two employees. In other words, both employees continue to be eligible for **twelve (12) weeks** of FMLA a piece, but may only take **twelve (12) weeks** between them for this event. If the leave is for birth, adoption or foster placement of a child with the employee, the leave must be

taken within **twelve (12) months** of the birth or placement.  
Intermittent and reduced schedule

leave are only mandated for serious health conditions and only if such leave is medically necessary. The employee can be requested to schedule planned medical treatment so as not to unduly disrupt the employer's workplace. Employees may take leave intermittently for the birth of a child or the placement of a child for adoption or foster care only with the consent of the City Council. Leave taken under these provisions will be unpaid.

- (5) **Employee Notice.** If the reason for FMLA leave is foreseeable, (such as based upon an expected birth or placement for adoption or foster care, or planned medical treatment for the employee or the employee's seriously ill family member), the employee must give **thirty (30) days' notice** before the date the leave is to begin to his/her immediate supervisor if the leave will require an absence of **three (3) consecutive work days**. If the need for leave is unexpected (such as a serious injury in a car accident or a premature birth), the employee or his or her designee must notify the City as soon as possible. The immediate supervisor will notify the payroll/benefits personnel within **forty-eight (48) hours** of the request. The payroll/benefits personnel will provide the supervisor with the appropriate documentation to be completed by the employee and/or designee. The employee must return the request for "FMLA Leave" form to the payroll/benefits personnel within **forty-eight (48) hours** of receipt of the form. If the reason for leave involves a serious health condition, you will be given a Certification of Health Care Provider form that must be completed by your physician and returned to the payroll department within **fifteen (15) calendar days**. The employee's leave may be delayed until the certification is submitted. The failure to provide the certification may result in the employee's request being denied.

In the case where an intermittent or reduced schedule leave is requested to care for a seriously ill family member or for the employee's own serious health condition, a statement completed by a healthcare provider, that the intermittent or reduced leave schedule is medically necessary for the seriously ill employee, or necessary for the care of the family member including the expected duration of the intermittent or reduced schedule leave. The City may deny an employee's leave request until at least **thirty (30) days** after the date the employee provides notice of intention to take leave for unreasonable failure to provide timely advance notice for foreseeable leaves.

In cases where the City has reason to doubt the validity of a medical certification it may require the employee to obtain a second opinion, at the City's expense. The City shall select the health care provider to supply the second opinion. In cases where the medical opinions in the first and second certifications conflict, the City may require the employee to obtain a third certification at the City's expense. The third health care provider shall be jointly selected by the City and the employee and this certification shall be final and binding upon both the City and the employee.

The City reserves the right to request certification at a later date in cases where it does not initially request medical certification to support the leave request, but it later has reason to question the appropriateness or duration of the leave. The City may deny a leave request for foreseeable leaves, or deny continuation of leave for unforeseeable leaves, until the employee provides the required certification.

- (6) **Medical Recertification.** The City may request recertification at reasonable intervals, but not more often than once every **thirty (30) days**. The City may request recertification, regardless of the length of time since the last request, for the following:
- (a) When the employee requests a leave extension;
  - (b) When the circumstances described by the original certification change significantly (i.e., the nature or duration of the illness changes significantly); and
  - (c) When the City receives information that casts doubt upon the continuing validity of the original certification.
- (7) **Pay and Benefits During Leave.** The City will require FMLA leave to be taken concurrently with paid leave in any case where the employee qualifies for FMLA leave, subject to applicable law. The employee must use all earned, but unused vacation, personal, sick time and any extended care leave days, as determined by union contract, that are available during the absence. If all paid leave is exhausted the FMLA leave will be unpaid.
- Benefits such as vacation, personal, sick, clothing allowance and extended care leave do not accrue during an unpaid FMLA leave. An employee on an unpaid FMLA leave is not eligible for holiday pay during a FMLA leave.
- The City shall maintain the employee's group health and dental plan coverage for the duration of leave under the same conditions as if the employee not taken leave. The employee must continue to pay the portion (dependent coverage and/or any supplemental policies paid for through payroll deductions) he or she normally pays toward the premiums or risk cancellation of the benefits during the leave. If the employee is on paid leave, the premiums will be deducted from his or her pay as usual. If some or all of the leave will be without pay, information on how and when to make premium payments will be provided to the employee at the beginning of the leave. If necessary, the employee will be allowed to discontinue any dependent health coverage and be reinstated to the plan, if you return to work on or before expiration of the FMLA leave. The City may recover from the employee its share of any premium payments for any periods of unpaid leave if the employee fails to return to work after his or her leave entitlement has been exhausted. The City also may recover any portion of the premium paid by the City which the employee was obligated to pay.
- (8) **Return to Work.** The employee must notify the City of his/her intent to return to work and the anticipated date of return, or of any medically necessary changes in the date of return as soon as possible. If the employee's leave was due to a serious health condition, the City will require a "fitness for duty" certificate from the employee's health care provider, confirming the ability to work with or without restrictions. The City may require the employee to submit to a medical examination, at the City expense, before returning to work. If the circumstances of the employee's leave changes, allowing the employee to return to work earlier than the date specified, the employee will be required to notify his/her immediate supervisor at least **five (5) working days** before the employee intends to return to work and the employee will be required to present the "fitness for duty" certificate to his/her supervisor before returning to work. The certification should only apply to the condition for which the employee took leave.

If you return to work on or before the expiration of available FMLA leave, the City shall return the employee to an available position that the employee is qualified to hold with equivalent pay, benefits and other terms and conditions of employment. If, however, you do not return prior to the expiration of FMLA leave, there is no guarantee of reinstatement. An absence for FMLA leave is not an "occurrence" for purposes of our attendance policy. If you are medically released to return to work and fail to either report to work or call in with a satisfactory explanation, the City will treat this as a voluntary resignation. The right to reinstatement ceases and the employment relationship between the employee and the City will be deemed terminated if the employee unequivocally informs the City of his or her intent not to return to employment at the end of the leave period. The Federal Family and Medical Leave Act of 1993 regulations shall be applied to all FMLA leave requests.

**(Ord. No. 08-30; 08-25-08)**

**12-1-7**

**OTHER BENEFITS.**

(A) **Illinois Municipal Retirement Fund.** The City will participate in contributions for all eligible employees to the Illinois Municipal Retirement Fund. The City shall follow all guidelines of IMRF in order to protect the benefits of the employees.

(1) **Other Types of Insurance.** All classifications of employees will be covered by the provisions of Social Security legislation, and salary deductions will be made in accordance with the law.

Employees are covered by the Workers' Compensation Act, **Illinois Compiled Statutes, Chapter 820, Section 305/1 et seq.** Any work-related injury must be reported to the Elected Official/Department Head.

All employees are covered by unemployment insurance. All costs shall be paid by the City.

(B) **Training.** For meetings and seminars, employees may be granted leave with pay to attend meetings, seminars and conventions of professional and technical organizations, when such attendance would benefit the employee's ability to perform the job, and is approved in advance by the Elected Official/Department Head.

For any training programs conducted after regular working hours, such training shall be voluntary unless arrangements for such training includes the granting of overtime.

All employees shall be reimbursed for mileage expenses incurred while attending assigned schools outside the County. Upon receipt of a notice to attend the training school, the employee will request the use of a departmental vehicle to transport those attending to and from school. If a departmental vehicle is not available, reimbursement shall be made for the employee's use of their personal vehicle. When **two (2)** or more persons attend the same school at the same time the Elected Official/Department Head may require that only **one (1) person** will be eligible to receive reimbursement for travel. The rate of reimbursement shall be established by the City Council.

**12-1-8**

**REGULATIONS AND RESTRICTIONS.**

(A) **Accidents/Injuries.** Anytime an employee is involved in an automobile accident with a City automobile or in a personal automobile while on City business, the employee shall notify his or her Elected Official/Department Head immediately with all pertinent information including whether personal injury is involved and whether any traffic citations were issued. All Elected Officials/Department Heads shall within **twenty-four (24) hours** notify the City Attorney's Office if any traffic citations were issued to a City employee and shall provide the City Attorney with a copy of the

citations. An employee is obligated to cooperate with the City and any of the City's legal representatives regarding the accident and any citations that may have been issued.



(B) **Appearances.** Neatness and good taste in dress, as well as care toward personal hygiene, are expected of all employees. For safety and hygienic purposes, employees may be required to comply with any appropriate dress code that is set forth by the Elected Official/Department Head during the performance of their duties.

Employees may be requested to change inappropriate dress, and work lost while doing so will not be compensated by the department. Employees may be evaluated on their dress and appearance. The Elected Official/Department Head is the only individual of each department who may make exceptions to the dress code.

(C) **Use of Department Property.** All department property and equipment entrusted to any employee will be used in accordance with the property's prescribed function. All damage through recklessness, gross negligence, intentional act, deliberate misuse, or theft shall be replaced and paid for by the employee committing the violation. Such replacement of property by the employee shall not be considered the exclusive remedy against the employee, and the employee may still be subject to discipline. All department property, personal lockers, and personal offices are subject to search and seizure. All department property shall be inspected by the employee's immediate supervisor prior to issuance of the property.

No department property shall be used for private and unauthorized purposes. All employees are required to return all department property or equipment in their possession upon separation, promotion, and/or transfer.

(D) **Smoking.** Smoking by City employees will only be allowed in designated areas, including smokeless tobacco.

(E) **Relations with Creditors.** The City will charge employees any authorized costs when making wage deduction pursuant to court order or State or Federal statutes.

(F) **Ethics.** Employees will not recommend or promote the sale of any specific brand name product or equipment.

Many employees in the course of their work have access to medical information about patients, clients, employees, or other individuals. This may be medical, legal or job related information. Such information is not to be repeated or discussed outside the department or with other personnel unless such information is a necessary part of the employee's assigned duty.

Employees shall inform the Elected Official/Department Head of any possible conflict of interest situations they may have.

Employees are prohibited from accepting gifts, gratuities, or any item of value for work performed on behalf of the department.

(G) **Physical Examinations.** Each applicant for employment may be required to successfully complete a post-offer physical examination by a doctor of the employer's choice, including a drug screen upon the request of the City. At any time, employees may be required to submit to a physical examination. As a condition of their employment, the employees of the department must authorize the release of medical testing information including drug screens to the City for departmental use only.

Drug screens can be conducted on a random basis for any security personnel employed by the City, except those under police personnel contract, for any employee authorized to carry and use a gun while performing work related activities for the City and for any employee that is required to hold other than a Class A driver's license for work related purposes. For all other employees, drug screens shall be conducted upon probable cause.

The term "drug screens", as used throughout and disclose to the Elected Official/Department Head, any drug or alcohol problem that the employee may currently have.

(H) **Reimbursement of Cost of Training.** If an employee voluntarily leaves the Department's employment before the completion of **three (3) years** from the initial date of employment, that employee will be liable for all costs incurred in the employee's selection, background investigation, equipment issue and training. The incurred costs will be deducted from any remaining paycheck(s). If the remaining paycheck(s) does not cover all incurred costs, the employee shall pay any outstanding balance within **thirty (30) days** of being notified of the outstanding balance. This Section shall not apply if contrary to any Department's Collective Bargaining Agreement. **(Ord. No. 12-02; 02-27-12)**

(I) **Prescription Drug Use.** Any employee who is taking prescription or over-the-counter drugs or medication which may impact on abilities to perform work shall report the use of the drugs or medications to the immediate supervisor, along with the name and address of any medical doctors prescribing the medication.

(J) **Drug Free Workplace.** All employees, as a condition of employment, will comply with the City's Drug Free Workplace Policy, attached to this Code as Appendix A.

(K) **Accounts with Financial Institutions.** No Employee, Elected Official/Department Head, or any agent of the City shall open, be the administrator of, or close a bank, savings and loan, or any other type of financial institution account without a vote of approval by the City Council, applying all herein enumerated quorum and procedure rules. **(Ord. No. 13-22; 06-10-13)**

## **12-1-9 RIGHTS OF EMPLOYEES.**

(A) **Personnel File.** Employees are allowed to look at their own personnel file during normal business hours. Persons wishing to view their own file shall file a written request with the Elected Official/Department Head or designated representative. A copy of said request shall be placed in the employee's personnel file. Nothing should be placed in an employee's personnel file nor shall anything be removed from the file without the consent of the Elected Official/Department Head. Records of prior grievances and discipline action shall be maintained in the employee's personnel file. The final decision to remove items lies within the discretion of the Elected Official/Department Head.

(B) **References.** Employees or former employees have the right to obtain references or recommendations. Such references shall provide the applicable date of hire and the last date employed, and a general description of the applicable job duties. Additional comments concerning the employee or former employee's job performance dependabilities lies within the sound discretion of the Elected Official/Department Head.

(C) **Safety.** The Elected Official/Department Head shall implement any safety procedures adopted by the City, and employees shall comply with any of the safety procedures.

All department employees are directed to report any hazardous conditions to their supervisor immediately.

Due to the open-office design of many department buildings, it is impossible to provide security for personal belongings left unattended. Staff members are advised to keep their wallets, purses, etc. in their possession at all times. The department cannot be responsible for losses due to theft.

(D) **Alcohol and Drug Problems.** The demands of the modern world are being felt by everyone. Our daily lives are more complicated and more hectic than ever before. The majority of families have two breadwinners. Children often have jobs of their own. In addition, everyone is involved in outside activities of all types. The modern world can be a two-edged sword: rewarding and enriching on one side and extremely sharp and stressful on the other.

Unfortunately, occasionally the stress of our world sometimes leads to abuse of alcohol and/or drugs. The City wants to assure its employees that, if there comes a time when you are experiencing or worried about an alcohol and/or drug problem, every reasonable effort will be made to help you while working for a permanent solution to the problem.

## **12-1-10 RIGHTS OF EMPLOYER.** The employee recognizes that the City possesses the exclusive right to operate and direct the employees of the City in all aspects, including, but not limited to, all rights and authority granted by law.

The employee further recognizes that this Code is not a binding contract between the City and the employee. Nothing contained in this Code shall be construed as creating an employment agreement between the City and its employees from time to time.

The City has the right to unilaterally create new employment policies and regulations not mentioned in this Code, and to change provisions of this Code without prior notice, approval or consent of the employees of the City.

The employer has the ultimate responsibility for proper management including but not limited to responsibilities and the right for the following:

(A) To maintain executive management and administrative control of the department and its property, facilities and staff.

(B) To hire all employees and to determine their qualifications and the conditions for their continued employment or their dismissal or demotion.

(C) To direct, supervise, promote, suspend, discipline, terminate, assign and schedule employees.

(D) To relieve employees from duties because of a lack of work or funds, or under conditions where continued work would be inefficient or nonproductive or under conditions as may be deemed necessary or advisable by the department.

(E) To determine services to be rendered, operations to be performed, utilization of technology and budgetary matters.

(F) To determine the methods, processes, means, job classifications and personnel by which the operations of the department are to be conducted.

It is recognized that the employer normally exercises most of the powers, rights, authorities, duties and responsibilities, through and with the cooperation of the administrative staff.

(G) Allows employers to deduct wages without the employee's consent in order to collect a debt owed to the Municipality, or to recoup excess money that was paid by the Municipality in error as a result of one of the following events:

- (1) an excess payment made due to, but not limited to, a typographical or mathematical error made by Municipality, or
- (2) to collect a debt owed to a Municipality after a notice to the employee and an opportunity to be heard.

The amount deducted from any one salary or wage payment shall not exceed **fifteen percent (15%)** of the net amount of the payment. Before the Municipality deducts any amount from any salary or wage of an employee to pay a debt owed to the Municipality, the Municipality shall certify that (i) the employee has been afforded an opportunity for a hearing, conducted by the Municipality, to dispute the debt that is due and owing the Municipality, and (ii) the employee has received notice of a wage deduction order and has been afforded an opportunity for a hearing, conducted by the Municipality, to object to the order. For purposes of this Section, "net amount" means that part of the salary or wage payment remaining after the deduction of any amounts required by law to be deducted and "debt due and owing" means (i) a specified sum of money owed to the Municipality for services, work, or goods, after the period granted for payment has expired, or (ii) a specified sum of money owed to the Municipality pursuant to a court order or order of an administrative hearing officer after the exhaustion of, or the failure to exhaust, judicial review. Where the legitimacy of any deduction from wages is in dispute, the amount in question may be withheld if the employer notifies the Department of Labor on the date the payment is due in writing of the amount that is being withheld and stating the reasons for which the payment is withheld. Upon such notification the Department of Labor shall conduct an investigation and render a judgment as promptly as possible, and shall complete such investigation within **thirty (30) days** of receipt of the notification by the employer that wages have been withheld. The employer shall pay the wages due upon order of the Department of Labor within **fifteen (15) calendar days** of issuance of a judgment on the dispute. **(Ord. No. 12-01; 01-23-12)**

**12-1-11      LENGTH OF SERVICE.** Length of service is defined as the length of continuous service of an employee since the employee's last date of hire with the City within the employee's department. In the event an employee is transferred from or to another department of the City, the employee's total continuous employment with the City will be used as the basis for vacation and sick leave only.

An employee's continuous service record shall be broken by voluntary resignation or discharge. If such continuous service is broken due to curtailment of operation, said employee shall be considered on layoff.

**12-1-12      DISCIPLINE.** The formal disciplinary process is a five step procedure, but dismissal may occur at any step in the process. Elected Officials/Department Heads may use the

Discipline Form attached as **Appendix C** for documentation purposes. Under normal circumstances, these steps would be as follows:

(A) **Verbal Reprimand.** A verbal reprimand informs an employee of unsatisfactory conduct, attitude or performance, and acknowledges that continued such actions will result in more severe disciplinary actions. The reprimand should be done in private, and should be documented with the date and nature of the problem and placed in the employee's personnel file.

(B) **Written Reprimand.** A written reprimand informs an employee of unsatisfactory conduct, attitude or performance. Written reprimand is more severe than a verbal reprimand, but serves the same purpose to acknowledge further unsatisfactory conduct, attitude, or performance will result in more severe disciplinary action. A copy of the written reprimand will be sent to the employee, the Elected Official/Department Head and employee's personnel file.

(C) **Probation.** Employee may be placed on probation by the Elected Official/Department Head if the employee's performance is substandard and/or the employee's conduct and behavior are inappropriate and not condoned by management. Employee may be placed on probation not to exceed **six (6) months**. At the end of **three (3) months**, an informal evaluation of the employee's performance will be conducted. At the end of the probationary period, the employee's performance will be formally evaluated. Evaluations will determine if the employee should be retained. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of the probationary period, recommendation from the employee's immediate supervisor, and approval of the Elected Official/Department Head.

(D) **Suspension.** Suspension of an employee would be at the discretion of the Elected Official/Department Head. The suspension will result in a loss of salary for the period of the suspension. Upon return to work the suspended employee will be placed on probationary status for a period not to exceed **six (6) months**. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of a probationary period, a recommendation from the employee's immediate supervisor, and the approval of an Elected Official/Department Head. The period of suspension may be up to but not exceeding **thirty (30) days** off without pay in **one (1) calendar year**. The suspension may include demotion, and is within the discretion of the Elected Official/Department Head.

(E) **Dismissal.** Dismissal should be used as a disciplinary action of last resort at the discretion of the Elected Official/Department Head. All employees are subject to discharge by the Elected Official/Department Head during any of the disciplinary steps.

(F) **Code of Conduct.** Disciplinary action may be brought against an employee for the following, including but not limited to:

- (1) Violating any provisions of this Personnel Code.
- (2) Knowingly falsifying a report.
- (3) Being insubordinate to or showing disrespect towards superiors.
- (4) Neglecting to perform the job or performing the job inefficiently.
- (5) Engaging in any conduct unbecoming of a City employee or that discredits the City.
- (6) Leaving the assigned job without permission.
- (7) Absence from work without leave or permission.
- (8) Willfully destroying or damaging any property of the City.
- (9) Taking or giving bribes.
- (10) Being under the influence of intoxicating beverages while at work.
- (11) Using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substances or failing to report to the employee's Elected Official/Department Head any arrest or conviction for using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substance.
- (12) Failure of any employee to notify their Elected Official/Department Head within **five (5) days** after an arrest or conviction of a violation of any local, state, or federal criminal drug statute.
- (13) Using a City vehicle without the knowledge of the immediate supervisor.

- (14) Improperly operating a City vehicle or permitting an unauthorized person to operate a City vehicle.
- (15) Excessive unexcused absence from work or tardiness.
- (16) Possession of explosives, firearms or other dangerous weapons on City premises, unless otherwise permitted.
- (17) Use of overtime for other than work purposes.
- (18) Failure to follow any safety rules, regulations, or manuals.
- (19) Gambling during working hours around City premises.
- (20) Sleeping on the job.
- (21) Being discourteous to the public.
- (22) Engaging in or instigating or causing an interruption or impeding work.
- (23) Substantial misrepresentation of facts in obtaining employment with the City.
- (24) The use or consumption of City property for personal or private purposes, or the use of City employees during working hours for such purposes.
- (25) Disorderly conduct during working time or on City premises, including fighting, interfering with work of another, or threatening or abusing any person by word or act.
- (26) Unauthorized use of City property such as City owned vehicles, equipment and materials.
- (27) Abuse of sick leave by misrepresentation of the leave request.
- (28) Violation of a written order of an Elected Official/Department Head.
- (29) Failure to pay legitimate debts, thus exposing the City to harassment by creditors.
- (30) Using profanity on the job.
- (31) Releasing confidential information.
- (32) Using or attempting to use an official position to secure special privileges, exemptions, or personal gain except as may be otherwise provided by law.
- (33) Engaging in disreputable acts and not conducting themselves with "good moral character".
- (34) Abuse of telephone usage.
- (35) Theft of any City or employee property.
- (36) Discriminating against any person, individual, entity, co-employee, on the basis of race, color, religion, sex, national origin, age, handicap or disability, ancestry, marital status, sex harassment or any other prohibited form of discrimination under federal or state law or government contract or grantee regulations.

(G) **Political Activities.** No form of discipline can occur because of any employee's political activity or political beliefs. This prohibition on discipline does not apply to individuals in policy making or confidential positions or where an overriding interest or vital importance exists which requires that an employee's political beliefs and activities conform to those of the City's Elected Official/Department Head.

The City also recognizes that false accusations can have serious affects on innocent men and women. We trust that all employees will continue to act in a responsible and professional manner to establish a pleasant working environment free of discrimination.

**(Ord. No. 97-12; 04-28-97)**

## **ARTICLE II – ANTI-BULLYING POLICY**

**12-2-1      APPLICATION OF POLICY.** The City finds a safe work environment is beneficial for employees and promotes productivity. Workplace bullying has been linked to absenteeism, drug and alcohol use, and sexual violence. The City considers workplace bullying unacceptable and will not tolerate it. The anti-bullying policy shall apply to all individuals who are employees, volunteers and contractors. For purposes of this policy:

- (A)            **"Employee"** is defined as an individual working for the City for remuneration;
- (B)            **"Volunteer"** is defined as an individual who volunteers services to the City without remuneration;
- (C)            **"Contractor"** is defined as an individual who contracts with the City to provide services, or an individual who works for a contractor of the City.

**12-2-2      DEFINITION.** Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a person that has or can be reasonably predicted to have the effect of one or more of the following:

- (A)            placing the person in reasonable fear of harm to the person or the person's property;
- (B)            causing a substantially detrimental effect on the person's physical or mental health;
- (C)            substantially interfering with the person's productivity; or
- (D)            substantially interfering with the person's ability to participate in or benefit from the opportunities offered by the employer.

Bullying may be intentional or unintentional. The City considers the following types of behavior illustrative examples of bullying: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

**12-2-3      BULLYING PROHIBITED.** Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, and any other distinguishing characteristic is prohibited in all places of employment, and an employer shall prevent bullying in its place of employment.

- (A)            No person shall be subjected to bullying:
  - (1)          during any period of employment activity;
  - (2)          while working, on property of the employer, or at employer-sponsored or employer-sanctioned events or activities; or
  - (3)          through the transmission of information from an employment utilized telephone, computer, computer network, or other similar electronic employer-utilized equipment.
- (B)            Nothing in this policy is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment of the United States Constitution.

**12-2-4      DISCIPLINARY ACTION.** Any employee or volunteer who is determined, after an investigation, to have engaged in bullying in violation of this policy shall be subject to disciplinary action up to and including immediate discharge. Any contractor found to be in violation of this policy may be subject to contract cancellation.



(A) **False Accusations.** False accusations regarding bullying against employees, volunteers, contractors, or elected officials shall not be tolerated, and any person knowingly making a false accusation shall be subject to disciplinary action up to and including immediate discharge.

(B) **Retaliation for Reporting Bullying.** The City shall discipline any employee or volunteer who retaliates against any person who reports who reports alleged bullying, or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to bullying complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Contractors are likewise prohibited from retaliating.

**12-2-5 REPORTING AND COMPLAINT PROCEDURE.** The City encourages all employees, volunteers or contractors to promptly report any instance of bullying behavior. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of bullying. Therefore, while no fixed reporting period has been established, prompt reporting of complaints or concerns is encouraged so that rapid and constructive action can be taken. The City shall make every effort to stop alleged workplace bullying before it becomes severe or pervasive, but can only do so with the cooperation of its employees.

Reports of bullying will be treated seriously, and investigated promptly and impartially. The City further encourages all individuals to whom this policy applies to formally report any concerns of assault, battery, or other bullying behavior of a criminal nature to the City Attorney's office. The City Council requires any supervisor who witnesses bullying, irrespective of reporting relationship or his/her responsibility to address it, to promptly report this conduct to the Police Chief or the Mayor.

Individuals who believe they have experienced conduct that they believe violates this policy, or who have concerns about such matter, should report their complaints or concerns verbally or in writing to his or her supervisor, or the City Attorney, before the conduct becomes severe or pervasive. If a verbal report is made, it shall be documented in writing by the official to whom it is reported. Individuals should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated City representatives identified above.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to bullying conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that such behavior immediately stop.

## ARTICLE III – DOMESTIC AND SEXUAL VIOLENCE POLICY

**12-3-1      PURPOSE OF POLICY.** Domestic violence can permeate the lives and compromise the safety of employees with tragic, destructive and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past. Domestic violence represents a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against another in an intimate relationship or in the same household, with the goal of establishing and maintaining power and control over the victim. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The City will take appropriate actions to promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

**12-3-2      DEFINITION.** For purposes of this policy and pursuant to the Illinois Victims' Economic Security and Safety Act (VESSA), the following terms are defined as follows:

(A)      **"Abuser":** A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

(B)      **"Domestic Violence":** Domestic violence means abuse by a family or household member, as defined by this policy pursuant to Section 103 of the Illinois Domestic Violence Act of 1986. Domestic violence includes sexual assault or stalking.

(C)      **"Employee":** A person working for the City for remuneration for services.

(D)      **"Family or Household Member":** For employees with a family or household member who is a victim of domestic or sexual violence, this means spouse, parent, son, daughter, other person related by blood or by present or prior marriage, another person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

(E)      **"Parent"** means biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter as defined herein.

(F)      **"Son or Daughter"** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under **eighteen (18) years** of age, or is **eighteen (18) years** of age or older and incapable of self-care because of a mental or physical disability.

**12-3-3      VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA).** The person against whom an abuser directs coercive and/or violent acts, including an employee who is a victim of domestic or sexual violence, or an employee's family or household member who is a victim of domestic or sexual violence, and whose interests are not adverse to the employee as it related to domestic or sexual violence.

### **12-3-4      POLICY.**

(A)      **Employee Awareness.** The City shall take reasonable actions to educate employees regarding the effects of domestic violence and methods to report such violence to authorities. It is the policy of the City that information on domestic violence and available resources shall be available to employees through the City Council and by this written policy, which shall be disseminated to employees.

(B)      **Non-Discriminatory Policy.** Non-Discriminatory and Responsive Personnel Policies for Victimized Employees of the City shall ensure that personnel policies and procedures do not

discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- (1) Illinois law prohibits employers from interfering with, restraining, or denying the exercise of any right provided under VESSA. This law requires employers, when given **forty-eight (48) hours** prior notification, to allow time off for employed victims of domestic or sexual violence and employees with a family or household member who is a victim of domestic or sexual violence, to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from the employer for the employee or the family or household member who is a victim.
- (2) Illinois law prohibits employers from discriminating against any employee who is a victim of domestic or sexual violence or any employee who has a family or household member who is a victim of domestic or sexual violence.
- (3) An employee who is a victim of domestic or sexual violence, or has a family or household member who is a victim of domestic or sexual violence and whose interests are not adverse to the employee as it relates to domestic or sexual violence, may take unpaid leave from work to address domestic or sexual violence by:
  - (a) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the victim;
  - (b) obtaining services from a victim services organization for the victim;
  - (c) obtaining psychological or other counseling for the victim;
  - (d) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the victim;
  - (e) seeking legal assistance or remedies to ensure the health and safety of the victim, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.
- (4) The employee shall be entitled to a total of **twelve (12) workweeks** of leave during any **twelve (12) month** period. This policy does not create a right for an employee to take an unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to, the unpaid leave time permitted by the federal Family Medical Leave Act. Leave may be taken intermittently or on a reduced work schedule. An employee may substitute accumulated paid leave for unpaid leave; however, the paid leave will count toward the number of workweeks used for purposes of this policy. The employee shall provide at least **forty-eight (48) hours** advance notice of the employee's intention to take leave, unless providing such notice is not practicable. No action will be taken against an employee for failing to provide **forty-eight (48) hours** advance notice if the employee provides certification that leave was used for the purposes outlined in **Section 12-3-4(B)(2)** of this Section and can demonstrate that advance notice was not practicable.
- (5) During a leave taken pursuant to this policy, the City shall maintain coverage under its group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment for the duration of such leave. If the employee fails to return from leave, however, the City may recover any premium costs it paid for such coverage if the reason

for the employee not returning is other than the continuation, recurrence, or onset of domestic or sexual violence or circumstances beyond the control of the employee. Neither seniority nor leave benefits will accrue to the employee during unpaid leave.

- (6) The City, upon request, will assist the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family or household member who has been a victim of domestic violence, the employee's supervisor or the City Council (or their designee) will evaluate the employee's request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.
- (7) The City requires certification from an employee for leave under this policy. The employee shall certify that the leave is for one of the purposes enumerated in **Section 12-3-4(B)** of this Section. Certification shall be provided to the employer within a time period set by the employer.
- (8) The City understands that victims of domestic violence may lack the required documentation or have difficulty obtaining the required certification to justify absences without compromising their safety. Therefore, the Mayor or his designee shall consult with the employee to identify what documentation she/he might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirement of the employer.
- (9) All information provided to the employer pursuant to notification and certification requirements of this policy, and the purposes for which leave may be requested pursuant to this policy, shall be retained in strictest confidence by the employer, except to the extent that disclosure is requested or consented to in writing by the employee, or otherwise required by applicable federal or State law. Reported information shall be kept private to the greatest extent possible by Federal law, State law, and City policy; however, information may have to be disclosed pursuant to a subpoena, Illinois Supreme Court Rules, a court of law, or where otherwise required by law. Where medical information is received by the City from an employee who is the victim of domestic violence, such medical information shall be kept confidential.
- (10) Employees who are victims of domestic violence and who are legally separated from a covered spouse or civil-union partner, shall be allowed to make reasonable changes in benefits at any time during the calendar year, provided the change is requested within **thirty (30) days** of the separation and is in accordance with the City policies, rules, and regulations.
- (11) The City will not make inquiries about a job applicant's current or past domestic violence victimization, and employment decisions will not be based on any assumptions about or knowledge of such exposure.

(C) **Accountability for Employees Who are Abusers.** The City will hold employees, individuals who volunteer services to the City without remuneration (hereafter "volunteers"), and individuals who contract with the City or work for contractors of the City (hereafter "contractors"), accountable for engaging in the following behavior: (i) using City resources to commit an act of domestic violence; (ii) committing an act of domestic violence from or at the workplace or from any other location while on official City business; or (iii) using their job-related authority and/or City resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

Any physical assault or threat made by an employee, volunteer, or contractor, while on City premises, during working hours, while representing the City, or at a City-sponsored event, is a serious violation of this policy. This policy applies not only to acts against employees, but to acts against all other persons. Those found to have violated this policy will be subject to corrective or disciplinary action, up to and including discharge.

- (1) In cases in which the City has found that an employee, volunteer, or contractor, has threatened, harassed, or abused an intimate partner at the workplace using City resources such as work time, workplace telephones, facsimile machines, mail, e-mail or other means, said employee shall be subject to corrective or disciplinary action.
- (2) In cases in which the City has verification that an employee, volunteer, or contractor is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee, volunteer or contractor has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, the Mayor shall determine if corrective action is warranted.
- (3) In cases in which any employee, volunteer, or contractor intentionally uses his/her job-related authority and/or intentionally uses City resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his/her behavior, said individual may be subject to corrective or disciplinary action.

## **ARTICLE IV – SOCIAL MEDIA POLICY**

**12-4-1      MISSION STATEMENT.** It shall be the mission of the City to ensure its employees maintain professional conduct in their on and off work lives. This shall include the image an employee portrays of themselves on the internet and computer related media.

**12-4-2      PURPOSE.** The purpose of this policy is to outline the expectations of employees with respect to their use of social media and social networking and the direct effect such use has upon the reputation and perception of the City.

**12-4-3      POLICY.** Employees shall not use any form of social media or social networking, including but limited to: Facebook, Twitter, MySpace, LinkedIn, Tumblr, YouTube, Google+, Pinterest, Instagram, Foursquare, The Squad Room, usenet groups, online forums, message boards or bulletin boards, blogs, and other similarly developed formats, in any way so as to tarnish the City's reputation. Employees of the City are embodiments of our mission. It is vital that each employee accept their role as ambassadors of the department, striving to maintain public trust and confidence, in not only their professional actions but also in their personal and online actions. Any online activity that has the effect of diminishing the public's trust and/or confidence in the City will hinder the efforts of the City to fulfill its mission. Any online actions taken that detract from the mission of the City, or reflects negatively on the position of the City will be viewed as a direct violation of this policy. For police officers: by virtue of the position of peace officer, they are held to a higher standard than general members of the public and their online activities should reflect such professional expectations and standards.

**12-4-4      RULES AND REGULATIONS.**

(A) Employees are prohibited from using City computers or cell phones/devices for any unauthorized purpose, including the participating in social media or social networking.

(B) Employees are prohibited from using any social media or social networking platform while at work. Police officers may seek permission from the Mayor to use social media or networking for investigative or for public information purposes.

(C) Unless granted explicit permission, employees including police officers of the City are prohibited from posting any of the following in any social networking platform, either on their own sites, the sites of others known to them, the sites of others unknown to them, news media pages, or other information exchange forums:

- (1) Any text, photograph, audio, video, or any other multimedia file related to any investigation of the police department, both current and past.
- (2) Any text, photograph, audio, video, or any other multimedia file related to any past or current action of the City police department, either in homage or critique.
- (3) Any text, photograph, audio, video, or any other multimedia file that is related to any City department business or event.

(D) Employees who choose to maintain or participate in social media or social networking platforms while off work shall conduct themselves professionally and in such a manner that will not reflect negatively upon the City or its mission. In the course of operating or participating in such venues, the following rules shall apply:

- (1) Employees will be held responsible for the content that appears on their maintained social media or social networking sites and will be obligated to remove any posting or material contributed by others that reflects negatively upon the City.
- (2) Sexually graphic or explicit material, of any kind, shall not be posted by the employee on any form of social media or social networking sites.

- (3) Sexually graphic or explicit material posted by others to the employee's social media or social networking sites shall be immediately removed.
- (4) Weaponry, owned by the City, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites.
- (5) Weaponry, privately owned by any police officer, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites if such displays or depictions promote a disparaging image to the City.
- (6) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the public shall not be detrimental to the City's mission nor shall it, in any way, undermine the public's trust or confidence of the City departments.
- (7) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the legal, judicial or criminal systems shall not, in any way, undermine the public's trust and confidence of the City departments.
- (8) Any posting that detracts from the City department's mission will be considered a direct violation of this policy.

(E) Employees who are brought under administrative or internal investigation related to their performance, functionality or duties may be ordered to provide the City, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(F) Employees who are brought under administrative or internal investigation related to the City's operation, productivity, efficiency, morale or reputation, may be ordered to provide the City, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(G) If requested, any employee shall complete an affidavit attesting to all the social media and social networking platforms in which they mail or participate.

(H) Any candidate seeking employment with the City shall complete an affidavit attesting to all the social media and social networking platforms in which they maintain or participate.

## **APPENDIX A**

### **DRUG FREE WORKPLACE POLICY**

#### **GENERAL STATEMENT**

To provide a safe environment and to promote the health and welfare of its employees, the City of Benton (hereafter "City") will require its employees to report for work and perform their duties without adverse effects due to the use or abuse of any drug, medication or alcohol as defined below.

Employees who follow the policy outlined below shall not jeopardize their job security or advancement opportunities by doing so. However, employees shall not be granted special privileges or exemptions to normal administrative or disciplinary procedures that pertain to unavailability to work or unsatisfactorily perform the job.

#### **DEFINITION**

For the purposes of this policy, a drug is defined as any of the following:

- (A) Any over-the-counter medication.
- (B) Any prescribed medication.
- (C) Any illegal or unprescribed controlled substances.
- (D) Any alcoholic beverages.

#### **POLICY**

The City expects its employees to perform their jobs to the best of their ability at all times during their employment. The City also strives to provide a safe working environment for its employees and safe effective services for its residents. The use and influence of drugs or alcohol in the workplace create a clear encumbrance to the efficiency and safety of operations.

The City therefore, prohibits the possession and/or use of alcohol, illegal drugs and controlled substances and the paraphernalia associated with them on City premises. Premises include work sites, vehicles, parking areas and non-employer owned property when an employee is present on City business. In addition, the City prohibits the use and abuse of over the counter and prescription drugs when used count to their intent or prescribed use.

Violations of this policy may result in disciplinary actions up to and including possible discharge and/or referral to treatment through the City's employee assistance program (hereafter "EAP"). In addition, if appropriate, violators of this policy may be reported to be prosecuted by law enforcement authorities.

Pursuant to the City's in providing a safe and productive environment for its employees and residents, should a supervisor or Commissioner become aware that an employee is acting in a manner that leads the supervisor or Commissioner to suspect the employee is unfit for work, for any reason, or should the employee be involved in an accident resulting in injury or property loss, the City may require that employee to submit to a physical examination that may include a drug and alcohol laboratory screening procedure.

The observing supervisor or Commissioner shall document in writing his/her observations of the behaviors that cause him/her to suspect this unfitness without making inferences as to the cause of these behaviors. The supervisor shall record to his/her Commissioner that a physical examination should be initiated and should the Commissioner agree based on the available evidence, the Commissioner shall initiate on his own observation and documentation the referral for the physical examination process.

Upon written request, the City shall provide any employee who is ordered to submit to a physical examination with a written statement of the observed behaviors that led the City to suspect the employee was not fit for duty. An employee who refuses to submit to such a physical examination may be terminated. A portion of any sample used for drug or alcohol analysis shall be retained and that employee will have the option of having the sample tested at a licensed clinical laboratory of his/her



choice and at his/her expense. Upon written request, the City shall provide the employee tested with a copy of the physical examination results including test results.

Should the physical examination disclose the employee had abused drugs and/or alcohol while on duty, or was under the influence of same while on duty, the employee will be formally referred to seek assistance through the EAP available to all employees. Should the employee's initial behavior, leading the supervisor or Commissioner to suspect a medical problem be such that an employee would ordinarily be disciplined, such discipline will be initiated in addition to the referral to the EAP. The employee's decision to seek assistance through the EAP can be considered in determining proper disciplinary action.

Should the same employee be required to submit to more than **one (1)** physical examination in a **six (6) month** period and test positive for drugs and/or alcohol the employee will be immediately terminated.

Should the physical examination disclose a physical problem unrelated to drug/alcohol abuse or caused by proper use of prescribed medication, the employee will be removed from the job and have access to sick time and, if indicated, other benefits which will provide income protection while being treated for the condition. The employee will be allowed to return to work when released by a physician.

Should the physical examination not disclose any physical problem nor drug use, the supervisor or Commissioner shall have the option of dealing with the employee's performance problem through means available in the City's policies and procedures.

## **APPENDIX B**

### **EMPLOYEE NOTIFICATION OF PERSONNEL CODE AND DRUG FREE WORKPLACE POLICY AND DISCLAIMER OF EMPLOYMENT**

The Employee Code of the City is not intended to create any employment relationship with any employees that is contractual in nature. All employees are employed at the will of the City, and employees can be terminated at will. All employment policies of the City are subject to change without notice and/or approval of any employee. Any and all discipline and/or discharge procedures contained in this Code are illustrative in nature, and only provide examples of the manner in which employees may be disciplined or terminated. Any and all such procedures are not meant to be the sole or exclusive way in which discipline or discharge could occur.

By signing this disclaimer, the employee understands that the employment relationship between the employee and the City is NOT contractual in nature; that employment can be terminated at the will of the City, that all employment policies are subject to change without notice and/or approval of the employee; and that any and all discipline and/or discharge procedures contained in the Code are merely illustrative in nature, and are not meant to be the sole or exclusive manner in which discipline and/or discharge could occur.

I have been given a copy of the City's Employee Code.

I understand that contained within the Employee Code is the Drug Free Workplace Policy. I have read and understood the Drug Free Workplace Policy, and agree to abide by its terms and conditions.

Name \_\_\_\_\_

Date \_\_\_\_\_

This form is to be retained by the City Clerk.

**APPENDIX C**

**EMPLOYEE CODE: DISCIPLINE FORM**

Date \_\_\_\_\_

Employee Name \_\_\_\_\_

Employee's Job Position \_\_\_\_\_

City Department \_\_\_\_\_

Superintendent \_\_\_\_\_

Type of Discipline (Check One):

_____	Verbal Reprimand
_____	Written Reprimand
_____	Probation
_____	Suspension
_____	Dismissal

State the Section of the Employee Code violated:

Section \_\_\_\_\_ Subsection \_\_\_\_\_ Page Number \_\_\_\_\_

State any Code of Conduct violation, listing the Code of Conduct Subparagraph Number

\_\_\_\_\_

State the facts which support the violation \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DATE \_\_\_\_\_

\_\_\_\_\_  
Superintendent

DATE \_\_\_\_\_

\_\_\_\_\_  
(Signature of Employee)

## **APPENDIX E**

### **AMERICANS WITH DISABILITY ACT GRIEVANCE PROCEDURE**

1. All complaints regarding access or alleged discrimination should be submitted in writing to the ADA Coordinator for resolution. A record of the complaint and action taken will be maintained. A decision by the ADA Coordinator will be rendered promptly.
2. If the complaints cannot be resolved to the satisfaction of the complainant by the ADA Coordinator, then for building accessibility issues, the matter shall be turned over to the Benton City Council for consideration. For employment and public service issues, the matter will be forwarded to the Benton City Council.
3. The complaint will be reviewed and decided upon by the City Council. The decision of the City Council shall be considered final.
4. A record of action taken on each request or complaint shall be maintained as a part of the records or minutes at each level of the grievance process.
5. The individual's right to prompt and equitable resolution of the complaint shall not be impaired by his/her pursuit of other remedies, such as the filing of a complaint with the U.S. Department of Justice or any other appropriate federal agency. Furthermore, the filing of a lawsuit in state or federal district court can occur at any time. The use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

## APPENDIX F

### REQUEST FOR FAMILY OR MEDICAL LEAVE

Request for Family or Medical Leave must be made, if practical, at least **thirty (30) days** prior to the date the requested leave is to begin.

Name \_\_\_\_\_ Date \_\_\_\_\_  
Department \_\_\_\_\_ Title \_\_\_\_\_

Status ☐ Full-Time ☐ Part-Time ☐ Temporary

Hire Date: \_\_\_\_\_ Length of Service \_\_\_\_\_

I request Family or Medical Leave for one or more of the following reasons:

☐ Because of the birth of my child and in order to care for him or her\*  
Expected date of birth \_\_\_\_\_ Actual date of birth \_\_\_\_\_  
Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

☐ Because of the placement of a child with me for adoption or foster care\*\*  
Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

☐ In order to care for my spouse, child, or parent who has a serious health condition\*  
Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

☐ For a serious health condition that makes me unable to perform by job\*  
Describe: \_\_\_\_\_  
\_\_\_\_\_

Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

\* A physician's certification will be required for leave due to a serious health condition.

\*\* Certification will be required for leave due to adoption or foster care.

☐ For other reasons. Describe: \_\_\_\_\_  
\_\_\_\_\_

Leave start \_\_\_\_\_ Expected return date \_\_\_\_\_

☐ Requested intermittent leave schedule (if applicable; subject to employer's approval).  
\_\_\_\_\_  
\_\_\_\_\_

Have you taken a Family or Medical Leave in the past **twelve (12) months**? ☐ Yes ☐ No  
If yes, how many workdays? \_\_\_\_\_

I understand and agree to the following provisions:

I have worked for the City of Benton at least **one (1) year** and at least **one thousand two hundred fifty (1,250) hours** in the previous **twelve (12) months**.

If I fail to return to work after the leave for reasons other than the continuation, recurrence, or onset of a serious health condition that would entitle me to Medical Leave or other circumstances beyond my control, I may be financially responsible for the medical insurance premiums the City paid while I was on leave.

This leave will be unpaid, unless under the City Policy, I would be eligible for sick leave or have accrued vacation or comp time; or in the case of my own disability, payment will occur under a disability program with IMRF, if I am so covered.

I may be required to exhaust my vacation, comp time, or sick leave as part of my **twelve (12) weeks** of leave.

After **twelve (12) weeks** of leave, if I do not return to work or contact my supervisor or manager on the date intended, it will be considered that I abandoned my job.

Employee Signature \_\_\_\_\_  
Address \_\_\_\_\_

Date \_\_\_\_\_  
Phone \_\_\_\_\_

### LEAVE APPROVAL

For full day leave:

Elected Official/Department Head \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

For intermittent or reduced day leave:

Elected Official/Department Head \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### PAYROLL INSTRUCTIONS

[ ] With pay from \_\_\_\_\_ to \_\_\_\_\_ Employee # \_\_\_\_\_  
[ ] Without pay from \_\_\_\_\_ to \_\_\_\_\_

Comments: \_\_\_\_\_

**PLEASE FORWARD COMPLETED REQUEST TO THE PERSONNEL DEPARTMENT FOR FURTHER PROCESSING.**

## APPENDIX G

### REQUEST FOR SPECIAL LEAVE

Request for Special Leave must be made at least **thirty (30) days** prior to the date the requested leave is to begin.

Name \_\_\_\_\_ Date \_\_\_\_\_

Department \_\_\_\_\_ Title \_\_\_\_\_

Hire Date: \_\_\_\_\_ Length of Service \_\_\_\_\_

All full-time and salary exempt employees who have completed **one (1) full year** of continuous service may request a special leave. Special leave will only be granted for personal reasons, and must be approved by employee's Elected Official/Department Head. Special leave shall be granted without pay. The period for special leave shall not exceed **six (6) months**. An extension may be granted up to a maximum of **six (6) months** for a total of **one (1) year**. In order to continue to receive medical and insurance benefits during a special leave, the employee shall contribute both the employee and the employer's share of IMRF and insurance costs.

I wish to request a Special Leave for the following reasons:

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Employee Signature \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

### LEAVE APPROVAL

Elected Official/Department Head \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

**PLEASE FORWARD COMPLETED REQUEST TO THE PERSONNEL DEPARTMENT FOR FURTHER PROCESSING.**

**CHAPTER 13**

**ENTERPRISE ZONE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 13-1-1 - Zone Established</i>	<i>13-1</i>
	<i>Section 13-1-2 - Term of Zone</i>	<i>13-1</i>
	<i>Section 13-1-3 - Description of Zone</i>	<i>13-1</i>
	<i>Section 13-1-4 - Qualification of Zone</i>	<i>13-1</i>
	<i>Section 13-1-5 - Sale of Materials</i>	<i>13-1</i>
	<i>Section 13-1-6 - Abate Real Estate Taxes</i>	<i>13-2</i>
	<i>Section 13-1-7 - Permit Fees Waived in Zone</i>	<i>13-2</i>
	<i>Section 13-1-8 - Urban Homestead Program</i>	<i>13-2</i>
	<i>Section 13-1-9 - Designated Zone Organizations</i>	<i>13-3</i>
	<i>Section 13-1-10 - Position of Zone Administrator Established</i>	<i>13-3</i>



## CHAPTER 13

### ENTERPRISE ZONE

#### ARTICLE I - GENERALLY

**13-1-1        ZONE ESTABLISHED.** The City of Benton hereby establishes an "Enterprise Zone", pursuant to authority granted by the Illinois Enterprise Zone Act (The "Act"; PA 82-1019), as amended, subject to the approval of the Illinois Department of Commerce and Community Affairs, and subject to the provisions of the Act.

**13-1-2        TERM OF ZONE.** The term of the zone shall commence with the date the Enterprise Zone is designated and certified by the Illinois Department of Commerce and Community Affairs pursuant to Section 5.3 of the Act, and shall terminate at midnight of December 31 of the **twentieth (20<sup>th</sup>) year** after the year in which the Enterprise Zone is certified, unless otherwise stated herein.

**13-1-3        DESCRIPTION OF ZONE.** As established by the units of government and approved by the Illinois Department of Commerce and Community Affairs (DCCA), the area of the Enterprise Zone shall be as described in Exhibits A, B, A-2, A-3, B-2 and B-3 and as outlined in the map in Exhibit B, which exhibits are attached to this Code and made a part hereof. **(Ord. No. 97-36; 10-02-97 and Ord. No. 97-37; 11-10-97) (Ord. No. 98-21; 08-24-98)**

**13-1-4        QUALIFICATION OF ZONE.** The City of Benton hereby declares and affirms that the zone area is qualified for designation as an Enterprise Zone in accordance with the provisions of the Illinois Enterprise Zone Act, and further affirms that:

- (A) the zone area is a contiguous area;
- (B) the zone area comprises a minimum of **one-half (1/2) square mile** and not more than **twelve (12) square miles** in total area;
- (C) the zone area is a depressed area;
- (D) the zone area satisfies any additional criteria established by the Illinois Department of Commerce and Community Affairs; and,
- (E) on the **sixteenth (16<sup>th</sup>) day of October, 1989** the City Council of the City of Benton conducted a public hearing within the zone area on the question of whether to create the zone, what local plans, tax incentives and other programs should be established in connection with the zone, and what the boundaries of the zone should be, and that public notice was given in at least **one (1) newspaper** of general circulation within the zone area, not more than **twenty (20) days** nor less than **five (5) days** before the hearing.

**13-1-5        SALE OF MATERIALS.** Each retailer whose place of business is within the unincorporated areas of Franklin County or the corporate limits of the City of Benton and who makes a sale for building materials to be incorporated into real estate located in the Enterprise Zone by remodeling, rehabilitation or new construction, may deduct receipts from such sales when calculating the tax imposed by the Retailers' Occupation Tax Act provided, however, that such remodeling, rehabilitation, or new construction is of the nature and scope for which a building permit or certification of eligibility is required and has been obtained. The incentive provided by this Section shall commence the **first (1<sup>st</sup>) day** of the calendar month following the month in which the Enterprise Zone is designated and certified, and shall continue for the term of the Enterprise Zone. **(Ord. No. 97-35; 10-02-97)**

**13-1-6 ABATE REAL ESTATE TAXES.** The City of Benton authorizes and directs the County Clerk to abate ad valorem taxes imposed upon real property, located within the Enterprise Zone area, upon which new improvements have been constructed or upon which existing improvements have been renovated or rehabilitated, subject to the following conditions:

(A) any abatement of taxes on any parcel shall not exceed the amount attributable to the construction of the improvements and the renovation or rehabilitation of existing improvements on such parcel; or

(B) such abatement shall be allowed for commercial, industrial or manufacturing property, also for residential property improved through the urban homestead program, located within the zone area;

(C) such abatement shall be at the rate of: **one hundred percent (100%)** of the value of the improvements, for the assessment year in which the improvements are made, and the **four (4) assessment years** immediately following the year in which the improvements are made, and **fifty percent (50%)** of the value of the improvements for the succeeding **five (5) years**; and,

(D) the abatement is allowed if the improvements have a minimum cost of **Ten Thousand Dollars (\$10,000.00)** market value, the nature and scope of which a building permit or certification of eligibility is required and has been obtained;

(E) such abatement shall continue and be in full force as set forth in this Section for any improvements which are completed within the term of the Enterprise Zone as specified in **Section 13-1-3** of this enactment.

**13-1-7 PERMIT FEES WAIVED IN ZONE.** In the case of any and all permit fees required and charged by the City for the rehabilitation, expansion or new construction of any commercial, industrial, manufacturing or community development assisted projects within the Zone Area, such permit fees (but not the permits themselves) shall be waived in their entirety. The permit fee waiver herein provided for shall include all fees charged for building, plumbing, electrical, zoning and excavation permits where a building permit or certification of eligibility is otherwise required and has been obtained for such rehabilitation, expansion or new construction, but shall not include such permit fees charged for the mere repair or replacement of electrical, plumbing or mechanical systems not undertaken in connection with such rehabilitation, expansion or new construction.

**13-1-8 URBAN HOMESTEAD PROGRAM.** Pursuant to Section 10 of the Enterprise Zone Act, the City of Benton hereby establishes an urban shopstead program and an urban homestead program. Under the urban shopsteading program, the City may sell to a Designated Zone Organization a structure or portion thereof it owns for a sum not to exceed **One Hundred Dollars (\$100.00)**. The Designated Zone Organization shall agree to renovate or remodel the property to meet the standards and level of maintenance stated in the agreement between the Designated Zone Organization and the City. The Designated Zone Organization may sell or lease such property or structure to commercial and industrial businesses pursuant to the procedures set forth in the sales agreement between it and the City. The Designated Zone Organization may retain the structure in whole or in part for its own use. Any proceeds derived from the use, lease or sale of such property shall accrue to the Designated Zone Organization.

Under the urban homestead program, the City may sell to an individual a residence or any portion thereof that the City owns within the zone area for a sum of **One Hundred Dollars (\$100.00)**. The individual must agree to renovate or remodel the property to meet the standards and level of maintenance stated in the sales agreement between the individual and the City, and the individual must live in the residence for **seven (7) years**. At the end of the **seven (7) year** period, the City shall assign title to the property over to the individual, provided satisfactory improvements to the property have been made pursuant to the agreement with the City.

The urban homestead program and the urban shopstead program shall be subject to the rules and guidelines issued by the Zone Administrator, with the approval of the Council of the City of Benton, provided such rules and guidelines are not inconsistent with the Act.

**13-1-9            DESIGNATED ZONE ORGANIZATIONS.**    The Zone Administrator may recommend to the City Council one or more organizations that qualify as Designated Zone Organizations under the provisions of the Illinois Enterprise Zone Act. Upon approval of the City Council, for a term of years set by the City Council, the organizations may:

(A)            provide or contract for provision of services including, but not limited to: crime watch patrols within zone neighborhoods; volunteer day care centers; or, other types of public services as provided by ordinance or regulation;

(B)            provide a forum for business, labor and government action on Enterprise Zone innovations;

(C)            receive title to publicly owned land;

(D)            solicit and receive contributions to improve the quality of life in the zone area; and,

(E)            perform such other functions as the City Council may deem appropriate, not inconsistent with the Illinois Enterprise Zone Act.

**13-1-10            POSITION OF ZONE ADMINISTRATOR ESTABLISHED.**    The position of "Zone Administrator" is hereby created. The Zone Administrator will be the Mayor of the City of Benton.

The Mayor shall have the power and duty as the Zone Administrator to:

(A)            supervise the implementation of the provisions of this Code and the Illinois Enterprise Zone Act;

(B)            act as a liaison between the City, the Illinois Department of Commerce and Community Affairs, designated zone organization(s); and other state, federal, and local agencies, whether public or private;

(C)            conduct an ongoing evaluation of the Enterprise Zone program and submit such evaluation reports on at least a quarterly basis to the City Council and Illinois Department of Commerce and Community Affairs;

(D)            promote the coordination of other relevant programs, including, but not limited to, housing, community and economic development, small business, financial assistance and employment training with the Enterprise Zone;

(E)            recommend qualified designed zone organizations to the City Council; and,

(F)            have other such duties as specified by the City Council. **(See 655 ILCS Sec. 655/1)**

**(Unless Otherwise Noted: Ord. No. 1251; 12-11-89)**

## **CHAPTER 14**

### **FLOOD PLAIN CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 14-1-1</i>	<i>- Purpose 14-1</i>
	<i>Section 14-1-2</i>	<i>- Definitions 14-1</i>
	<i>Section 14-1-3</i>	<i>- Base Flood Elevation 14-5</i>
	<i>Section 14-1-4</i>	<i>- Duties of the Zoning Administrator/Code Enforcement Official 14-5</i>
	<i>Section 14-1-5</i>	<i>- Development Permit 14-6</i>
	<i>Section 14-1-6</i>	<i>- Preventing Increased Flood Heights and Resulting Damages 14-6</i>
	<i>Section 14-1-7</i>	<i>- Protecting Buildings 14-12</i>
	<i>Section 14-1-8</i>	<i>- Subdivision Requirements 14-16</i>
	<i>Section 14-1-9</i>	<i>- Public Health and Other Standards 14-16</i>
	<i>Section 14-1-10</i>	<i>- Carrying Capacity and Notification 14-17</i>
	<i>Section 14-1-11</i>	<i>- Variances 14-17</i>
	<i>Section 14-1-12</i>	<i>- Disclaimer of Liability 14-18</i>
	<i>Section 14-1-13</i>	<i>- Penalty 14-18</i>
	<i>Section 14-1-14</i>	<i>- Abrogation and Greater Restrictions 14-18</i>

## CHAPTER 14

### FLOOD PLAIN CODE

#### ARTICLE I – GENERALLY

**14-1-1 PURPOSE.** This Code is enacted pursuant to the police powers granted to this City by the Illinois Municipal Code (**65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2**) in order to accomplish the following purposes:

- (A) to prevent unwise developments from increasing flood or drainage hazards to others;
- (B) to protect new buildings and major improvements to buildings from flood damage;
- (C) to promote and protect the public health, safety, and general welfare of the citizens from the hazards of flooding;
- (D) to lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- (E) to maintain property values and a stable tax base by minimizing the potential for creating flood blight areas;
- (F) to make federally subsidized flood insurance available; and
- (G) to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

**14-1-2 DEFINITIONS.** For the purposes of this Code, the following definitions are adopted:

**Base Flood:** The flood having a **one percent (1%)** probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in **Section 14-1-3** of this Code.

**Base Flood Elevation (BFE):** The elevation in relation to mean sea level of the crest of the base flood.

**Basement:** That portion of a building having its floor subgrade (below ground level) on all sides.

**Building:** A walled and roofed structure, including gas or liquid storage tank that is principally above ground including manufactured homes, prefabricated buildings and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than **one hundred eighty (180) days** per year.

**Critical Facility:** Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk.

Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals, retirement homes and senior care facilities, major road and bridges, critical utility sites (telephone switching stations or electrical transformers, and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances).

**Development:** Any man-made change to real estate including, but not necessarily limited to:

- (A) demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building;
- (B) substantial improvement of an existing building;
- (C) installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days** per year;
- (D) installation of utilities, construction of roads, bridges, culverts or similar projects;
- (E) construction or erection of levees, dams, walls, or fences;
- (F) drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
- (G) storage of materials including the placement of gas and liquid storage tanks; and channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

**"Development"** does not include routine maintenance of existing buildings and facilities, resurfacing roads, or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

**Existing Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA:** Federal Emergency Management Agency.

**Flood:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**Flood Fringe:** That portion of the floodplain outside of the regulatory floodway.

**Flood Insurance Rate Map:** A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community. This map includes insurance rate zones and may or may not depict floodways and show base flood elevations.

**Flood Insurance Study:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Floodplain and Special Flood Hazard Area (SFHA):** These two terms are synonymous. Those lands within the jurisdiction of the City, the extraterritorial jurisdiction of the City, or that may be annexed into the City, that are subject to inundation by the base flood. The floodplains of the City are generally identified as such on panel number(s) 0070, 0075, AND 0185 of the countywide Flood Insurance Rate Map of Franklin County prepared by the Federal Emergency Management Agency and dated **November 18, 2009**. Floodplain also includes those areas of known flooding as identified by the community.

The floodplains of those parts of unincorporated Franklin County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the Flood Insurance Rate Map prepared for Franklin County by the Federal Emergency Management Agency and dated **November 18, 2009**.

**Floodproofing:** Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

**Floodproofing Certificate:** A form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

**Flood Protection Elevation (FPE):** The elevation of the base flood plus **one (1) foot** of freeboard at any given location in the floodplain.

**Floodway:** That portion of the floodplain required to store and convey the base flood. The floodways for each of the floodplains of the City shall be according to the best data available from Federal, State, or other sources.

**Freeboard:** An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, future watershed development, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

**Historic Structure:** Any structure that is:

(A) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

(C) Individually listed on the state inventory of historic places by the Illinois Historic Preservation Agency.

(D) Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

**IDNR/OWR:** Illinois Department of Natural Resources/Office of Water Resources.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of **Section 14-1-7** of this Code.

**Manufactured Home:** A structure transportable in **one (1)** or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

**New Construction:** Structures for which the start of construction commenced or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures.

**New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**NFIP:** National Flood Insurance Program.

**Recreational Vehicle or Travel Trailer:** A vehicle which is:

- (A) built on a single chassis;
- (B) **four hundred (400) square feet** or less in size;
- (C) designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**Repetitive Loss:** Flood related damages sustained by a structure on two separate occasions during a **ten (10) year** period for which the cost of repairs at the time of each such flood event on the average equals or exceeds **twenty-five percent (25%)** of the market value of the structure before the damage occurred.

**SFHA:** See definition of floodplain.

**Start of Construction:** Includes substantial improvement and means the date the building permit was issued. This, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement, was within **one hundred eighty (180) days** of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or placement of a manufactured home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

**Structure:** See "Building".

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cumulative percentage of damage subsequent to the adoption of this Code, equals or exceeds **fifty percent (50%)** of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes "Repetitive Loss Buildings" (see definition).

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or improvement of a structure taking place subsequent to the adoption of this Code, in which the cumulative percentage of improvements: equals or exceeds **fifty percent (50%)** of the market value of the structure before the improvement or repair is started, or increases the floor area by more than **twenty percent (20%)**.

"Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

- (A) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (B) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

**Violation:** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the required federal, state, and/or local permits and elevation certification is presumed to be in violation until such time as the documentation is provided.



**14-1-3 BASE FLOOD ELEVATION.** This Code's protection standard is the base flood. The best available base flood data are listed below. Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace existing data with better data and submit it to the FEMA and IDNR/OWR for approval prior to any development of the site.

(A) The base flood elevation for each of the floodplains delineated as an "A Zone" on the countywide Flood Insurance Rate Map of Franklin County shall be according to the best data available from federal, state or sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations.

(B) The base flood elevation for the floodplains of those parts of unincorporated Franklin County that are within the extraterritorial jurisdiction of the City, or that may be annexed into the City, shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Franklin County prepared by the Federal Emergency Management Agency and dated **November 18, 2009**.

**14-1-4 DUTIES OF THE ZONING ADMINISTRATOR/CODE ENFORCEMENT OFFICIAL.** The Zoning Administrator/Code Enforcement Official shall be responsible for the general administration of this Code and ensure that all development activities within the floodplains under the jurisdiction of the City meet the requirements of this Code. Specifically, the Zoning Administrator/Code Enforcement Official shall:

(A) Process development permits in accordance with **Section 14-1-5**;

(B) Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of **Section 14-1-6**;

(C) Ensure that the building protection requirements for all buildings subject to **Section 14-1-7** are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or floodproof certificate;

(D) Assure that all subdivisions and annexations meet the requirements of **Section 14-1-8**;

(E) Ensure that water supply and waste disposal systems meet the Public Health standards of **Section 14-1-9**;

(F) If a variance is requested, ensure that the requirements of **Section 14-1-11** are met and maintain documentation of any variances granted;

(G) Inspect all development projects and take any and all penalty actions outlined in **Section 14-1-13** as necessary to ensure compliance with this Code;

(H) Assure that applicants are aware of and obtain any and all other required local, state, and federal permits;

(I) Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;

(J) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(K) Cooperate with State and Federal floodplain management agencies to coordinate base flood data and to improve the administration of this Code;

(L) Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this Code.

(M) Perform site inspections to ensure compliance with this Code and make substantial damage determinations for structures within the floodplain; and

(N) Maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within **six (6) months** whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map.

**14-1-5      DEVELOPMENT PERMIT.** No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the floodplain without first obtaining a development permit from the Zoning Administrator/Code Enforcement Official. The Zoning Administrator/Code Enforcement Official shall not issue a development permit if the proposed development does not meet the requirements of this Code.

- (A) The application for development permit shall be accompanied by:
- (1) drawings of the site, drawn to scale showing property line dimensions;
  - (2) existing grade elevations and all changes in grade resulting from excavation or filling;
  - (3) the location and dimensions of all buildings and additions to buildings;
  - (4) the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of **Section 14-1-7** of this Code; and
  - (5) cost of project or improvements as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.

(B) Upon receipt of an application for a development permit, the Zoning Administrator/Code Enforcement Official shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to be higher than the current base flood elevation and which has not been filled after the date of the site's first Flood Insurance Rate Map is not in the floodplain and therefore not subject to the requirements of this Code. Conversely, any development located on land shown to be below the base flood elevation and hydraulically connected, but not shown on the current Flood Insurance Rate Map, is subject to the provisions of this Code.

(C) The Zoning Administrator/Code Enforcement Official shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.

(D) The Zoning Administrator/Code Enforcement Official shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The Zoning Administrator/Code Enforcement Official shall not issue a permit unless all other federal, state, and local permits have been obtained.

**14-1-6      PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES.** Within any floodway identified on the countywide Flood Insurance Rate Map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

(A) Except as provided in **Section 14-1-6(B)**, no development shall be allowed which, acting in combination with existing and anticipated development will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

- (1) Bridge and culvert crossings of streams in rural areas meeting the conditions of the Illinois Department of Natural Resources, Office of Water Resources Statewide Permit Number 2;
  - (a) The crossing will not result in an increase in water surface profile elevation in excess of **one (1) foot**, and
  - (b) The crossing will not result in an increase in water surface profile elevation in excess of **one-half (0.5) foot** at a point **one thousand (1,000) feet** upstream of the proposed structure.
  - (c) There are not buildings in the area impacted by the increases in water surface profile.
  - (d) The proposed bridge or culvert crossing will not involve straightening, enlarging, or relocating the existing channel.

- (e) The design must be certified by a licensed professional engineer in the State of Illinois and the designs must meet the conditions of an IDNR/OWR permit.
  - (f) The design must be certified by a second licensed professional engineer.
- (2) Barge fleeting facilities meeting the conditions of IDNR/OWR Statewide Permit No. 3:
  - (a) The permit is only applicable when deadmen, pier cells, or other similar anchorage devices have been permitted by the U.S. Army Corp of Engineers.
- (3) Aerial utility crossings meeting the conditions of IDNR/OWR Statewide Permit No., 4:
  - (a) The utility line must be constructed above the exiting 100-year flood elevation or attached to an existing bridge.
  - (b) A utility line attached to an existing bridge shall be constructed above the low cord elevation of the bridge.
  - (c) No supporting towers or poles shall be located in a river, lake or stream.
  - (d) Supporting towers including foundation and poles shall be designed and located so as to not cause an obstruction of flood flows by trapping debris.
  - (e) All disturbed areas shall be returned to pre-construction grades and re-vegetated.
  - (f) All Illinois Commerce Commission, National Electrical Safety Code, and federal requirements must be met.
- (4) Minor boat docks meeting the conditions of IDNR/OWR Statewide Permit No. 5:
  - (a) The boat dock must not extent more than **fifty (50) feet** into a waterway and no more than **one quarter (1/4)** of the width of the waterway and shall not extend beyond the navigational limited established by the IDNR and Corps of Engineers.
  - (b) The width of the boat dock shall not be more than **ten (10) feet.**
  - (c) For L-shaped or T-shaped docks, the length of that portion parallel to the shoreline must not exceed **fifty percent (50%)** of the landowner's shoreline frontage nor **fifty (50) feet.**
  - (d) Docks must be aligned so as not to cross the projection of property lines into the waterway or come within **ten (10) feet** of the projected property line.
  - (e) Dock posts must be marked by reflective devices.
  - (f) The boat dock must be securely anchored to prevent detachment during times of high wind or water.
  - (g) Metal drums or containers may not be used as buoyancy units unless they are filled with floatation foam. Containers which previously stored pesticides, herbicides, or any other toxic chemicals are not permissible.
  - (h) The permit does not authorize any other related construction activity such as shore protection or fill.
  - (i) Non-floating boat docks must be constructed in a manner which will minimize obstruction to flow.
  - (j) At any future date, the permittee must agree to make necessary modifications to the dock as determined by the IDNR or Corp of Engineers.

- (5) Minor, non-obstructive activities meeting the following conditions of IDNR/OWR Statewide Permit Number 6:
  - (a) the following activities (not involving fill or positive change in grade) are covered by this permit:
    - (i) The construction of underground utility lines, wells, or septic tanks not crossing a lake or stream.
    - (ii) The construction of light poles, sign posts, and similar structures.
    - (iii) The construction of sidewalks, driveways, athletic fields (excluding fences), patios and similar structures.
    - (iv) The construction of property anchored, unwallled, open structures such as playground equipment, pavilions, and carports.
    - (v) The placement of properly anchored buildings not exceeding **seventy (70) square feet** in size, nor **ten (10) square feet** in any dimension. Only one such building on a property is authorized by this statewide permit.
    - (vi) The raising of existing buildings, provided no changes are made to the outside dimensions of the building and the placement of fill is not involved.
- (6) Outfall structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit No. 7:
  - (a) Any outfall structure, including any headwall or end-section, shall not extend riverward or lake ward of the existing adjacent natural bank slope or adjacent bank protection.
  - (b) The velocity of the discharge shall not exceed the scout velocity of the channel soil, unless channel erosion would be prevented by the use of riprap or other design measures.
  - (c) Outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation.
  - (d) Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
- (7) Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit No. 8:
  - (a) In all cases, the crossing shall be placed beneath the bed of the river, lake or stream and, unless the crossing is encased in concrete or entrenched in bedrock, a minimum of **three (3) feet** of cover shall be provided. The river, lake or stream bed returned to its original condition.
  - (b) Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
  - (c) Any utility crossing carrying material which may cause water pollution, as defined by the Environmental Protection Act (**415 ILCS 5**), shall be provided with shut-off valves on each side of the body of water to be crossed.

- (d) If blasting is to be utilized in the construction of the crossing, the permittee shall notify the IDNR/OWR at least **ten (10) days** prior to the blasting date to allow monitoring of any related fish kills.
- (8) Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit No. 9:
  - (a) Only the following materials may be utilized in urban areas: stone and concrete riprap, steel sheet piling, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, natural vegetation and treated timber. Urban areas are defined as: areas of the State where residential, commercial, or industrial development currently exists or, based on land use plans or controls, is expected to occur within **ten (10) years**. (The Department should be consulted if there is a question of whether or not an area is considered urban).
  - (b) In addition to the materials listed in **Section 14-1-6(A)(8)(a)**, other materials (e.g. tire revetments) may be utilized in rural areas provided all other conditions of this permit are met.
  - (c) The following materials shall **not** be used in any case: auto bodies, garbage or debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous materials, or any material which would cause water pollution as defined by the Environmental Protections Act (**415 ILCS 5**).
  - (d) The affected length of shoreline, stream bank, or channel to be protected shall not exceed, either singularly or cumulatively, **one thousand (1,000) feet**.
  - (e) All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action.
  - (f) Materials shall be placed in a way which would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.
  - (g) Materials shall not be placed higher than the existing top of the bank.
  - (h) Materials shall be placed so that the modified bank full-width and cross-sectional area of the channel will conform to or be no more restrictive than that of the natural channel upstream and downstream of the site.  
 For projects involving continuous placement of riprap along the bank, toe of the bank or other similar applications, in no case shall the cross-sectional area of the natural channel be reduced by more than **ten percent (10%)** nor the volume of material placed exceed **two (2) cubic yards** per lineal foot of the stream bank or shoreline. The bank may be graded to obtain a flatter slope and to lessen the quantity of material required.
  - (i) If broken concrete is used, all protruding materials such as reinforcing rods shall be cut flush with the surface of the concrete and removed from the construction area.
  - (j) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of construction.

- (k) In the case of seawalls and gabion structures on lakes, the structure shall be constructed at or land ward of the water line as determined by the normal pool elevation, unless:
    - (i) It is constructed in alignment with an existing seawall(s) or gabion structure(s), and
    - (ii) The volume of material placed, including the structure, would not exceed **two (2) cubic yards** per lineal foot.
  - (l) Excess material excavated during the construction of the bank or shoreline protection shall be placed in accordance with local, state, and federal laws and rules, shall not be placed in a floodway.
- (9) Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit No. 10:
- (a) The accessory structure or building addition must comply with the requirements of the local floodplain ordinance.
  - (b) The principle structure to which the project is being added must have been in existence on the effective date of this permit (**July 25, 1988**).
  - (c) The accessory structure or addition must not exceed **five hundred (500) square feet** in size and must not deflect floodwaters onto another property, and
  - (d) Must not involve the placement of any fill material.
  - (e) No construction shall be undertaken in, or within **fifty (50) feet** of the bank of the stream channel.
  - (f) The accessory structure or addition must be properly anchored to prevent its movement during flood conditions.
  - (g) Only one accessory structure or addition to an existing structure shall be authorized by this permit; plans for any subsequent addition must be submitted to IDNR/OWR for review.
  - (h) Disturbances of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas shall be seeded or otherwise stabilized upon completion of construction.
- (10) Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit No. 11:
- (a) The affected length of the stream shall not either singularly or cumulatively exceed **one thousand (1,000) feet**.
  - (b) The project shall not include the construction of any new channel; all work must be confined to the existing channel or to reestablishing flows in the natural stream channel, and
  - (c) The cross-sectional area of the dredged channel shall conform to that of the natural channel upstream and downstream of the site.
  - (d) Dredged or spoil material shall not be disposed of in a wetland and shall be either:
    - (i) removed from the floodway;
    - (ii) used to stabilize an existing bank provided no materials would be placed higher than the existing top of bank and provided the cross-sectional area of the natural channel would not be reduced by more than **ten percent (10%)**, nor the volume of material placed exceed **two (2) cubic yards** per lineal foot of streambank;

- (iii) used to fill an existing washed out or scoured floodplain area such that the average natural floodplain elevation is not increased;
    - (iv) used to stabilize an existing levee provided the height of the levee would not be increased nor its alignment changed;
    - (v) placed is a disposal site previously approved by the Department in accordance with the conditions of the approval, or
    - (vi) used for beach nourishment, provided the material meets all applicable water quality standards.
  - (e) Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be seeded or otherwise stabilized upon completion of construction.
- (11) Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR Statewide Permit No. 12:
- (a) A licensed professional engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
    - (i) No buildings or structures have been impacted by the backwater induced by the existing structure, and
    - (ii) there is no record of complaints of flood damages associated with the existing structure.
  - (b) A licensed professional engineer shall determine that the new structure will provide the same or greater effective waterway opening as the existing structure. For bridge widening projects the existing piers and the proposed pier extensions must be in line with the direction of the approaching flow upstream of the bridge.
  - (c) The project shall not include any appreciable raising of the approach roads. (This condition does not apply if all points on the approaches exist at an elevation equal to or higher than the 100-year frequency flood headwater elevation as determined by a FEMA flood insurance study completed or approved by IDNR/OWR).
  - (d) The project shall not involve the straightening, enlargement or relocation of the existing channel of the river or stream except as permitted by the Department's Statewide Permit Number 9 (Minor Shoreline, Channel and Streambank Protection Activities) or Statewide Permit Number 11 (Minor Maintenance Dredging Activities).
  - (e) The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above conditions.
- (12) Temporary construction activities meeting the following conditions of IDNR/OWR Statewide Permit No. 13:
- (a) No temporary construction activity shall be commenced until the individual permittee determines that the permanent structure (if any) for which the work is being performed has received all required federal, state and local authorizations.

- (b) The term "temporary" shall mean not more than one construction season. All temporary construction materials must be removed from the stream and floodway within **one (1) year** of their placement and the area returned to the conditions existing prior to the beginning of construction. Any desired subsequent or repetitive material placement shall not occur without the review and approval of the IDNR/OWR.
- (c) The temporary project shall be constructed such that it will not cause erosion or damage due to increases in water surface profiles to adjacent properties. For locations where there are structures in the upstream floodplain the temporary project shall be constructed such that all water surface profile increases, due to the temporary project, are contained within the channel banks.
- (d) This permit does not authorize the placement or construction of any solid embankment or wall such as a dam, roadway, levee, or dike across any channel or floodway.
- (e) No temporary structure shall be placed within any river or stream channel until a licensed professional engineer determines and documents that the temporary structure will meet the requirements of Special Condition Number 3 of this statewide permit. Such documentation shall include, at a minimum, confirmation that no buildings or structures will be impacted by the backwater induced by the temporary structure.
- (f) The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above condition.
- (g) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of the removal of the temporary construction.
- (h) Materials used for the project shall not cause water pollution as defined by the Environmental Protection Act (**415 ILCS 5**).
- (13) Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from State Floodway permit requirements.

(B) Other development activities not listed in **Section 14-1-6(A)** may be permitted only if:

- (1) A permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required); or
- (2) Sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation.

#### **14-1-7                      PROTECTING BUILDINGS.**

(A) In addition to the damage prevention requirements of **Section 14-1-6** of this Code, all buildings located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

- (1) Construction or placement of a new building or alteration or addition to an existing building valued at more than **One Thousand Dollars (\$1,000.00)** or **seventy (70) square feet**.



- (2) Structural improvements or structural alterations made to an existing building that increase the floor area by more than **twenty percent (20%)** or equal or exceed the market value by **fifty percent (50%)**. Alteration shall be figured cumulatively subsequent to the adoption of this Code. If substantially improved, the existing structure and the addition must meet the flood protection standards of this Section.
- (3) Repairs made to a substantially damaged building. These repairs shall be figured cumulatively subsequent to the adoption of this Code. If substantially damaged the entire structure must meet the flood protection standards of this Section.
- (4) Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).
- (5) Installing a travel trailer or recreational vehicle on a site for more than **one hundred eighty (180) days** per year.
- (6) Repetitive loss to an existing building as defined in **Section 14-1-2**.

(B) **Residential or non-residential buildings** can meet the building protection requirements by one of the following methods:

- (1) The building may be constructed on permanent land fill in accordance with the following:
  - (a) The lowest floor (including basement) shall be at or above the flood protection elevation;
  - (b) The fill shall be placed in layers no greater than **six (6) inches** before compaction and should extend at least **ten (10) feet** beyond the foundation before sloping below the flood protection elevation;
  - (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure;
  - (d) The fill shall be composed of rock or soil and not incorporated debris or refuse materials; and
  - (e) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary stormwater management techniques such as swales or basins shall be incorporated.
- (2) The building may be elevated on solid walls in accordance with the following:
  - (a) The building or improvements shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to flood waters;
  - (b) The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;
  - (c) If walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a licensed professional engineer or by having a minimum of **one (1)** permanent opening on each wall no more than **one (1) foot** above grade with a minimum of **two (2)** openings. The openings shall provide a total net area of not less than **one (1) square inch** for every **one (1) square foot** of enclosed area subject to flooding below the base flood elevation; and

- (d) The foundation and supporting members shall be anchored, designed, and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris.
  - (i) All structural components below the flood protection elevation shall be constructed of materials resistant to flood damage.
  - (ii) Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
  - (iii) The area below the flood protection elevation shall be used solely for parking or building access and not later modified or occupied as habitable space, or
  - (iv) In lieu of the above criteria, the design methods to comply with these requirements may be certified by a licensed professional engineer or architect.
- (3) The building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:
  - (a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - (b) Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of **one (1)** opening on each wall having a total net area of not less than **one (1) square inch** per **one (1) square foot** of enclosed area. The openings shall be no more than **one (1) foot** above grade.
  - (c) The interior grade of the crawlspace below the flood protection elevation must not be more than **two (2) feet** below the lowest adjacent exterior grade.
  - (d) The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundations wall must not exceed **four (4) feet** at any point.
  - (e) An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event.
  - (f) Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage, and
  - (g) Utility systems within the crawlspace must be elevated above the flood protection elevation.

(C) **Non-residential buildings** must be structurally dry floodproofed (in lieu of elevation) provided a licensed professional engineer or architect certifies that:

- (1) Below the flood protection elevation the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood.
- (2) The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice.

- (3) Floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.
- (4) Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

(D) **Manufactured homes or travel trailers** to be permanently installed on site shall be:

- (1) elevated to or above the flood protection elevation in accordance with **Section 14-1-7(B)**; and
- (2) anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code 870.

(E) **Travel trailers and recreational vehicles** on site for more than **one hundred eighty (180) days** per year shall meet the elevation requirements of **Section 14-1-7(D)** unless the following conditions are met:

- (1) The vehicle must be either self-propelled or towable by a light duty truck.
- (2) The hitch must remain on the vehicle at all times.
- (3) The vehicle must not be attached to external structures such as decks and porches.
- (4) The vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.
- (5) The vehicles largest horizontal projections must be no larger than **four hundred (400) square feet**.
- (6) The vehicle's wheels must remain on axles and inflated.
- (7) Air conditioning units must be attached to the frame so as to be safe for movement out of the floodplain.
- (8) Propane tanks as well as electrical and sewage connections must be quick-disconnect and above the 100-year flood elevation.
- (9) The vehicle must be licensed and titled as a recreational vehicle or park model; and
- (10) Must either:
  - (a) entirely be supported by jacks, or
  - (b) have a hitch jack permanently mounted, have the tires touching the ground and be supported by block in a manner that will allow the block to be easily removed by use of the hitch jack.

(F) **Garages, sheds or other minor accessory structures** constructed ancillary to an existing residential use may be permitted provided the following conditions are met:

- (1) The garage or shed must be non-habitable; and
- (2) The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use; and
- (3) The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits; and
- (4) The garage or shed must be on a single-family lot and be accessory to an existing principal structure on the same lot; and
- (5) Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage; and
- (6) All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation; and
- (7) The garage or shed must have at least **one (1)** permanent opening on each wall no more than **one (1) foot** above grade with **one (1) square inch** of opening for every **one (1) square foot** of floor area; and

- (8) The garage or shed must be less than **Ten Thousand Dollars (\$10,000.00)** in market value or replacement cost whichever is greater or less than **five hundred (500) square feet**; and
- (9) The structure shall be anchored to resist flotation and overturning; and
- (10) All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation; and
- (11) The lowest floor elevation should be documented and the owner advised of the flood insurance implications.

**14-1-8 SUBDIVISION REQUIREMENTS.** The City shall take into account hazards, to the extent that they are known, in all official actions related to land management use and development.

(A) New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protection standards of **Sections 14-1-6 and 14-1-7** of this Code. Any proposal for such development shall include the following data:

- (1) The base flood elevation and the boundary of the floodplain, where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation;
- (2) The boundary of the floodway when applicable; and
- (3) A signed statement by a Licensed Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (**765 ILCS 205/2**).

Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

**14-1-9 PUBLIC HEALTH AND OTHER STANDARDS.**  
(A) Public health standards must be met for all floodplain development. In addition to the requirements of **Sections 14-1-6 and 14-1-7**, the following standards apply:

- (1) No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of **Section 14-1-7** of this Code.
- (2) Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage;
- (3) Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (4) New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight.
- (5) Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or **three (3)**

**feet** above the level of the 100-year flood frequency elevation whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.

(B) All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

**14-1-10 CARRYING CAPACITY AND NOTIFICATION.** For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained.

In addition, the City shall notify adjacent communities in writing **thirty (30) days** prior to the issuance of a permit for the alteration or relocation of the watercourse.

**14-1-11 VARIANCES.** Whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Zoning Board of Appeals for a variance. The Zoning Board of Appeals shall review the applicant's request for a variance and shall submit recommendation to the City. The City may attach such conditions to granting of a variance as it deems necessary to further the intent of this Code.

(A) No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:

- (1) the development activity cannot be located outside the floodplain;
- (2) an exceptional hardship would result if the variance were not granted;
- (3) the relief requested is the minimum necessary;
- (4) there will be no additional threat to public health, safety or creation of a nuisance;
- (5) there will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities;
- (6) the applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and
- (7) all other state and federal permits have been obtained.

(B) The Zoning Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protections standards of **Section 14-1-7** that would lessen the degree of protection to a building will:

- (1) result in increased premium rates for flood insurance up to **Twenty-Five Dollars (\$25.00)** per **One Hundred Dollars (\$100.00)** of insurance coverage;
- (2) increase the risks to life and property; and
- (3) require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

(C) **Variances.** Variances to the building protection requirements of **Section 14-1-7** of this Code which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in "Historic Structures", may be granted using criteria more permissive than the requirements of **Section 14-1-6** and **14-1-7** of this Code subject to the conditions that:

- (1) The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.
- (2) The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

**14-1-12      DISCLAIMER OF LIABILITY.** The degree of protection required by this Code is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Code does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Code does not create liability on the part of the City or any officer or employee thereof for any flood damage that results from proper reliance on this Code or any administrative decision made lawfully thereunder.

**14-1-13      PENALTY.** Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this Code. Upon due investigation, the Zoning Administrator/Code Enforcement Official may determine that a violation of the minimum standards of this Code exists. The Zoning Administrator/Code Enforcement Official shall notify the owner in writing of such violation.

(A) If such owner fails after **ten (10) days** notice to correct the violation:

- (1) The City shall make application to the circuit clerk for an injunction requiring conformance with this Code or make such other order as the court deems necessary to secure compliance with the Code.
- (2) Any person who violates this Code shall upon conviction thereof be fined not less than **Fifty Dollars (\$50.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense.
- (3) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues, and
- (4) The City shall record a notice of violation on the title of the property.

(B) The Zoning Administrator/Code Enforcement Official shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

The Zoning Administrator/Code Enforcement Official is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

No site development permit shall be permanently suspended or revoked until a hearing is held by the Zoning Board of Appeals. Written notice of such hearing shall be served on the permittee and shall state:

- (1) The grounds for the complaint, reasons for suspension or revocation, and
- (2) the time and place of the hearing.

At such hearing the permittee shall be given an opportunity to present evidence on their behalf. At the conclusion of the hearing, the Zoning Board of Appeals shall determine whether the permit shall be suspended or revoked.

(C) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

**14-1-14      ABROGATION AND GREATER RESTRICTIONS.** This Code repeals and replaces **Chapter 15 Flood Plain Code**, of the Revised Code of Ordinances 98-03 adopted **April 27, 1998** by the City to fulfill the requirements of the National Flood Insurance Program. However, this Code does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this Code repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Code and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**(Ord. No. 09-37; 11-09-09)**

**CHAPTER 15**

**FRANCHISES**

<b><u>ARTICLE</u></b>		<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>ELECTRIC</i></b>		
	<i>Section 15-1-1</i>	- <i>Ameren Electric Franchise</i>	<i>15-1</i>
	<i>Appendix "A"</i>	-	<i>15-2</i>

## **CHAPTER 15**

### **FRANCHISES**

#### **ARTICLE I – ELECTRIC**

**15-1-1      AMEREN ELECTRIC FRANCHISE.** The franchise for Ameren IP is hereby included as **Appendix “A”** of this Chapter that is in effect for **twenty (20) years. (Ord. No. 10-25; 10-11-10)**



## APPENDIX "A"

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE AN ELECTRIC UTILITY SYSTEM IN THE CITY OF BENTON, COUNTY OF FRANKLIN AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTON, COUNTY OF FRANKLIN, AND THE STATE OF ILLINOIS, AS FOLLOWS:

SECTION 1. It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a utility system within the City as originally authorized by Ordinance No. 686 approved on November 14, 1960. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of electric energy and other purposes within the City for the benefit of its citizens and residents as well as other consumers of electric energy located within its corporate limits. For purposes of construing the terms, rights and obligations of the parties this authorization is granted pursuant to Section 14 of the Electric Supplier Act, **220 ILCS 30/14**, and the Illinois Municipal Code, **65 ILCS 5/1-1-1 et seq.**

SECTION 2. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the City of Benton (hereinafter referred to as "Municipality"), an electric utility system for the transmission, distribution and/or sale of electric energy and other purposes (the "System"), together with the right, privilege and authority to erect, construct, install, operate and/or maintain all poles, conductors, wires, cables, conduits, equipment and/or other apparatus as may be necessary to convenience for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places as agreed upon by both parties.

SECTION 3. All poles and other equipment placed or installed under this Ordinance in streets, alleys, avenues and other public places, shall be so placed as not to interfere unnecessarily with travel on such streets, alleys, avenues and other public places. All poles and other equipment placed or installed under this Ordinance shall be so located as not to injure unnecessarily any pipes, conduits, sewers, drains, pavement or other like public improvements, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof and in default thereof said Municipality may repair such damage and charge the cost thereof to, and collect the same from, the Company. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

When any street, avenue, or other public place shall be graded, curbed, paved or otherwise changed so as to make the resetting or relocation of any poles or other equipment placed or installed under this Ordinance necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such poles or other equipment, and the Company's obligation shall be limited to resetting or relocating poles or other equipment of the same type and configuration as the displaced poles or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location.

SECTION 4. In order for Company to render efficient, safe, and continuous services, it will be necessary for Company to conduct vegetation management activities, including the trimming or pruning and cutting down of the trunks and branches of trees and/or vines and shrubs along or over the streets,

sidewalks, alleys, avenues, squares, bridges and other public places in said Municipality, and areas dedicated to the Municipality for public utility use, wherever the same are likely to interfere with its equipment; therefore, Company is hereby granted the right to conduct such vegetation management activities so as to enable it to erect, operate and maintain its equipment in a regular and consistent form and manner and to enable it to provide the most efficient, safe, and continuous service that the circumstances will permit; provided, however, that Company shall exercise proper care and discretion in its vegetation management activities. Company shall conduct its vegetation management activities in accordance with applicable law, including without limitation, **220 ILCS 5/8-505.1**, and any amendments thereto. Notwithstanding the foregoing, to the extent applicable law may be superseded or modified by an agreement between Municipality and Company, Municipality and Company reserve the right to enter into such an agreement.

SECTION 5. The rates to be charged by the Company for electric service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

SECTION 6. As a further consideration for the rights, privileges and authorities granted by this Ordinance, the Company shall, in Year 1 of the agreement, furnish municipality compensation in the amount of \$17,200, payable within 30 days of the acceptance of this Ordinance by the Municipality. In subsequent years, payment will be made within 30 days of the anniversary date of the ordinance on the following graduated scale: Year 2 - \$27,500; Year 3 - \$37,800; Year 4 - \$48,100; and Year 5 and all remaining years - \$58,335.

SECTION 7. If, at any time, during the term of this contract, Municipality permits another entity or person to provide electric distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this Ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

SECTION 8. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all poles, conductors, wires, cables, conduits, equipment and other apparatus placed in the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

SECTION 9. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

SECTION 10. This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within **ninety (90) days** after due notice to the Company of the enactment of this Ordinance, file with the City Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of **ninety (90) days**, all rights, privileges, and authority herein granted shall become null and void.

SECTION 11. All rights, privileges and authority given and granted by this Ordinance are granted for a term of 20 years from and after the acceptance of this Ordinance as hereinafter provided (the

"Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least **six (6) months** prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 12. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, along, over and across each and all of such vacated premises which are at the time in use by the Company.

SECTION 13. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

SECTION 14. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its constructed facilities. Company shall provide notice of excavation hereunder in accordance with the Illinois Underground Utility Damage Prevention Act (**220 ILCS 50/1 et seq.**).

SECTION 15. If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 16. Any conflict between the Franchise Ordinance and the provisions contained in the Electric Service Customer Choice and Rate Relief Law of 1997 (Public Act 90-561) will be resolved by giving the state statute mandatory priority over any contrary language contained in the Franchise Ordinance.

SECTION 17. This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the City Clerk according to the terms prescribed herein and as provided for in Section 12 and in **35 ILCS 645/5-4**. This Ordinance shall be in full force from and after its passage, approval and **ten (10) day** period of publication in the manner provided by law.

**(Ord. No. 10-25; 10-11-10)**

**CHAPTER 17**

**HISTORIC PRESERVATION CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<i>Section 17-1-1</i>	- <i>Historic Preservation</i>	<i>17-1</i>
<i>Section 17-1-2</i>	- <i>Definitions</i>	<i>17-1</i>
<i>Section 17-1-3</i>	- <i>Composition of Historic Preservation Commission</i>	<i>17-2</i>
<i>Section 17-1-4</i>	- <i>Qualifications</i>	<i>17-2</i>
<i>Section 17-1-5</i>	- <i>Terms</i>	<i>17-2</i>
<i>Section 17-1-6</i>	- <i>Officers</i>	<i>17-2</i>
<i>Section 17-1-7</i>	- <i>Meetings</i>	<i>17-3</i>
<i>Section 17-1-8</i>	- <i>Powers and Duties</i>	<i>17-3</i>
<i>Section 17-1-9</i>	- <i>Surveys and Research</i>	<i>17-4</i>
<i>Section 17-1-10</i>	- <i>Criteria for Landmark Designation</i>	<i>17-4</i>
<i>Section 17-1-11</i>	- <i>Landmark Designation Procedures</i>	<i>17-5</i>
<i>Section 17-1-12</i>	- <i>Criteria for Historic District Designation</i>	<i>17-6</i>
<i>Section 17-1-13</i>	- <i>Historic District Designation Procedure</i>	<i>17-6</i>
<i>Section 17-1-14</i>	- <i>Applications for Nominations of Landmarks and Historic Districts</i>	<i>17-7</i>
<i>Section 17-1-15</i>	- <i>Certificate of Appropriateness</i>	<i>17-7</i>

## CHAPTER 17

### HISTORIC PRESERVATION CODE

**17-1-1 HISTORIC PRESERVATION.** The purpose of this Code is to promote the protection, enhancement, perpetuation, and use of improvements of special character or historical interest or value in the interest of the health, prosperity, safety, and welfare of the people of the City by:

(A) Providing a mechanism to identify and preserve the historic and architectural characteristics of Benton which represents elements of the City's cultural, social, economic, political and architectural history;

(B) To promote civic pride in the beauty and noble accomplishments of the past as represented in Benton's landmarks and historic districts;

(C) Stabilizing and improving the economic vitality and value of Benton's landmarks and historic areas;

(D) Protecting and enhancing the attractiveness of the City to have buyers, visitors and shoppers and thereby supporting business, commerce, industry, and providing economic benefit to the City;

(E) Fostering the encouraging preservation, restoration of structures, areas, and neighborhoods and thereby preventing future urban blight.

**17-1-2 DEFINITIONS.** Unless specifically defined below, words or phrases in this Code shall be interpreted giving them the same meaning as they have in common usage and so as to give this Code its most reasonable application.

**"ALTERATION":** Any act or process that changes **one (1)** or more of the exterior architectural features of a structure, including, but not limited to the erection, construction, reconstruction, or removal of any structure.

**"AREA":** A specific geographic division of the City.

**"ADDITION":** Any act or process which changes **one (1)** or more of the "exterior architectural features" of a structure designated for preservation by adding to, joining with or increasing the size or capacity of the structure.

**"BUILDING":** Any structure created for the support, shelter, or enclosure of persons, animals or property of any kind and which is permanently affixed to the land.

**"CERTIFICATE OF APPROPRIATENESS":** A certificate from the Historic Preservation Commission authorizing plans for alterations, construction, removal or demolition of a landmark or site within a designated historic district.

**"COMMISSION":** Benton Historic Preservation Commission.

**"COMMISSIONERS":** Voting members of the Benton Historic Preservation Commission.

**"CONSTRUCTION":** The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

**"COUNCIL":** The City Council of the City of Benton.

**"DEMOLITION":** Any act or process that destroys in part or in whole a landmark or site within a historic district.

**"DESIGN GUIDELINE":** A standard of appropriated activity that will preserve the historic and architectural character of a structure or area.

**"EXTERIOR ARCHITECTURAL APPEARANCE":** The architectural and general composition of the exterior of a structure, including, but not limited to the kind, color, and the texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.

**"HISTORIC DISTRICT":** An area designated as a "historic district" by ordinance of the City Council and which may contain with definable geographic boundaries **one (1)** or more landmarks and which may have within its boundaries other properties or structures that, while not of such historic

and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

**"LANDMARK":** Any building, structure or site which has been designated as a "landmark" by ordinance of the City Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the City.

**"OWNER OF RECORD":** The person, corporation, or other legal entity listed as owner on the records of the County Recorder of Deeds.

**"REHABILITATION":** The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

**"REMOVAL":** Any relocation of a structure on its site or to another site.

**"REPAIR":** Any change that does not require a building permit, that is not construction, relocation or alteration.

**"STRUCTURE":** Anything constructed or erected, the use of which requires permanent or temporary location on or in ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, swimming pools, satellite dishes, solar panels and wind generation.

**"STRUCTURAL CHANGE":** Any change or repair in the supporting members of a building, structure, roof or exterior walls which expand the building in height, width or bulk of the building.

**17-1-3 COMPOSITION OF HISTORIC PRESERVATION COMMISSION.** The Benton Historic Preservation Commission shall consist of **five (5)** voting members, residents of the City, appointed by the Mayor and approved by the City Council.

**17-1-4 QUALIFICATIONS.** The members shall be appointed on the basis of expertise, experience or interest in the area of architectural history, building construction or engineering, finance, historical and architectural preservation, neighborhood organizing or real estate.

**17-1-5 TERMS.** Members of the Commission shall be appointed for terms of **three (3) years**. Of those members first taking office, **two (2)** shall be appointed for **one (1) year, two (2) for two (2) years**, and **one (1)** for **three (3) years**. No member shall serve more than **two (2)** successive **three (3) year terms**. Alternate members shall be appointed to serve in the absence of or disqualification of the regular members. Vacancies shall be filled for the unexpired term only. Members shall serve without compensation.

**17-1-6 OFFICERS.** Officers shall consist of a chairman, vice-chairman, and a secretary elected by the Preservation Commission who shall each serve a term of **one (1) year** and shall be eligible for re-election, but no member shall serve as an officer for more than **two (2) consecutive years**. The chairman shall preside over meetings. In the absence of the chairman, the vice-chairman shall perform the duties of the chairman. If both are absent, a temporary chairman shall be elected by those present. The secretary to the Preservation Commission shall have the following duties:

- (A) Take minutes of each Preservation Commission meeting;
- (B) Be responsible for publication and distribution of copies of the minutes, reports, and decisions of the Preservation Commission to the members of the Preservation Commission;
- (C) Give notice as provided herein or by law for all public hearings conducted by the Preservation Commission;
- (D) Advise the Mayor of vacancies on the Preservation Commission and expiring terms of members; and



(E) Prepare and submit to the City Council a complete record of the proceedings before the Preservation Commission on any matter requiring Council consideration.

**17-1-7 MEETINGS.** A quorum shall consist of a majority of the members. All decisions or actions of the Historic Preservation Commission shall be made by a majority vote of those members present and voting at any meeting where a quorum exists. Meetings shall be held at regularly scheduled times to be established by resolution of the Commission at the beginning of each calendar year or at any time upon the call of the Chairman. There shall be a minimum of **four (4) meetings** per year.

No member of the Historic Preservation Commission shall vote on any matter that may materially or apparently affect the property, income or business interest of that member. No action shall be taken by the Commission that could in any manner deprive or restrict the owner of property in its use, modification, maintenance, disposition, or demolition until such owner shall first have had the opportunity to be heard at public meeting of the Preservation Commission, as provided herein. The Chairman, and in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Preservation Commission shall be open to the public. The Preservation Commission shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Preservation Commission and shall be a public record.

**17-1-8 POWERS AND DUTIES.** The Benton Historic Preservation Commission shall have the following powers and duties:

- (A) To adopt its own procedural regulations;
- (B) To conduct an ongoing survey to identify historically and architecturally significant properties, structures and areas;
- (C) To investigate and recommend to the City Council the adoption of ordinance designating properties or structures having special historic, community, or architectural value as "landmarks";
- (D) To investigate and recommend to the City Council the adoption of ordinances designating areas as having special historic, community, or architectural value as "historic districts";
- (E) To keep a register of all properties and structures that have been designated as landmarks or historic districts, including all information required for each designation.
- (F) To determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or historic district to another.
- (G) To advise owners of landmarks and property or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the State of National Register of Historic Places.
- (H) To inform and educate the citizens of Benton concerning the historic and architectural heritage of the City by publishing appropriate maps, newsletters, brochures, and pamphlets, and by holding programs and seminars;
- (I) To hold public hearings and to review applications for construction, alteration, removal, or demolition affecting proposed or designated landmarks or structures or historic districts and issue or deny Certificates of Appropriateness for such actions. Applicants shall be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions.
- (J) To develop specific guidelines for the alteration, demolition, construction, or removal of landmarks or property and structures within historic districts.
- (K) To review proposed zoning amendments, applications for special use permits or variances that affect proposed or designated landmarks and historic districts. Such review shall be made prior to the date of the hearing by the City Planning Commission or the Zoning Board of Appeals.
- (L) To administer on behalf of the City of Benton any property or full or partial interest in real property, including a conservation right as that term is used in **765 ILCS 120/1**, which the City may have or accept as a gift or otherwise, upon designation by the City Council.

(M) To accept and administer on behalf of the City of Benton, upon designation by the City Council, such gifts, grants, and money as may be appropriate for the purposes of this Code.

(N) To call upon available City staff members as well as other experts for technical advice.

(O) To testify before all boards and commissions, including the City Planning Commission and the Zoning Board of Appeals, on any matter affecting historically and architecturally significant property and landmarks.

(P) To periodically review the Benton Zoning Code and to recommend to the City Planning Commission and City Council any amendments appropriate for the protection and continued use of landmarks or property and structures within historic districts.

**17-1-9**            **SURVEYS AND RESEARCH.**    The Historic Preservation Commission shall undertake an ongoing survey and research effort in the City of Benton to identify neighborhoods, areas, sites, structures, and objects that have historic, community, architectural, or aesthetic importance, interest, or value. As part of the survey, the Historic Preservation Commission shall review and evaluation any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts, and photographs. The Historic Preservation Commission shall identify potential landmarks and adopt procedures to nominate them in groups based upon the following criteria:

(A)            The potential landmarks associated with a particular person, event, or historical period;

(B)            The potential landmarks of a particular architectural style or school, or of a particular architect, engineer, builder, designer, or craftsman;

(C)            Such other criteria as may be adopted by the Preservation Commission to assure systematic survey and nomination of all potential landmarks within the City.

**17-1-10**            **CRITERIA FOR LANDMARK DESIGNATION.**

(A)            Nominations shall be made to the Historic Preservation Commission on a form provided by the Commission. A filing fee may be required.

(B)            The Commission shall, upon investigation as it deems necessary, make a preliminary determination as to whether a property, structure, or area possesses the integrity of design, workmanship, materials, location, setting and feeling and meets **one (1)** or more of the following criteria:

- (1)    Significant value as part of the historic, heritage of cultural characteristics of the community, county, state or nation;
- (2)    Its identification with a person or persons who significantly contributed to the development of the community, county, state or country;
- (3)    Representative of the distinguishing characteristics of architecture inherently valuable for the study of a period, type, method of construction or use of indigenous materials;
- (4)    Notable work of a master building, designer, architect or artist whose individual work has influenced the development of the community, county, state or country.
- (5)    Its unique location or singular physical characteristics that make it an established or familiar visual feature;
- (6)    Its character as a particularly fine or unique example of a utilitarian structure, including but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance.
- (7)    Area that has yielded or may be likely to yield, information important in history or prehistory.

A preliminary determination as to whether a property, structure, or area meets **one (1)** or more of the foregoing criteria shall be made within **fifteen (15) days** of the filing of a nomination with the Commission.

**17-1-11      LANDMARK DESIGNATION PROCEDURES.**

(A) The Commission shall schedule a public hearing within **sixty (60) days** after the filing of an application to the Planning Department.

- (1) Any person, group of persons or association, including, but not limited to the Benton Historic Preservation Commission, may request a Historic Landmark designation for any structure, building or site within the boundaries of the City which may have historic or architectural significance as defined by the Code. The Planning Department shall supply, upon request, the application forms. Completed forms shall be submitted to the Planning Department which shall be forwarded to the Commission for their consideration.
- (2) Notice of date, time, place and purpose of the public hearing shall be sent by mail to owner(s) of record and to the nominator(s) as well as to the adjoining property owners, not less than **fifteen (15)** nor more than **thirty (30) days** prior to the date of the hearing. A public notice also shall be published in a newspaper having general circulation in the City. The notice shall state the location of the property and a statement summarizing how the proposed landmark meets the criteria set forth in Subsection (B) under Criteria for Landmark Designation.
- (3) Upon receipt of the application, the secretary of the Commission shall schedule a public hearing, to be held within **forty-five (45) days** after preliminary approval of application.
- (4) During the public hearing, the Commission shall review and evaluate the application according to the criteria established by ordinance.
- (5) If the Historic Preservation Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regularly scheduled meeting.
- (6) A Certificate of Appropriateness shall be required for alteration, construction, removal or demolition of a proposed landmark from the date when the nomination form is presented to the Commission until the final disposition of the request.

(B) A decision shall be made within **thirty (30) days** following the date of the closing of the public hearing.

- (1) Following the public hearing, the Secretary of the Commission shall prepare the Commission's evaluation, recommendation and all available information for submission to the City Council within **thirty (30) days**.
- (2) If the Commission decides that the landmark should be designated, it shall do so by a resolution passed by a majority of the Commission.
- (3) The owner(s) of record shall be notified promptly by a letter containing information of the Commission's decision.
- (4) A simple majority vote by the City Council is necessary for approval of a landmark designation. If the City Council approves the application for a designation, a notice will be sent to the property owner, the Planning Department, the Building Inspector, the City Clerk's office, and recorded with the County Recorder of Deeds. If the City Council denies the petition, no petitioner or applicant can file for **ninety (90) days** to the Secretary of the Commission.
- (5) Buildings designated as Historic Landmarks shall be subject to issuance of Certificates of Appropriateness.

**17-1-12                    CRITERIA FOR HISTORIC DISTRICT DESIGNATION.**

(A)                    Nominations shall be made to the Historic Preservation Commission on a form provided by the Commission. A filing fee may be required.

(B)                    The following criteria shall be utilized by the Benton Historic Commission in determining the designation of Historic Districts:

- (1)                    The Historic District contains **one (1)** or more landmarks along with such other buildings, places or areas within its definable geographic boundaries which, while not of such historic significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located in such District;
- (2)                    A significant number of structures meeting any of the standards of Subsection (B) under Landmark Designation Criteria;
- (3)                    Establishing a sense of time and place unique to the City, and/or
- (4)                    Exemplifying or reflecting the cultural, social, economic, political or architectural history of the nation, the state or the City.

(C)                    A preliminary determination as to whether a district or an area meets **one (1)** or more of the foregoing criteria shall be made within **sixty (60) days** of the filing of a nomination with the Commission.

**17-1-13                    HISTORIC DISTRICT DESIGNATION PROCEDURE.**

(A)

- (1)                    Any person, group of persons, or association, including but not limited to the Benton Historic Commission, may present to the Commission a petition requesting that a defined geographic area be designated as a Historic District. The Planning Department shall supply, upon request, the application forms. Completed forms shall be submitted to the Planning Department which shall forward them to the Commission for their consideration.
- (2)                    The petition shall contain the names of no less than **fifty-one percent (51%)** of the property owners. Or, if lease holders, with a **five (5) year** or longer leasehold interest, are signatories to the petition then the petition shall contain no less than **fifty-one percent (51%)** of the property owners and/or leaseholders.
- (3)                    Notice of date, time, place and purpose of the public hearing shall be sent by mail to owner(s) of record and to the nominator(s) as well as to the adjoining property owners, not less than **fifteen (15)** nor more than **thirty (30) days** prior to the date of the hearing. A public notice also shall be published in a newspaper having general circulation in the City. The notice shall state the location of the property and a statement summarizing how the proposed landmark meets the criteria set forth in Subsection (B) under Criteria for Historic Designation.
- (4)                    Upon receipt of the application, the secretary of the Commission shall schedule a public hearing to be held within **thirty (30) days** from after preliminary approval of application.
- (5)                    During the public hearing the Commission shall review and evaluate the application according to the criteria established by ordinance.
- (6)                    If the Historic Preservation Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regularly scheduled meeting.

(B)                    A decision shall be made within **thirty (30) days** following the date of the closing of the public hearing.

- (1) Following the public hearing, the secretary of the Commission shall prepare the Commission's evaluation, recommendation and all available information for submission to the City Council within **thirty (30) days**.
- (2) If the Commission decides that the proposed historic district should be designated, it shall do so by a resolution passed by a majority of the Commission.
- (3) The owner(s) of record shall be notified promptly by a letter containing information of the Commission's decision.
- (4) A simple majority vote by the City Council is necessary for approval of a historic preservation designation. If the City Council approves the application for a designation, a notice will be sent to the property owner, the Planning Department, the Building Inspector, the City Clerk's office and recorded with the County Recorder of Deeds that the area has been designated as such and that building located within the boundaries of the Historic District shall be subject to issuance of Certificates of Appropriateness. If the City Council denies the petition, no petitioner can file for **ninety (90) days** to the Secretary of the Commission.

**17-1-14 APPLICATIONS FOR NOMINATIONS OF LANDMARKS AND HISTORIC DISTRICTS.** Any person, group of persons or association, may apply to the Benton Historic Preservation Commission for the designation of a Landmark or Historic District. Applications for a nomination shall be filed at the Planning Office. Persons wishing guidance or advice prior to completing an application may contact the Staff of the Planning Commission. At a minimum, the application shall include the following:

For a Landmark:

- (A) The name and address of the property owner.
- (B) The legal description and common street address of the property.
- (C) A written statement describing the property and setting forth reasons in support of the proposed designation.
- (D) Documentation that the property owner has been notified or consents to the application for designation.
- (E) A list of significant exterior architectural features that should be protected.
- (F) An overall site plan and photographs of the landmark. The plan shall also include a front, side and rear elevation drawing.

For an Historic District:

- (A) The names and addresses of the property owners.
- (B) A map delineating the boundaries of the area to be designated.
- (C) A written statement describing the area and properties within the proposed Historic District and setting forth reasons in support of the proposed designation.
- (D) A list and photographs of significant exterior architectural features of all properties in the district that should be protected.

**17-1-15 CERTIFICATE OF APPROPRIATENESS.**

(A) A Certificate of Appropriateness issued by the Commission shall be required before a building permit, moving or building permit or demolition permit is issued for any designated Historic Landmark or any building, structure or site or part thereof in the Historic District. It is required if the building, structure or site will be altered, extended, or repaired in such a manner as to produce a major change in the exterior appearance of such building or structure. Such major changes include, but are not limited to:

- (1) Major changes by addition, alterations, maintenance, reconstruction, rehabilitation, renovation or repair;

- (2) Any new construction and demolition in whole or in part requiring a permit from the City;
- (3) Moving a building;
- (4) Any construction, alteration, demolition, or removal affecting a significant exterior architectural feature as specified in the ordinance designating the landmark or historic district.

(B) An exception to the Certificate of Appropriateness shall be made if the applicant shows to the Commission that failure to grant the permit will cause an imminent threat to life, health or property.

(C) **Application for Certificate of Appropriateness.** Every application for a demolition permit or a building permit, including plans and specifications shall be forwarded by the Planning Department to the Historic Preservation Commission within **fifteen (15) days** following receipt of the application by the Planning Department. The application for issuance of a Certificate of Appropriateness must include:

- (1) Street address of the property involved.
- (2) Legal description of the property involved.
- (3) Brief description of the present improvements situated on the property.
- (4) A detailed description of the construction, alteration, demolition or use of proposed together with any architect drawings or sketches if those services have been utilized by the applicant and if not, a sufficient description of the construction, alteration, demolition, and use to enable anyone to determine what the final appearance and use of the real estate will be.
- (5) Owner's name.
- (6) Developer's name, if different than owner.
- (7) Architect's name.
- (8) A filing fee is required.

(D) **Standards for Certificate of Appropriateness.** In making a determination whether to approve or deny an application for a Certificate of Appropriateness, the Benton Historic Preservation Commission shall include, but not be limited to:

- (1) A reasonable effort should be made to provide a compatible use for buildings which will require minimum alteration to the building, structure or site and its environment or to use a property for its originally intended purposes.
- (2) The compatibility of proposed new additions or new construction to the original architecture of the landmark or style within the historic district shall be evaluated against the following guidelines:
  - (a) The height of the proposed structure or additions or alterations should be compatible with surrounding structures.
  - (b) The proportion of the front façade, that is, the relationship between the width of the building to the height of the front elevation;
  - (c) The relationship of building mass to the open space between it and adjoining buildings or structures;
  - (d) The directional expression of a building or structure, that is, the vertical or horizontal positioning;
  - (e) The roof shape;
  - (f) Architectural details, general design, materials, textures and colors;
  - (g) Landscape and appurtenances including signs, fences, accessory structures and pavings.
- (3) Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event that replacement is necessary, the new material should closely match the material being

replaced

in

composition, design, color, texture, and other visual qualities. Repair or replacement or missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

- (4) All buildings should be recognized as products of their own time. Alterations to create an appearance inconsistent with the actual character of the building should be discouraged.
- (5) Many changes to building and environments which have taken place in the course of time may distinguish the history of the building and the neighborhood. Such significance should be recognized and respected.
- (6) Wherever possible, new additions or alterations to buildings should be done in such a manner that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.
- (7) Contemporary design for new buildings in an historic district and additions to existing buildings or landscaping should not be discouraged if such design is compatible with the size, scale, color, material, and character of the district, building, or its environment.
- (8) The distinguishing original qualities or character of a building, structure, or site and its environment, shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
- (9) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.
- (10) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage or deface the historic building materials shall not be undertaken.
- (11) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, and project.
- (12) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
- (13) **Design Guidelines.** Design guidelines for applying the criteria for review of Certificates of Appropriateness shall at a minimum consider the following architectural criteria:
  - (a) **Height.** The height of any proposed alteration of construction should be compatible with the style and character of the landmark and with surrounding structures in a historic district.
  - (b) **Proportions of Windows and Doors.** The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark.
  - (c) **Relationship of Building Masses and Spaces.** The relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible.
  - (d) **Roof Shape.** The design of the roof, fascia, and cornice should be compatible with the architectural style and character of the landmark.
  - (e) **Landscaping.** Landscaping should be compatible with the architectural character and appearance of the landmark.
  - (f) **Scale.** The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural



style and character and with surrounding structures in a historic district.

- (g) **Directional Expression.** Facades in historic districts should blend with other structures with regard to directional expression. Structures in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures. The direction expression of a landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.
- (h) **Architectural Details.** Architectural details including types of materials, colors, and textures should be treated so as to make landmark compatible with its original architectural style and character and to preserve and enhance the architectural style and character of a landmark or historic district.
- (i) New structures in a Historic District shall be compatible with the architectural styles and design in said districts.

(E) **Hearing on Application.**

- (1) Applications for a Certificate of Appropriateness are available from the Planning Department. Such applications shall be completed and submitted to the Planning Department which shall be forwarded to the Benton Historic Preservation Commission. The Commission shall schedule a public meeting for consideration of the application within **fifteen (15) days** of receipt of application. A public notice for consideration of the application shall be made not less than **fifteen (15) days** nor more than **thirty (30) days** before a hearing, in a newspaper of general circulation published in the City.
- (2) If the Historic Preservation Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regularly scheduled meeting.

(F) **Issuance of a Certificate of Appropriateness.** The Benton Historic Preservation Commission shall notify the applicants of their decision within **five (5) days** after the public meeting. Upon approval of the application, the Commission shall direct the Planning Department to issue signed Certificates of Appropriateness to the applicant with copies forwarded to the Building Inspector.

A Certificate of Appropriateness shall be invalid if changes in the plans reviewed by the Commission are necessary to obtaining a building permit or if the building permit issued for the same work becomes invalid. The Certificate of Appropriateness remains valid for the same period of validity as the building permit (**one (1) year**).

If the Commission's decision is to postpone the issuance of Certificate of Appropriateness for demolition or removal, the Commission shall notify the owner in writing. During the period set forth for postponement of the requested action, the Commission shall explore alternatives to demolition or removal. Such alternatives may include consultation with private civic groups, interested private citizens and other public board or agencies in an effort to find a persuasive means of preserving the structure. If sale of property is considered a feasible alternative to the owner, the building must remain on the open market, dependent on its classifications, for the following lengths of time:

- (1) Designated Landmarks – **six (6) months.**
- (2) Historic and architecturally significant buildings in historic district – **six (6) months.**
- (3) Non-significant buildings located within historic district – **three (3) months.**

**Failure to Reach Agreement.** If, after a period not to exceed the required waiting period, no alternative agreement has been reached with the applicant, the Commission shall issue a Certificate of Appropriateness for demolition or removal of the structure in question.

(G) **Appeals for Denial of a Certificate of Appropriateness.** In the event of denial of an application for a Certificate of Appropriateness, the Commission shall notify the applicant in writing of the disapproval and the reasons therefore and shall recommend changes, if any, in the proposed action that would cause the Commission to reconsider its denial.

Within **fifteen (15) days** of receipt of the notification of disapproval, the applicant may resubmit an amended application that takes into consideration the recommendations of the Historic Preservation Commission. The application shall be considered to be withdrawn if no written modification on request for public hearing is received. Within **fifteen (15) days** of receipt of a written modification on the Commission must either issue the Certificate of Appropriateness or hold a hearing.

(H) **Findings on Appeal.** The Benton Historic Preservation Commission shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the applicant by mailing notice of the hearing, said mailing to be made at least **ten (10) days** prior to the date of the hearing.

Notice of the time and place of such public hearing shall be published at least once, not less than **fifteen (15) days** nor more than **thirty (30) days** before the hearing, in a newspaper of general circulation published in the City.

The Chairperson shall conduct the hearing and the Benton Historic Preservation Commission and the applicant shall have the right to introduce evidence and cross-examine witnesses. A recorded or written transcript of the hearing shall be made and kept.

The Commission shall vote, announce its decision, make its recommendation, and notify the Planning Department and the applicant within **five (5) days** after the conclusion of public hearing, unless the time is extended by mutual agreement between the Commission and the applicant.

In the event of a denial of appeal by the Benton Preservation Commission, the applicant may appeal the decision to the City Council, whose decision in this matter shall be final subject only to judicial review as provided by law.

(I) **Natural Destruction or Demolition.** In the case of partial or complete natural destruction or demolition of a site within a Historic Preservation District or of a landmark, the owner will be required to obtain a Certificate of Appropriateness from the Commission prior to reconstruction. Although exact duplication of the previous structure may not be required, the exterior design of the property shall be in harmony with:

- (1) The exterior design of the structure prior to damage, and
- (2) The character of the Historic Preservation District.

(J) **Fees and Penalties.** The Preservation Commission may establish an appropriate system of processing fees for the review of nominations and Certificates of Appropriateness. Any person who undertakes or causes an alteration, construction, demolition, or removal of any nominated or designated landmark or property within a nominated or designated landmark or designated historic district without a Certificate of Appropriateness shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Every day such violation shall continue to exist shall constitute a separate violation. The Preservation Commission may institute any appropriate action or proceeding in the name of the City to enjoin, correct or abate any violation of the ordinance.

**(Ord. No. 1337; 06-14-93)**

## **CHAPTER 21**

### **LIQUOR**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 21-1-1 - Definitions</i>	<i>21-1</i>
<b><i>II</i></b>	<b><i>LICENSES</i></b>	
	<i>Section 21-2-1 - License Required</i>	<i>21-4</i>
	<i>Section 21-2-2 - Applications</i>	<i>21-4</i>
	<i>Section 21-2-3 - Examination of Applicant</i>	<i>21-5</i>
	<i>Section 21-2-4 - Prohibited Licensees</i>	<i>21-5</i>
	<i>Section 21-2-5 - Term of License – Disposition of Fees</i>	<i>21-6</i>
	<i>Section 21-2-6 - License Classification, Fees, Limitation</i>	<i>21-7</i>
	<i>Section 21-2-7 - Nature of License</i>	<i>21-11</i>
	<i>Section 21-2-8 - Limitation of Licenses</i>	<i>21-11</i>
	<i>Section 21-2-9 - Dramshop Insurance</i>	<i>21-11</i>
	<i>Section 21-2-10 - Display of License</i>	<i>21-11</i>
	<i>Section 21-2-11 - Record of Licenses</i>	<i>21-11</i>
<b><i>III</i></b>	<b><i>REGULATIONS</i></b>	
	<i>Section 21-3-1 - Hours of Operation</i>	<i>21-12</i>
	<i>Section 21-3-2 - Special Use Permit License</i>	<i>21-12</i>
	<i>Section 21-3-3 - Happy Hour Restrictions</i>	<i>21-13</i>
	<i>Section 21-3-4 - Prohibited Locations</i>	<i>21-14</i>
	<i>Section 21-3-5 - Change of Location</i>	<i>21-14</i>
	<i>Section 21-3-6 - Stores Selling School Supplies, Lunches, Etc.</i>	<i>21-14</i>
	<i>Section 21-3-7 - Transporting in Motor Vehicles</i>	<i>21-15</i>
	<i>Section 21-3-8 - Open Liquor - Cup-to-Go Prohibited</i>	<i>21-15</i>
	<i>Section 21-3-9 - Liquor in Vehicles; Underage</i>	<i>21-15</i>
	<i>Section 21-3-10 - Restricted Residential Areas</i>	<i>21-15</i>
	<i>Section 21-3-11 - Election Days</i>	<i>21-15</i>
	<i>Section 21-3-12 - Unlawful Acts</i>	<i>21-15</i>
	<i>Section 21-3-13 - Unlawful Entertainment</i>	<i>21-16</i>
	<i>Section 21-3-14 - Sanitary Conditions</i>	<i>21-16</i>
	<i>Section 21-3-15 - Diseased Employees</i>	<i>21-16</i>
	<i>Section 21-3-16 - Health Permit</i>	<i>21-16</i>
	<i>Section 21-3-17 - Peddling</i>	<i>21-16</i>
	<i>Section 21-3-18 - Gambling</i>	<i>21-16</i>
	<i>Section 21-3-19 - Disorderly House</i>	<i>21-16</i>
	<i>Section 21-3-20 - Prohibited Sales - Generally</i>	<i>21-17</i>
	<i>Section 21-3-21 - Persons Selling Liquor</i>	<i>21-17</i>
	<i>Section 21-3-22 - Underaged; Entry on Licensed Premises</i>	<i>21-17</i>
	<i>Section 21-3-23 - Unlawful Purchase of Liquor</i>	<i>21-17</i>
	<i>Section 21-3-24 - Identification Required</i>	<i>21-17</i>
	<i>Section 21-3-25 - Transfer of Identification Card</i>	<i>21-18</i>
	<i>Section 21-3-26 - Posting Warning</i>	<i>21-18</i>
	<i>Section 21-3-27 - Exclusionary Provision</i>	<i>21-18</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>REGULATIONS (CONTINUED)</b>	
	Section 21-3-28 - Inspections	21-18
	Section 21-3-29 - Books and Records---Available Upon Reasonable Notice and Maintained in State Records	21-18
	Section 21-3-30 - Restrictions on Licensee	21-18
	Section 21-3-31 - Selling False Identification	21-19
	Section 21-3-32 - False Identification	21-19
	Section 21-3-33 - Underaged Drinking on Streets	21-19
	Section 21-3-34 - Residential Drinking	21-19
	Section 21-3-35 - Renting Hotel Rooms for Drinking	21-19
<b>IV</b>	<b>VIOLATIONS AND PENALTIES</b>	
	Section 21-4-1 - Owner of Premises Permitting Violation	21-20
	Section 21-4-2 - Acts of Agent or Employee - Liability; Knowledge	21-20
	Section 21-4-3 - Revocation of License after Conviction	21-20
	Section 21-4-4 - Revocation of License When Employee Convicted	21-20
	Section 21-4-5 - Misbranding	21-20
	Section 21-4-6 - Abatement of Place Used in Violation	21-20
	Section 21-4-7 - Use of Premises for One Year After Revocation	21-20
	Section 21-4-8 - Revocation of Licenses	21-21
	Section 21-4-9 - Complaint by Residents	21-21
	Section 21-4-10 - Revocation or Suspension of Local License; - Notice and Hearing	21-21
	Section 21-4-11 - Appeals From Order of Liquor Commissioner	21-22
	Section 21-4-12 - Subsequent Violations in a Year	21-22
	Section 21-4-13 - Appeal Limitations for Subsequent Violation	21-22

## CHAPTER 21

### LIQUOR

#### ARTICLE I - GENERALLY

**21-1-1**        **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

**"ALCOHOL"** means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

**"ALCOHOLIC LIQUOR"** includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(See 235 ILCS 5/1-3.05)**

**"BEER"** means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(See 235 ILCS 1-3.04)**

**"CATERER RETAILER"** means a person who serves alcoholic liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. **(See 235 ILCS 5/1-3.34)**

**"CLOSE"** means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

**"CLUB"** means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(See 235 ILCS 5/1-3.24)**

**"CORPORATION"** means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the "Business Corporation Act" of Illinois. **(Rule 100.10(b))**

**"DISTILLED SPIRITS"**. See "Spirits".

**"EVENT"** means a single theme. **(Rules and Regulations 100.10(o))**

**"HOTEL"** means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(See 235 ILCS 5/1-3.25)**

**"MANAGER" OR "AGENT"** means any individual employed by any licensed place of business, provided said individual possess the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe. **(Rule 100.10(f))**

**"MAYOR"** means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"** and all references to Liquor Commissioner shall refer to the Mayor unless otherwise provided.

**"MEAL"** means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

**"ORIGINAL PACKAGE"** means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(See 235 ILCS 5/1-3.06)**

**"PACKAGE LIQUOR STORE"** means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

**"PARTNER"** is any individual who is a member of a co-partnership. "Co-partnership" means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

**"PREMISES/PLACE OF BUSINESS"** means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

**"PRIVATE FUNCTION"** means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

**"PUBLIC PLACE"** means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **"public place"** and **"public premises"** shall be interchangeable for the purposes of this Chapter.

**"RESIDENT"** means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the premises covered by the license are located for at least **ninety (90) days** prior to making application for such license and is a registered voter. **(Rule 100.10(a))**

**"RESORT"** means every building and associated structure and grounds kept, used, maintained, advertised and held out to the public to be a place for sleeping accommodations and recreational activities offered for adequate pay to travelers and guests, and of which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more associated structures for the recreational activities of guests in connection therewith, and such buildings, structure or structures as may be provided with adequate and safe recreational grounds, equipment and services. **(Ord. No. 98-31; 12-18-98)**

**"RESTAURANT"** means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(See 235 ILCS 5/1-3.23)**

**"RETAILER"** means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(See 235 ILCS 5/1-3.17)**

**"SALE"** means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(See 235 ILCS 5/1-3.21)**

**"SELL AT RETAIL" and "SALE OF RETAIL"** refer to any mean sales for use or consumption and not for resale in any form. **(See 235 ILCS 5/1-3.18)**

**"SPECIAL EVENT"** means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(See 235 ILCS 5/1-3.30)**

**"SPECIAL EVENTS RETAILER"** means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(See 235 ILCS 5/1-3.17.1)**

**"SPIRITS"** means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(See 235 ILCS 5/1-3.02)**

**"TO SELL"** includes to keep or expose for sale and to keep with intent to sell. **(See 235 ILCS 5/1-3.22)**

**"WINE"** means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined. **(See 235 ILCS 5/1-3.03)**

**"WINERY"** means every building and associated structure and grounds kept, used, maintained, advertised and held out to the public as a place of production and/or bottling of wine for human consumption including such on-site consumption as appropriate to market the product thereon produced or bottled. **(Ord. No. 98-31; 12-18-98)**

**[All references to "Rules" refer to Illinois Liquor Control Commission Rules located in Title 11; Subtitle A; Chapter 1; Part 1; Section 100.5 et seq. of the Illinois Administration Code.]**



## ARTICLE II - LICENSES

**21-2-1      LICENSE REQUIRED.** No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this municipality without having a license to do so, issued by the Mayor of this municipality in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois.**

A similar valid license issued by the Mayor of this municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(See 235 ILCS 5/4-1)**

**21-2-2      APPLICATIONS.** The Mayor is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the City Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

(A)            The name, age, and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof, and in the case of a corporation for profit or a club, the date of incorporation, the object for which it was organized, the names and addresses of the officers, directors and the name of the person who will be managing the establishment for which the license is sought, and if a majority in interest of the stock of such corporation is owned by one person or his nominee, the address and name of such person.

(B)            The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.

(C)            The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D)            The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E)            The location and description of the premises or place of business which is to be operated under such license.

(F)            Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G)            That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H)            Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I)            That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **two (2) members** of such partnership, firm, association or club, or by the president and secretary of such corporation.

**One (1) copy** of the application shall be retained by the Mayor, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of the

application

and

may make further comments regarding that application. The copies shall be returned to the Mayor and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. **(See 235 ILCS 5/7-1)**

**21-2-3 EXAMINATION OF APPLICANT.** The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf. **(See 235 ILCS 5/4-5)**

**21-2-4 PROHIBITED LICENSEES.** Except as otherwise provided in paragraph (U) of this Section, no license of any kind shall be issued by the Mayor to the following:

- (A) A person who is not a resident of this City;
- (B) A person who is not of good character and reputation in the community in which he resides;
- (C) A person who is not **twenty-one (21) years** of age;
- (D) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant;
- (E) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;
- (F) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- (G) A person whose license issued under this Act has been revoked for cause;
- (H) A person who, at the time of the application for renewal of any license issued hereunder, would not be eligible for such license upon first application;
- (I) A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residence within the political subdivision, unless residency is required by local ordinance;
- (J) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision;
- (K) A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the **"Business Corporation Act of 1983"** to transact business in Illinois;
- (L) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee;
- (M) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act or has forfeited his bond to appear in court to answer charges for any such violation;
- (N) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;
- (O) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of the city council or commission, and no such official shall be interested directly in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory

subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor

Control Commission and except that a license may be granted, in a city with a population of **fifty thousand (50,000)** or less, to any alderman, member of a city council, in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the State Commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the board or council to which the license holder is elected;

(P) A person who is not a beneficial owner of the business to be operated by the licensee;

(Q) A person who has been convicted of a gambling offense as prescribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961, or as prescribed by a statute replaced by any of the aforesaid statutory provisions;

(R) A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

(S) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in Section 5/6-21 of Chapter 235 of the Illinois Compiled Statutes;

(T) A person who is delinquent in the payment of any indebtedness or obligation to the City;

(U) A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Mayor shall determine if all provisions of this paragraph (U) have been met before any action on the corporation's license is initiated. **(See 235 ILCS 5/6-2)**

**21-2-5 TERM OF LICENSE – DISPOSITION OF FEES.** Retail liquor licenses issued under this Chapter shall be valid for **six (6) months** or **one (1) year** respectively, upon the payment of the license fee as herein set forth, unless sooner revoked or suspended. The **six (6) month period** shall be from **May 1<sup>st</sup>** of each year to **October 31<sup>st</sup>** and from **November 1<sup>st</sup>** to **April 30<sup>th</sup>** of the succeeding year. The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Local Liquor Control Commissioner as herein provided. The fee to be paid shall be reduced in proportion to the full calendar months which have expired in the year, prior to the issuance of the license. In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited with the City Treasurer, who shall deposit such fees in the City General Fund. The application for a license shall be filed with the City Clerk.

(A) **Licensee Information.** Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

(B) **Corporations; Manager.** With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license.

(C) **Delinquent Payment of City Debt.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be

delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purpose of this Section, "licensee" shall refer to the liquor license applicant, its officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-16; 05-10-14)**  
**(See 235 ILCS 5/4-1)**

**21-2-6      LICENSE CLASSIFICATION, FEES, LIMITATION.** Licenses issued by the Local Liquor Control Commissioner shall be of the following classes:

(A) **Class "A" License**, which shall entitle the licensee to sell alcoholic liquor of all kinds in the place named therein, by the drink to be consumed on the premises, as well as in unbroken original packages as defined in this Chapter, and not to be consumed on the premises, but not for resale. The annual fee for such license shall be **One Thousand Three Hundred Fifty Dollars (\$1,350.00)**. The increase of Class "A" licenses from **seven (7)** to **nine (9)** shall occur as new licenses are applied for. The transfer of licenses to a new owner shall not be affected provided all regulations are met. **(Ord. No. 17-16; 10-23-17)**

(B) **Class "B" License**, which shall entitle the licensee to sell alcoholic liquors of all kinds in the place named therein, in its original package as defined in this Chapter and not to be consumed on the premises and not for resale. The annual fee for such license shall be **One Thousand One Hundred Thirty Dollars (\$1,130.00)**. There shall not be more than **six (6)** Class "B" licenses in effect at any time.

(C) **Class "C" License**, which shall be issued to a club only, as defined in this Chapter, and shall entitle said club to sell in the place named therein, by the drink to be consumed on the premises, as well as in unbroken original packages as defined in this Chapter not to be consumed on the premises, but not for resale. There shall not be more than **five (5)** Class "C" licenses in effect at one time. The annual fee for such license shall be **Six Hundred Ninety Dollars (\$690.00)**.

(D) **Class "D" License**, which shall be issued to a hotel only, as defined in this Chapter, and shall entitle said hotel to sell in the place named therein, by the drink to be consumed on the premises, as well as in unbroken original packages as defined in this Chapter and not to be consumed on the premises, but not for resale. The annual fee for such license shall be **One Thousand Three Hundred Fifty Dollars (\$1,350.00)**.

(E) **Class "E" License**, which shall be issued to a restaurant only, as defined in this Chapter, and shall entitle said restaurant to sell in the place therein, by the drink consumed on the premises beer and wine only. The annual fee for such license shall be **Eight Hundred Dollars (\$800.00)**. **(See 235 ILCS 5/4-1)**

(F) **Class "E1" License**, which shall be established to authorize the retail sale of all alcoholic liquor (spirits, wines and/or beer), by the drink and not by the package, and wine where it may be sold in its original package, with food for consumption on the premises only subject to the conditions of this subsection (E1) license class, subsections (1) through (6), inclusive, of this Section and to the terms, conditions, and restrictions of this and all other pertinent sections of this Code.

- (1) The Class E1 licensee shall offer for sale all restaurant menu items for consumption on the premises during the hours the kitchen is open as approved per the license.
- (2) A Class E1 license shall not be issued to the applicant unless the premises for which the application is made is operated as a business which collects at least **fifty-one percent (51%)** of its gross retail sales revenue from the sales of non-alcoholic beverages and food.
- (3) Should a Class E1 license have been issued to the applicant for the premises in the preceding year for which the applicant for a new or renewal license is made, a Class E license shall not be issued to the applicant for the premises unless the applicant submits to the Local

Liquor Control Commissioner sufficient documentation to establish that at least **fifty-one percent (51%)** of the gross retail sales at that location



in the license period immediately preceding that year, or a part thereof if the license had been issued after the first day of the license period, where collected from the sales of non-alcoholic beverages and food.

- (4) The determination of the sufficiency of the documentation referred to in subsection (3) above, shall be in the sole discretion of the Local Liquor Control Commissioner. The Local Liquor Control Commissioner may, in his or her discretion, require an audit of the records of the establishment, which is operated by the applicant and for which the license is sought, in order to prove compliance with subsection (3) above. The cost of producing any documentation, including the audit, shall be borne by the applicant. The audit shall be prepared by a certified public accountant and shall cover the time period as ordered by the Local Liquor Control Commissioner.
- (5) An establishment issued an E1 license shall be furnished with kitchen facilities and equipment sufficient for food preparation and service as defined herein.
- (6) Any Class E1 Licensee, upon application to and approval by the Local Liquor Control Commissioner, may make retail sales of alcoholic liquor in the original package only, with food only, for consumption off the premises, subject to the following conditions:
  - (a) No alcoholic liquor may be sold by any Class E1 licensee without the simultaneous sale or consumption of a food item listed for consumption on its premises. The Class E1 licensee shall not sell alcoholic liquor with the simultaneous purchase of an item listed in the appetizer, dessert, or side order section of its menu for consumption off the premises; and
  - (b) The Class E1 licensee shall submit a fee of **One Hundred Dollars (\$100.00)** in addition to the fee required pursuant to this Chapter.
- (7) Upon application to and approval by the Local Liquor Control Commissioner, a Class E1 licensee may manufacture and sell at retail micro brewed beer by the drink for consumption on the premises and by the package for consumption off the premises, provided that the beer is brewed on the premises and the licensee submit a fee of **Eight Hundred Dollars (\$800.00)** in addition to all fees as required pursuant to this Chapter.

(G) **Class "G" License**, which shall be issued to a resort or winery only, as defined in this Chapter and shall entitle said resort to sell in the place named therein, by the drink to be consumed on the premises, as well as in unbroken original packages as defined in this Chapter and not be consumed on the premises, but not for resale. All provisions of the City Code not inconsistent with this Section shall apply. The annual fee for a resort shall be **One Thousand Three Hundred Fifty Dollars (\$1,350.00)**. The annual fee for issuance of a winery license shall be **Eight Hundred Eighty Dollars (\$880.00)**.

(H) **Class "H" License**, which shall be issued to an educational, fraternal, political, civic, religious, or non-profit organization for the sale of beer or wine, or both, only for consumption at the location and dates designated on the license. The annual fee for this license shall be **Three Hundred Sixty Dollars (\$360.00)**. A license under this provision shall not be transferred or assigned. The hours of operation under a Class "H" license shall be from **12:00 (Noon) to 12:00 (Midnight)**, Monday through Saturday only.

**(Ord. No. 2016-28; 11-28-16)**

(I) **Class "A-1" Licenses**. Class "A-1" licenses shall be established to authorize the retail sale of all alcoholic liquor (spirits, wine and/or beer), by the drink and not by the package, and wine where it may be sold in its original package, with food for consumption on the premises only

subject to the conditions of subsections (I)(1) through (I)(6), inclusive, of this Section and to the terms, conditions, and restrictions of this and all other pertinent sections of this Code.

- (1) The Class "A-1" licensee shall offer for sale all restaurant menu items for consumption on the premises during the hours the kitchen is open as approved per the license.
- (2) A Class "A-1" license shall not be issued to the applicant unless the premises for which the application is made is operated as a business which collects at least **fifty-one percent (51%)** of its gross retail sales revenue from the sales of nonalcoholic beverages and food.
- (3) Should a Class "A-1" license have been issued to the applicant for the premises in the preceding year for which the applicant for a new or renewal license is made, a Class A license shall not be issued to the applicant for the premises unless the applicant submits to the Local Liquor Control Commissioner sufficient documentation to establish that at least **fifty-one percent (51%)** of the gross retail sales at that location in the license period immediately preceding that year, or a part thereof if the license had been issued after the first day of the license period, were collected from the sales of nonalcoholic beverages and food.
- (4) The determination of the sufficiency of the documentation referred to in subsection (I)(3) above, shall be in the sole discretion of the Local Liquor Control Commissioner. The Local Liquor Control Commissioner may, in his or her discretion, require an audit of the records of the establishment, which is operated by the applicant and for which the license is sought, in order to prove compliance with subsection (I)(3) above. The cost of producing any documentation, including the audit, shall be borne by the applicant. The audit shall be prepared by a certified public accountant and shall cover the time period as ordered by the Local Liquor Control Commissioner.
- (5) An establishment issued an "A-1" license shall be furnished with kitchen facilities and equipment sufficient for food preparation and service as defined herein.
- (6) Any Class "A-1" license, upon application to and approval by the Local Liquor Control Commissioner, may make retail sales of alcoholic liquor in the original package only, with food only, for consumption off the premises, subject to the following conditions:
  - (a) No alcoholic liquor may be sold by any Class "A-1" licensee without the simultaneous sale or consumption of a food item listed for consumption on its premises. The Class "A-1" licensee shall not sell alcoholic liquor with the simultaneous purchase of an item listed in the appetizer, dessert, or side order section of its menu for consumption off the premises; and
  - (b) The Class "A-1" licensee shall submit a fee of **One Hundred Dollars (\$100.00)** in addition to the fee required pursuant to this Chapter.
- (7) Upon application to and approval by the Local Liquor Control Commissioner, a Class "A-1" licensee may manufacture and sell at retail micro brewed beer by the drink for consumption on the premises and by the package for consumption off the premises, provided that the beer is brewed on the premises and the licensee submit a fee of **One Thousand Three Hundred Fifty Dollars (\$1,350.00)** in addition to all fees as required pursuant to this Chapter.

**(Ord. No. 03-23; 10-27-03)**

(J)

**Outdoor Café Permit and Regulations.**

- (1) On application and payment of an investigation and processing fee as set forth in **Section 21-2-6(I)**, the holder of a Class "A-1" license may

be

issued an Outdoor Café Permit which shall authorize the retail sale of alcoholic beverages as an incidental sale of food items in an Outside Café area.

(2) **Application and Fees and Review.**

- (a) Any licensee desiring to operate an Outdoor Café area must submit an application that provides:
  - (i) Number of patrons to be accommodates; and
  - (ii) A drawing identifying the designated area and its proposed use; and
  - (iii) Proof of dram shop insurance which names the City as an additional insured, and will indemnify and hold the City harmless from any action proceeding of a claim of liability asserted against the City as the result of the operation of an Outdoor Café.
- (b) The said application and other mandatory items provided by this Section shall be reviewed by the Liquor Commissioner, and by such other City Departments as the Liquor Commissioner deems warranted. If liquor is being served, the Liquor Commissioner shall either issue or deny the Outdoor Café Permit with any changes or conditions the Liquor Commissioner deems appropriate. If liquor is not served, the Mayor shall authorize such permits with any changes or conditions the Mayor deems appropriate.

(3) An Outdoor Café, upon issuance, entitle the holder of a Class "A-1" classification, outside of the permanent structure of the premises under the following conditions:

- (a) The Outdoor Café must conclude all sales and clear the café no later than normal license hours.
- (b) A fence **six (6) feet** high shall be erected. The fence shall be designed and positioned so as to separate the licensee's patrons from the general public.
- (c) Access to the Outdoor Café shall be from the permanent structure only and no access shall be permitted from the street, sidewalk, or adjoining property. Emergency exits as required are permitted.
- (d) No music of any kind may be played or broadcast from the Outdoor Café or within the permanent structure which is of such a volume so as to disturb the neighborhood in any manner.
- (e) No sales or dispensing of alcoholic liquor may be made from the outside area of permanent structure to any person upon adjoining property, public street, sidewalk or alley; and no alcoholic liquor served in an open container may be removed from the Outdoor Café or permanent structure.
- (f) Outdoor Café shall be in compliance with **Section 21-2-6** of the Code and shall be subject to suspension or revocation by the Liquor Commissioner or the Chief of Police.
- (g) The Outdoor Café shall promptly remove any litter deposited on or in the vicinity of the surface space used by the holder of the permit resulting from the activity or activities conducted by the holder of the permit or on adjoining such space.
- (h) The Outdoor Café shall at all times conduct such activity or activities in an orderly fashion and in such a manner as to protect the public health and safety.

- (i) The applicant shall comply with all health and sanitation regulations.

- (j) The Mayor shall have the right to modify or waive any requirement and approve the issuance of a permit at his/her/its discretion upon a showing of unique circumstances by the applicant.

**(Ord. No. 2004-21; 07-26-04)**

**21-2-7      NATURE OF LICENSE.** A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided, and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee. **(See 235 ILCS 5/6-1) (See Attorney General's Report No. 703; 01-08-48)**

**21-2-8      LIMITATION OF LICENSES.**  
**(A)      Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in the territory annexed to the municipality. Licenses may be issued to them or renewed by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions and contingencies contained herein shall apply.

**(B)      Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then, in that event, the Mayor shall extend the period of time for which a liquor license may be held by the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**.

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(See 235 ILCS 5/4-1)**

**21-2-9      DRAMSHOP INSURANCE.** No license shall be issued hereunder unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the State of Illinois, certifying that the applicant has the following coverages up to the full amount of potential liability as established by the Illinois Compiled Statutes from time to time. **(235 ILCS 5/6-21)**

**21-2-10      DISPLAY OF LICENSE.** Every licensee under this Chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. **(See 235 ILCS 5/6-24)**

**21-2-11      RECORD OF LICENSES.** The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same.

Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours. (See 235 ILCS 5/4-1)**



## ARTICLE III - REGULATIONS

### **21-3-1      HOURS OF OPERATION.**

(A) All places operating under Class A, A-1, B, C, D, E and E-1 licenses shall be closed at **12:00 Midnight** and shall remain closed until **7:00 A.M.** the following morning, except on Friday and Saturday nights. All places operating under said licenses may apply for **two (2)** additional opening hours on Monday – Thursday, and shall close at **2:00 A.M.**, or may be open from **11:00 A.M.** to **10:00 P.M.** on Sundays. There shall be a limit of **twelve (12)** additional opening hour permits per year for each license. **(Ord. No. 2017-18; 11-13-17)**

(B) The Liquor Commissioner may grant permission to Class A, A-1, D, E and E-1 licenses to open for additional hours providing application is made to the City Clerk. A fee of **Fifty Dollars (\$50.00)** shall be paid for each application. There shall be a limit of **twelve (12)** additional opening hours per year for each license. Additional hours are defined in paragraph (A) above. Class C licenses may be granted special Sunday permits for the hours of **11:00 A.M.** to **10:00 P.M.** with an annual fee of **One Thousand Two Hundred Dollars (\$1,200.00)**. **(Ord. No. 2017-18; 11-13-17)**

(C) When New Year's Eve falls on Sunday, however, all places operating under Class A, D and E license may open and sell and dispense alcoholic liquors on **December 31<sup>st</sup>** at **8:00 A.M.** and shall close at **2:00 A.M.** on **January 1<sup>st</sup>**. All places operating under Class B package liquor license may open and sell and dispense alcoholic liquors on **December 31<sup>st</sup>** at **1:00 P.M.** and shall close at **2:00 A.M.** on **January 1<sup>st</sup>**. **(Ord. No. 06-77; 12-11-06)**

(D) The Liquor Commissioner may grant permission to Class H licenses to open for additional hours providing application is made to the City Clerk. A Fee of **Fifty Dollars (\$50.00)** shall be paid for each application. There shall be a limit of **twelve (12)** additional opening hours permits per year for each license. Additional hours shall be defined as follows: Sunday from **11:00 A.M.** to **10:00 P.M.** **(Ord. No. 2018-12; 08-27-18)**

(E) **Off Premises, Outdoor Sales, Entertainment.** All sales, furnishing, delivering or possession by a license holder or its patrons of alcoholic liquor outside of the building listed on its license or an enclosed extension of said building is prohibited. Outside music or noise making entertainment associated with any license holder is also prohibited.

Violation of this Section shall result in revocation of any license issued pursuant to the provisions of this Code. **(Ord. No. 97-22; 06-26-97)**

### **21-3-2      SPECIAL USE PERMIT LICENSE.**

(A) **Transfer from Inventory.** A licensee may submit a request for a special use permit license. Special use approval shall allow a licensed retailer to transfer a portion of its alcoholic liquor inventory from its retail licensed premises to the premises specified in the request, and to sell or offer for sale at retail, in or on the premises specified in the request, the transferred alcoholic liquor for use, or consumption, but not for resale in any form. Special use approval may be granted for the following time periods: **one (1) day** or less, or **two (2)** or more days to a maximum of **fifteen (15) days**. An applicant for special use approval must also submit with the application and proof satisfactory to the Local Liquor Control Commissioner that the applicant will provide dram shop liability insurance as required under state and local law, and naming the City as an additional insured. Such off-premise use of alcohol may also be permitted under such B-1 Zoning requirements and regulations.

(B) **Criteria.** The request shall be considered by the Local Liquor Control Commissioner, and may be approved subject to the following criteria:

- (1) The proposed activity shall be for the benefit of a civic, service, charitable, tourism, educational or other not-for-profit organization or event.
- (2) The location must be a place appropriate as a location used for housing banquets, receptions, special events, etc.
- (3) The licensee shall submit an application for the special use approval to the City Clerk's office **ten (10) days** prior to the date of the proposed activity. The application shall include:
  - (a) The name, address, telephone number and contact person of the entity to benefit from the special use approval, accompanied by written verification from the entity or organization to benefit that they have given approval for the event.
  - (b) The name, address and telephone number of the licensee.
  - (c) The name and address of the premises upon which the proposed activity is to occur, accompanied by written verification from the person in control of the premises that approval has been given for the event to take place at the proposed location.
  - (d) A detailed description of the proposed activity.
  - (e) The date and hours the proposed activity is to occur.
  - (f) A required fee of **Twenty-Five Dollars (\$25.00)** for a **one (1) day** permit; or **Fifty Dollars (\$50.00)** for a **two (2)** or more days to a maximum of **fifteen (15) days** permit.
- (4) Failure to include any of the requested information may result in denial of the request.
- (5) Any additional criteria or restrictions may be imposed by the Local Liquor Commissioner that he/she finds to be desirable for the event.

(C) **Violation; Penalty.** Any violation of the restrictions set forth in this Section will result in the immediate termination of the activity and are subject to the penalty provisions as provided in this Chapter. **(Ord. No. 10-22; 07-26-10)**

### **21-3-3 HAPPY HOUR RESTRICTIONS.**

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

- (1) Serve **two (2)** or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except selling or delivering wine by the bottle or carafe;
- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public;
- (3) Sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in subsection C(7) of this Section.
- (4) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;

- (5) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of

- alcoholic liquor as prizes for such game or contest on the licensed premises; or
- (6) Advertise or promote in any way, whether on or off the licenses premises, any of the practices prohibited under paragraphs (1) through (5).
- (C) Nothing in subsection B shall be construed to prohibit a licensee from:
- (1) Offering free food or entertainment at any time;
  - (2) Including drinks or alcoholic liquor as part of a meal package;
  - (3) Including drinks of alcoholic liquor as part of a hotel package;
  - (4) Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;
  - (5) Providing room service to persons renting rooms at a hotel;
  - (6) Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to **two (2)** or more persons at one time; or
  - (7) Increasing prices of drinks of alcoholic liquor in lieu of, in whole, or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.
- (D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by Article IV of this Code. **(See 235 ILCS 5/6-28)**

**21-3-4 PROHIBITED LOCATIONS.** No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one hundred (100) feet** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(Ord. No. 1193; 10-26-87) (See 235 ILCS 5/6-11)**

**21-3-5 CHANGE OF LOCATION.** A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Mayor. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the Code of this municipality. **(See 235 ILCS 5/7-14)**

**21-3-6 STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC.** No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors. **(See 235 ILCS 5/6-12)**

**21-3-7            TRANSPORTING, ETC., IN MOTOR VEHICLES.** No person shall, within this municipality, transport, carry, possess, or have any alcoholic liquor in, upon, or about any motor vehicle in or on any public street, alley or place, except in the original package and with the seal unbroken.

**21-3-8            OPEN LIQUOR - CUP-TO-GO PROHIBITED.** The licensee shall not knowingly permit any person to leave his premises with open liquor or in a “cup-to-go”.

**21-3-9            LIQUOR IN VEHICLES; UNDERAGE.** The presence in a vehicle other than a public vehicle of any alcoholic liquor shall be prima facie evidence that it is in the possession of and is being carried by all persons occupying such vehicle at the time of which such alcoholic liquor is found, except under the following circumstances:

- (A)                If such liquor is found on the person of one of the occupants therein; or
- (B)                If such vehicle contains at least one occupant over **twenty-one (21) years of age.**

**21-3-10           RESTRICTED RESIDENTIAL AREAS.** It shall be unlawful to establish a retail liquor business within the municipality in violation of the restrictions of the Zoning Code. **(See Chapter 40 of the Revised Code)**

**21-3-11           ELECTION DAYS.** All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter.

**21-3-12           UNLAWFUL ACTS.** It shall be unlawful for any person to do or commit any of the following acts within the City, to-wit:

(A)                **Consumption on Streets, Etc.** The consumption of alcoholic liquor by any person under **twenty-one (21) years** of age is forbidden, and no person, regardless of age, shall drink any alcoholic liquor on any public street, sidewalk, alley, or in any publicly owned or controlled space. Alcoholic liquor may be sold on public property owned by any governmental authority, including municipal corporations, if there is on display on said property a valid, current City Liquor License if all other provisions of the Ordinances of the City of Benton regulating possession, delivery or sale of intoxicating liquors are met and if the holder of the liquor license being displayed receives a permit from the Liquor Commissioner of the City and has the approval of the corporate authorities of the governmental entity which is the owner or lessee of the property. These rights shall be for special events only and such permit shall be limited to the period of time during which the special event is being conducted. **(Ord. No. 1263; 04-09-90)**

(B)                **Location of A-1 Liquor License Businesses.**

- (1)                All holders of an “A-1” liquor license shall be entitled to locate their business anywhere in the corporate City limits, or the area outside the City limits to which the City is entitled to control zoning where a restaurant may be located, subject to contrary State of Illinois liquor license laws and procedural requirements.
- (2)                This Section amends and supersedes any potentially contrary revision in our Zoning Code, where multiple references in **Chapter 40** reference location of restaurants and the location for sales of alcohol. It is meant to supersede all inconsistent provisions. All provisions of the Zoning Code not inconsistent herewith are hereby reaffirmed and ratified.

**(Ord. No. 05-20; 2005)**

**21-3-13      UNLAWFUL ENTERTAINMENT.** No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees **[topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward]**, or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guests.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guests or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guests to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this municipality licensed to sell alcoholic liquor are prohibited:

- (A)                The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;
- (B)                The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
- (C)                The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
- (D)                The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to view any portion of his or her breasts, buttocks, genitals, vulva, or anus;
- (E)                The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

**21-3-14      SANITARY CONDITIONS.** All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(See 410 ILCS 650/1, et seq.)**

**21-3-15      DISEASED EMPLOYEES.** It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(See 410 ILCS 650/10)**

**21-3-16      HEALTH PERMIT.** Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

**21-3-17      PEDDLING.** It shall be unlawful to peddle alcoholic liquor in this municipality. **(See 235 ILCS 5/4-1)**

**21-3-18      GAMBLING.** **(See Sections 7-4-1 et seq.)**

**21-3-19      DISORDERLY HOUSE.** Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(See 235 ILCS 5/4-1)**

**21-3-20      PROHIBITED SALES - GENERALLY.** No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service. **(See 235 ILCS 5/6-16)**

**21-3-21      PERSONS SELLING LIQUOR.**  
(A) It shall be unlawful for any person under the age of **eighteen (18) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any Class "A-1", "B", "C" or "D" licensed retail premises. It shall be unlawful for any person under the age of **twenty-one (21) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any Class "A" licensed retail premises. No bartender or server shall drink or consume any alcoholic liquor, or be under the influence of alcoholic liquor while on duty in any Class "A" licensed retail premises.  
(B) Each licensee is responsible and liable to prosecution for any violation of **Section 21-3-21** by any servant, employee, or agent of the licensee as though the violation had been committed by the licensee.  
(C) Any violation of **Section 21-3-21(A)** shall be punishable by a fine not exceeding **Two Hundred Fifty Dollars (\$250.00)**, or by imprisonment in jail not to exceed **ninety (90) days**, or both.  
**(Ord. No. 07-42; 08-13-07) (See 235 ILCS 5/4-1)**

**21-3-22      UNDERAGED; ENTRY ON LICENSED PREMISES.** It shall be unlawful for any person under the age of **twenty-one (21) years** to enter upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a Class "A" or a Class "B" license unless accompanied by a parent or legal guardian. No holder of a Class "A" or Class "B" license, nor any officer, associate, member, representative, agent or employee of such licensee shall permit any person under the age of **twenty-one (21) years** not accompanied by a parent or legal guardian to enter the licensed premises. For the purpose of preventing the violation of this section, any holder of a Class "A" or a Class "B" license, or his agent or employee, may refuse to permit entry onto the licensed premises of any person under the age of **twenty-one (21) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **twenty-one (21) years** is that person's parent or legal guardian.

This restriction does not apply to persons entering an establishment holding a Class "A-1" or beer/wine liquor license. **(Ord. No. 07-11; 04-23-07) (See 235 ILCS 5/4-1)**

**21-3-23      UNLAWFUL PURCHASE OF LIQUOR.** Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. **(See 235 ILCS 5/6-20)**

**21-3-24      IDENTIFICATION REQUIRED.** If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. **(See 235 ILCS 5/6-20)**

**21-3-25      TRANSFER OF IDENTIFICATION CARD.** No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(See 235 ILCS 5/6-20)**

**21-3-26      POSTING WARNING.** In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the Municipal Clerk, and which shall read as follows:

**UNDERAGE LIQUOR WARNING**

**"YOU ARE SUBJECT TO A FINE UP TO \$750 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR."**

**21-3-27      EXCLUSIONARY PROVISION.** The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(See 235 ILCS 5/6-20)**

**21-3-28      INSPECTIONS.** It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or the Liquor Commissioner for the purpose of making an inspection of such premises or any part thereof. **(See 235 ILCS 5/4-4)**

**21-3-29      BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS.** It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. **(See 235 ILCS 5/6-10)**

**21-3-30      RESTRICTIONS ON LICENSEE.** In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(See 235 ILCS 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(See 235 ILCS 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(See 235 ILCS 5/6-19)**



(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(See 235 ILCS 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(See 235 ILCS 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the commissioner on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

**21-3-31      SELLING FALSE IDENTIFICATION.** Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(See 235 ILCS 5/6-16)**

**21-3-32      FALSE IDENTIFICATION.** Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(See 235 ILCS 5/6-16)**

**21-3-33      UNDERAGED DRINKING ON STREETS.** Any person under the age of **twenty-one (21) years** who has any alcoholic beverage in his possession on any street or highway or in any public place, or in any place open to the public is guilty of violating this Code. This section does not apply to possession by a person under the age of **twenty-one (21) years** making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment. **(See 235 ILCS 5/6-16) (See Section 21-3-12)**

**21-3-34      RESIDENTIAL DRINKING.** Any person shall be guilty of a violation of this Code where he or she knowingly permits a gathering at a residence which he or she occupies of **two (2) or more persons** where any one or more of the persons is under **eighteen (18) years** of age and the following factors also apply:

(A) the person occupying the residence knows that any such person under the age of **eighteen (18)** is in possession of or is consuming any alcoholic beverage; and

(B) the possession or consumption of the alcohol by the person under **eighteen (18)** is not otherwise permitted by this Code and

(C) the person occupying the residence knows that the person under the age of **eighteen (18)** leaves the residence in an intoxicated condition.

For the purposes of this section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee. **(See 235 ILCS 5/6-16)**

**21-3-35      RENTING HOTEL ROOMS FOR DRINKING.** Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(See 235 ILCS 5/6-16)**

## **ARTICLE IV - VIOLATIONS AND PENALTIES**

**21-4-1      OWNER OF PREMISES PERMITTING VIOLATION.** If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(See 235 ILCS 5/10-2)**

**21-4-2      ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE.** Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(See 235 ILCS 5/10-3)**

**21-4-3      REVOCATION OF LICENSE AFTER CONVICTION.** Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Mayor, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license. **(See 235 ILCS 5/10-4)**

**21-4-4      REVOCATION OF LICENSE WHEN EMPLOYEE CONVICTED.** Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and as to the premises, as if said licensee had himself been convicted. **(See 235 ILCS 5/10-5)**

**21-4-5      MISBRANDING.** Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(See 235 ILCS 5/10-6)**

**21-4-6      ABATEMENT OF PLACE USED IN VIOLATION.** Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(See 235 ILCS 5/10-7)**

**21-4-7      USE OF PREMISES FOR ONE YEAR AFTER REVOCATION.** When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(See 235 ILCS 5/7-13)**

**21-4-8      REVOCATION OF LICENSES.** The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A)      In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for violation of any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B)      To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C)      To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D)      To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E)      To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F)      The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(See 235 ILCS 5/4-4)**

**21-4-9      COMPLAINT BY RESIDENTS.** Any **five (5) residents** of the municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(See 235 ILCS 5/7-7)**

**21-4-10      REVOCATION OR SUSPENSION OF LOCAL LICENSE; - NOTICE AND HEARING.** The Liquor Commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of the **Illinois Liquor Act**, any valid ordinance adopted by the municipality, any applicable rule or regulation established by the Liquor Commissioner or the State Commission which is not inconsistent with law.

(A)      **Fine as Opposed to Suspension or Revocation.** In addition to the suspension, the Local Liquor Control Commissioner in any county or municipality may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for a first violation within a twelve (12) month period, One Thousand Five Hundred Dollars (\$1,500.00) for a second violation within a twelve (12) month period, and Two Thousand Five Hundred Dollars (\$2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars (\$15,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. **(See P.A. 89-0063)**

(B)      **Revocation and Suspension: Notice.** However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a **three (3) day** written notice to the licensee affording the licensee an

opportunity to appear and defend. All such hearings shall be open to the public and the Liquor

Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than **seven (7) days**, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) **Hearing.** The Liquor Commissioner shall, within **five (5) days** after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the **five (5) days** upon the license. The findings of the Commissioner shall be predicted upon competent evidence. **(See 235 ILCS 5/7-5)**

**21-4-11      APPEALS FROM ORDER OF LIQUOR COMMISSIONER.** Except as provided in this section, any order or action of a Local Liquor Control Commissioner levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than **thirty (30) days** to grant a hearing upon a complaint to revoke or suspend a license may within **twenty (20) days** after notice of such order or action by appealed by any resident of the municipality under the jurisdiction of the Liquor Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Liquor Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. **(See 235 ILCS 5/7-9)**

**21-4-12      SUBSEQUENT VIOLATIONS IN A YEAR.** In any case in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period**. **(See 235 ILCS 5/7-9)**

**21-4-13      APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION.** Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(See 235 ILCS 5/7-9)**

APPLICATION  
FOR  
LIQUOR LICENSE  
REQUIRED BY  
CITY OF  
BENTON  
TO BE FILED WITH  
THE  
CITY CLERK

License No. \_\_\_\_\_  
Date Issued \_\_\_\_\_  
Expires \_\_\_\_\_  
Checked By \_\_\_\_\_  
Approved By \_\_\_\_\_  
Date \_\_\_\_\_  
Order to Receive No. \_\_\_\_\_  
Amount \_\_\_\_\_  
☐ Cash ☐ Bank Draft  
☐ Cashier's Check ☐ Money Order  
☐ Certified Check ☐ \_\_\_\_\_

**IMPORTANT -- READ CAREFULLY -- PERSONAL CHECKS NOT ACCEPTED UNLESS CERTIFIED**

This application properly completed and signed must be filed with the City Clerk and must be accompanied by a remittance in the proper amount, made payable to the City Treasurer. This remittance must be in the form of a Certified or Cashier's Check, United States Postal Money Order, Express Money Order, or Licensed Currency Exchange Money Order, Bank Draft, Bank Money Order, or Personal Money Order. Cash accepted.

The undersigned individual or partnership hereby makes application for a LIQUOR LICENSE and submits the following information:

1. Applicant: \_\_\_\_\_  
(GIVE NAME OF INDIVIDUAL OR NAMES OF PARTNERS---TYPE OR PRINT PLAINLY)
2. Trade, Partnership or Assumed Name \_\_\_\_\_  
TYPE OR PRINT NAME PLAINLY TELEPHONE \_\_\_\_\_
3. Location of above place of business (NUMBER AND STREET OR LOT AND BLOCK OR SECTION, TOWNSHIP AND RANGE MUST BE GIVEN) \_\_\_\_\_  
CITY/TOWN/OR VILLAGE ZIP CODE RURAL ROUTE AND POST OFFICE \_\_\_\_\_
4. Has your Assumed Name been filed with the County Clerk? \_\_\_\_\_
5. Are alcoholic liquors stored but not sold at any location other than the one given above? \_\_\_\_\_  
If "yes", give location: \_\_\_\_\_  
NUMBER AND STREET OR LOT AND BLOCK OR SECTION, TOWNSHIP AND RANGE, CITY
6. Check principal kind of business: ☐ Restaurant ☐ Grocery ☐ Hotel ☐ Other  
☐ Tavern ☐ Amusement Place ☐ Country Club  
☐ Package Store ☐ Department Store ☐ Social Club
7. Give number of your Current Liquor License for this location \_\_\_\_\_  
A. In whose name or names is your license issued? \_\_\_\_\_  
B. Date license issued \_\_\_\_\_ Date license expires \_\_\_\_\_  
Month Day Year Month Day Year
8. Give name and address of owner of premises: \_\_\_\_\_  
When does your lease expire? \_\_\_\_\_  
Month Day Year
9. Give the date you first made application for a Liquor License for any location in Illinois: \_\_\_\_\_  
(Month/Date/Year).  
A. Disposition of application: \_\_\_\_\_  
B. Give address \_\_\_\_\_  
NUMBER AND STREET OR LOT AND BLOCK OR SECTION, TOWNSHIP AND RANGE, CITY
10. Give date you began liquor business at this location \_\_\_\_\_  
Month Day Year
11. Give date partnership was formed under name given on Line 1: \_\_\_\_\_  
Month Day Year
12. Has a Liquor License been revoked at this location within the past year? \_\_\_\_\_
13. Is this business located within \_\_\_\_\_ feet of any church, school, hospital, home for the aged or indigent persons or for veterans, their wives or children or any naval or military station? \_\_\_\_\_  
A. If answer to the above is "yes", is your place of business a hotel offering restaurant service, a regularly organized club, a food shop, or other place where the sale of liquor is not the principal business carried on? \_\_\_\_\_  
B. If answer to (A) is "yes", on what date was business started? \_\_\_\_\_ (Month/Day/Year)
14. Has any manufacturer, importing distributor or distributor directly or indirectly paid or agreed to pay for this license, advanced money, or anything else of value, except as specifically permitted in the Act, or any credit, (Other than merchandising credit in the ordinary course of business as specifically permitted in the Act), or is such a person directly or indirectly interested in the ownership, conduct or operation of the place of business? \_\_\_\_\_ If answer is "yes", give particulars \_\_\_\_\_
15. Name \_\_\_\_\_  
A. Residence Address \_\_\_\_\_  
(NUMBER AND STREET OR RURAL ROUTE) \_\_\_\_\_  
(NAME OF CITY, COUNTY AND STATE) \_\_\_\_\_  
B. Place of Birth: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
C. Are you a citizen of the United States? \_\_\_\_\_  
If a naturalized citizen, time and place of naturalization? \_\_\_\_\_
16. Name \_\_\_\_\_  
A. Residence Address \_\_\_\_\_  
(NUMBER AND STREET OR RURAL ROUTE) \_\_\_\_\_  
(NAME OF CITY, COUNTY AND STATE) \_\_\_\_\_  
B. Place of Birth: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
C. Are you a citizen of the United States? \_\_\_\_\_  
If a naturalized citizen, time and place of naturalization? \_\_\_\_\_

- D. Have you ever been convicted of a felony or otherwise disqualified to receive the license applied for by reason of any matter or thing contained in the Illinois Liquor Control Act or the Municipal Liquor Code? ☐ YES ☐ NO  
If "yes", name court of conviction \_\_\_\_\_
- E. Have you ever made application for a liquor license for any other premises? \_\_\_\_\_  
DATE: \_\_\_\_\_  
State disposition of application: \_\_\_\_\_  
Give address: \_\_\_\_\_
- F. Are you or is any other person, directly or indirectly interested in your place of business, a public official as defined in Sec. 2 (14) Art. VI of the Illinois Liquor Control Act? \_\_\_\_\_  
If so, office held? \_\_\_\_\_
- G. Has any license previously issued to you by any State or local authorities been SUSPENDED? \_\_\_\_\_  
DATE: \_\_\_\_\_  
If so, state reasons therefor: \_\_\_\_\_  
WHERE: \_\_\_\_\_  
(CITY COUNTY STATE)
- H. Has any license previously issued to you by any State or local authorities been REVOKED? \_\_\_\_\_  
If so, state reasons therefor: \_\_\_\_\_  
WHERE: \_\_\_\_\_  
(CITY COUNTY STATE)
- I. Will you comply with the Local Liquor Code and the Regulations in connection therewith? \_\_\_\_\_

- D. Have you ever been convicted of a felony or otherwise disqualified to receive the license applied for by reason of any matter or thing contained in the Illinois Liquor Control Act or the Municipal Liquor Code? ☐ YES ☐ NO  
If "yes", name court of conviction \_\_\_\_\_
- E. Have your ever made application for a liquor license for any other premises? \_\_\_\_\_  
DATE: \_\_\_\_\_  
State disposition of application: \_\_\_\_\_  
Give address: \_\_\_\_\_
- F. Are you or is any other person, directly or indirectly interested in your place of business, a public official as defined in Sec. 2 (14) Art. VI of the Illinois Liquor Control Act? \_\_\_\_\_  
If so, office held? \_\_\_\_\_
- G. Has any license previously issued to you by any State or local authorities been SUSPENDED? \_\_\_\_\_  
DATE: \_\_\_\_\_  
If so, state reasons therefor: \_\_\_\_\_  
WHERE: \_\_\_\_\_  
(CITY COUNTY STATE)
- H. Has any license previously issued to you by any State or local authorities been REVOKED? \_\_\_\_\_  
If so, state reasons therefor: \_\_\_\_\_  
WHERE: \_\_\_\_\_  
(CITY COUNTY STATE)
- I. Will you comply with the Local Liquor Code and the Regulations in connection therewith? \_\_\_\_\_

17. Do you possess a current Federal Wagering or Gaming Device Stamp? ☐ YES ☐ NO  
Stamp No. \_\_\_\_\_ Amount \_\_\_\_\_
18. Will this business be conducted by a manager or agent? ☐ YES ☐ NO If answer is "YES", Manager or Agent must give the following information:
- A. Name \_\_\_\_\_ Date of Birth \_\_\_\_\_
- B. Residence Address \_\_\_\_\_  
(STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY COUNTY STATE)
- C. Place of Birth \_\_\_\_\_ Are you a citizen of the United States? ☐ YES ☐ NO
- D. If a naturalized citizen, time and place of naturalization? \_\_\_\_\_
- E. Have you ever been convicted of any crime as stated in Question 15-D or 16-D above?  
☐ YES ☐ NO State Offense: \_\_\_\_\_
- F. Are you or have you ever been interested in any liquor business at another address? ☐ YES ☐ NO  
DATE: \_\_\_\_\_ If so, state reasons therefor \_\_\_\_\_  
WHERE: \_\_\_\_\_ (CITY, COUNTY, AND STATE)
- G. Has any license previously issued to you by any State or local authorities been SUSPENDED?  
☐ YES ☐ NO DATE: \_\_\_\_\_ If so, state reasons therefor \_\_\_\_\_  
WHERE: \_\_\_\_\_ (CITY, COUNTY AND STATE)
- H. Has any license previously issued to you by any State or local authorities been REVOKED?  
☐ YES ☐ NO DATE: \_\_\_\_\_ If so, state reasons therefor \_\_\_\_\_  
WHERE: \_\_\_\_\_ (CITY, COUNTY AND STATE)

**NO LICENSE SHALL BE ISSUED UNLESS ALL THE ABOVE QUESTIONS ARE COMPLETELY ANSWERED**

**AFFIDAVIT  
(PLEASE READ CAREFULLY BEFORE SIGNING)**

I (We) do solemnly swear (or affirm) that the statements given above are true and correct to the best of my (our) knowledge and belief; that I (We) will comply with all regulations of Federal, State and Local Liquor Control Laws; that a copy of an ordinance governing the sale at retail of alcoholic liquors and beverages in this municipality has been furnished to me (us); that I (we) understand the same, and agree to comply with all the provisions set forth therein.

I (We) swear (or affirm) that I (We) will not violate any of the laws of the State of Illinois or of the United States of America in the conduct of the place of business described herein and that the statements of Benton, Illinois to issue the license herein applied for.

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., \_\_\_\_\_.  
APPLICANT(S): \_\_\_\_\_

(SEAL)

CLERK

## **CHAPTER 22**

### **MANDATED POLICIES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>IDENTITY THEFT</i></b>	
	<i>Section 22-1-1 - Program Adoption</i>	<i>22-1</i>
	<i>Section 22-1-2 - Program Purpose and Definitions</i>	<i>22-1</i>
	<i>Section 22-1-3 - Identification of Red Flags</i>	<i>22-2</i>
	<i>Section 22-1-4 - Detecting Red Flags</i>	<i>22-3</i>
	<i>Section 22-1-5 - Preventing and Mitigating Identity Theft</i>	<i>22-3</i>
	<i>Section 22-1-6 - Program Updates</i>	<i>22-4</i>
	<i>Section 22-1-7 - Program Administration</i>	<i>22-4</i>
<b><i>II</i></b>	<b><i>USE OF SOCIAL SECURITY NUMBERS</i></b>	
	<i>Section 22-2-1 - Definitions</i>	<i>22-5</i>
	<i>Section 22-2-2 - Prohibited Activities</i>	<i>22-5</i>
	<i>Section 22-2-3 - Public Inspection and Copying of Documents</i>	<i>22-6</i>
	<i>Section 22-2-4 - Applicability</i>	<i>22-6</i>
	<i>Section 22-2-5 - Compliance with Federal Law</i>	<i>22-6</i>
	<i>Section 22-2-6 - Embedded Social Security Numbers</i>	<i>22-7</i>
	<i>Section 22-2-7 - Identity--Protection Requirements</i>	<i>22-7</i>
	<i>Section 22-2-8 - Penalty</i>	<i>22-7</i>
	<i>Section 22-2-9 - Amendment of Privacy Policy</i>	<i>22-7</i>
	<i>Section 22-2-10 - Conflict with Stricter Laws</i>	<i>22-7</i>
<b><i>III</i></b>	<b><i>FREEDOM OF INFORMATION POLICY</i></b>	
	<i>Section 22-3-1 - Public Records Available</i>	<i>22-8</i>
	<i>Section 22-3-2 - Designation, Duties and Training of Freedom of Information Act Officers</i>	<i>22-8</i>
	<i>Section 22-3-3 - Procedures</i>	<i>22-8</i>
	<i>Section 22-3-4 - Requests to Inspect or Copy</i>	<i>22-8</i>
	<i>Section 22-3-5 - Request for Commercial Purposes</i>	<i>22-9</i>
	<i>Section 22-3-6 - Fees</i>	<i>22-10</i>
	<i>Section 22-3-7 - Public File</i>	<i>22-10</i>
	<i>Section 22-3-8 - Granting or Denial of Requests</i>	<i>22-10</i>
	<i>Section 22-3-9 - Certain Information Exempt From Inspection and Copying</i>	<i>22-10</i>
	<i>Section 22-3-10 - Notice of Denial of Request; Appeals</i>	<i>22-10</i>
<b><i>IV</i></b>	<b><i>FAIR HOUSING CODE</i></b>	
	<i>Section 22-4-1 - Declaration of Policy</i>	<i>22-11</i>
	<i>Section 22-4-2 - Definitions</i>	<i>22-11</i>
	<i>Section 22-4-3 - Prohibited Acts</i>	<i>22-12</i>
	<i>Section 22-4-4 - Penalty</i>	<i>22-12</i>



<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b>INVESTMENT POLICY</b>	
	Section 22-5-1 - Investment Policy	22-13
	Section 22-5-2 - Scope	22-13
	Section 22-5-3 - Prudence	22-13
	Section 22-5-4 - Objective	22-13
	Section 22-5-5 - Delegation of Authority	22-13
	Section 22-5-6 - Ethics and Conflicts of Interest	22-13
	Section 22-5-7 - Authorized Financial Dealers and Institutions	22-13
	Section 22-5-8 - Authorized and Suitable Investments	22-13
	Section 22-5-9 - Collateralization	22-13
	Section 22-5-10 - Safekeeping and Custody	22-14
	Section 22-5-11 - Diversification	22-14
	Section 22-5-12 - Maximum Maturities	22-14
	Section 22-5-13 - Internal Control	22-14
	Section 22-5-14 - Performance Standards	22-14
	Section 22-5-15 - Reporting	22-14
	Section 22-5-16 - Investment Policy Adoption and Modification	22-14
<b>VI</b>	<b>ETHICS CODE</b>	
	Section 22-6-1 - State Officials and Employees Ethics Act	22-15
	Section 22-6-2 - Ethics Advisor	22-15
	Section 22-6-3 - Duties	22-15
<b>VII</b>	<b>EQUAL EMPLOYMENT POLICY</b>	
	Section 22-7-1 - Adoption of Codes	22-16
	Section 22-7-2 - Non-Discriminatory Practices	22-16
	Section 22-7-3 - Contracting with Non-Complaints	22-16
	Section 22-7-4 - Outreach to All	22-18
	Section 22-7-5 - Minority Hiring	22-18
	Section 22-7-6 - Accommodations for Disabled	22-18
	Section 22-7-7 - Compliance by Employees	22-18
	Section 22-7-8 - Designated Enforcers	22-18
<b>VIII</b>	<b>POLICY PROHIBITING SEXUAL HARASSMENT</b>	
	Section 22-8-1 - Prohibition on Sexual Harassment	22-19
	Section 22-8-2 - Definition of Sexual Harassment	22-19
	Section 22-8-3 - Procedure for Reporting an Allegation of Sexual Harassment	22-19
	Section 22-8-4 - Prohibition on Retaliation for Reporting Sexual Harassment Allegations	22-20
	Section 22-8-5 - Consequences of a Violation of the Prohibition on Sexual Harassment	22-21
	Section 22-8-6 - Consequences for Knowingly Making a False Report	22-21

## CHAPTER 22

### MANDATED POLICIES

#### ARTICLE I – IDENTITY THEFT

**22-1-1      PROGRAM ADOPTION.** The City developed this Identity Theft Prevention Program pursuant to the Federal Trade Commission's Red Flags Rule, which implements Section 114 of the Fair and Accurate Credit Transactions of 2003. 16 C.F.R. § 681.2. This Program was developed with oversight and approval of the City. After consideration of the size and complexity of the Utility's operations and account systems, and the nature and scope of the Utility's activities, the City Council determined that this Program was appropriate for the City, and therefore approved this Program on February 9, 2009.

**22-1-2      PROGRAM PURPOSE AND DEFINITIONS.**  
(A) **Fulfilling Requirements of the Red Flags Rule.** Under the Red Flag Rule, every financial institution and creditor is required to establish an "Identity Theft Prevention Program" tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

- (1) Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
- (2) Detect Red Flags that have been incorporated into the Program;
- (3) Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
- (4) Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

(B) **Red Flags Rule Definitions Used in this Program.** The Red Flags Rule defines "Identity Theft" as "fraud committed using the identifying information of another person" and a "Red Flag" as "a pattern, practice, or specific activity that indicates the possible existence of Identity Theft."

According to the Rule, a municipal utility is a creditor subject to the Rule requirements. The Rule defines creditors "to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors."

All the Utility's accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the Rule. Under the Rule, a "covered account" is:

- (1) Any account the Utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
- (2) Any other account the Utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Utility from Identity Theft.

"Identifying information" is defined under the Rules as "any name or number that may be used, alone or in conjunction with any other information, to identify a specific person," including: name, address, telephone number, social security number, date of birth, government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer's Internet Protocol address, or routing code.

**22-1-3 IDENTIFICATION OF RED FLAGS.** In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The Utility identifies the following red flags, in each of the listed categories:

- (A) **Notifications and Warnings From Credit Reporting Agencies; Red Flags.**
  - (1) Report of fraud accompanying a credit report;
  - (2) Notice or report from a credit agency of a credit freeze on a customer or applicant;
  - (3) Notice or report from a credit agency of an active duty alert for an applicant; and
  - (4) Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.
- (B) **Suspicious Documents; Red Flags.**
  - (1) Identification document or card that appears to be forged, altered or inauthentic;
  - (2) Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
  - (3) Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
  - (4) Application for service that appears to have been altered or forged.
- (C) **Suspicious Personal Identifying Information; Red Flags.**
  - (1) Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
  - (2) Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
  - (3) Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
  - (4) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
  - (5) Social security number presented that is the same as one given by another customer;
  - (6) An address or phone number presented that is the same as that of another person;
  - (7) A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
  - (8) A person's identifying information is not consistent with the information that is on file for the customer.
- (D) **Suspicious Account Activity or Unusual Use of Account; Red Flags.**
  - (1) Change of address for an account followed by a request to change the account holder's name;
  - (2) Payments stop on an otherwise consistently up-to-date account;
  - (3) Account used in a way that is not consistent with prior use (example: very high activity);
  - (4) Mail sent to the account holder is repeatedly returned as undeliverable;
  - (5) Notice to the Utility that a customer is not receiving mail sent by the Utility;
  - (6) Notice to the Utility that an account has unauthorized activity;
  - (7) Breach in the Utility's computer system security; and
  - (8) Unauthorized access to or use of customer account information.

(E)

**Alerts From Others; Red Flag.**

- (1) Notice to the Utility from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

**22-1-4**

**DETECTING RED FLAGS.**

(A)

**New Accounts.** In order to detect any of the Red Flags identified above associated with the opening of a **new account**, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

- (1) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- (2) Verify the customer's identity (for instance, review a driver's license or other identification card);
- (3) Review documentation showing the existence of a business entity; and
- (4) Independently contact the customer.

(B)

**Existing Accounts.** In order to detect any of the Red Flags identified above for an **existing account**, Utility personnel will take the following steps to monitor transactions with an account:

- (1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- (2) Verify the validity of requests to change billing addresses; and
- (3) Verify changes in banking information given for billing and payment purposes.

**22-1-5**

**PREVENTING AND MITIGATING IDENTITY THEFT.**

(A)

**Prevent and Mitigate.** In the event Utility personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

- (1) Continue to monitor an account for evidence of Identity Theft;
- (2) Contact the customer;
- (3) Change any passwords or other security devices that permit access to accounts;
- (4) Not open a new account;
- (5) Close an existing account;
- (6) Reopen an account with a new number;
- (7) Notify the Program Administrator for determination of the appropriate step(s) to take;
- (8) Notify law enforcement; or
- (9) Determine that no response is warranted under the particular circumstances.

(B)

**Protect Customer Identifying Information.** In order to further prevent the likelihood of Identity Theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

- (1) Ensure that its website is secure or provide clear notice that the website is not secure;
- (2) Ensure complete and secure destruction of paper documents and computer files containing customer information;
- (3) Ensure that office computers are password protected and that computer screens lock after a set period of time;
- (4) Keep offices clear of papers containing customer information;
- (5) Request only the last 4 digits of social security numbers (if any);
- (6) Ensure computer virus protection is up to date; and

- (7) Require and keep only the kinds of customer information that are necessary for utility purposes.

**22-1-6      PROGRAM UPDATES.** The Program Administrator will periodically review and update this Program to reflect changes in risks to customers and the soundness of the Utility from Identity Theft. In doing so, the Program Administrator will consider the Utility's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the Utility's business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the City Council with his or her recommended changes and the City Council will make a determination of whether to accept, modify or reject those changes to the Program.

**22-1-7      PROGRAM ADMINISTRATION.**

(A) **Oversight.** Responsibility for developing, implementing and updating this Program lies with an Identity Theft Committee for the Utility. The Committee is headed by a Program Administrator who may be the head of the Utility or his or her appointee. Two or more other individuals appointed by the head of the Utility or the Program Administrator comprise the remainder of the committee membership. The Program Administrator will be responsible for the Program administration, for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

(B) **Staff Training and Reports.** Utility staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected.

(C) **Service Provider Arrangements.** In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

- (1) Require, by contract, that service providers have such policies and procedures in place; and
- (2) Require, by contract, that service providers review the Utility's Program and report any Red Flags to the Program Administrator.

(D) **Non-Disclosure of Specific Practices.** For the effectiveness of this Identity Theft Prevention Program, knowledge about specific Red Flag identification, detection, mitigation and prevention practices must be limited to the Identity Theft Committee who developed this Program and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered "security information" as defined in Minnesota Statutes Section 13.37 and are unavailable to the public because disclosure of them would be likely to substantially jeopardized the security of information against improper use, that use being to circumvent the Utility's Identity Theft prevention efforts in order to facilitate the commission of Identity Theft.

## ARTICLE II - USE OF SOCIAL SECURITY NUMBERS

### 22-2-1 DEFINITIONS.

**"Person"** means any individual in the employ of the City.

**"Policy" or "Privacy Policy"** means this document, as now or hereafter amended.

**"Publicly post" or "publicly display"** means to intentionally communicate or otherwise intentionally make available to the general public.

**"Social Security Number"** means the nine (9) digit number assigned to an individual by the United States Social Security Administration for the purposes authorized or required under the United States Social Security Act of August 14, 1935, as amended (Public Law 74-271).

### 22-2-2 PROHIBITED ACTIVITIES.

(A) No officer or employee of the City shall do any of the following:

- (1) Publicly post or publicly display in any manner an individual's Social Security Number.
- (2) Print an individual's Social Security Number on any card required for the individual to access products or services provided by the person or entity.
- (3) Require an individual to transmit his or her Social Security Number over the Internet, unless the connection is secure or the Social Security Number is encrypted.
- (4) Print an individual's Social Security Number on any materials that are mailed to the individual, through the United States Postal Service, any private mail service, electronic mail, or a similar method of delivery, unless Illinois or federal law requires the Social Security Number to be on the document to be mailed. Notwithstanding any provision in this Section to the contrary, Social Security Numbers may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Illinois Unemployment Insurance Act, any material mailed in connection with any tax administered by the Illinois Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security Number. A Social Security Number that may permissibly be mailed under this Section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.

(B) Except as otherwise provided in this policy, beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City shall do any of the following:

- (1) Collect, use, or disclose a Social Security number from an individual, unless (i) required to do so under State or Federal law, rules, or regulations, or the collection, use, or disclosure of the Social Security Number is otherwise necessary for the performance of that agency's duties and responsibilities; (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and (iii) the Social Security Number collected is relevant to the documented need and purpose.
- (2) Require an individual to use his or her Social Security Number to access an Internet website.
- (3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

- (C) The prohibitions in subsection (B) do not apply in the following circumstances:
- (1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the City or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the City must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the City to protect an individual's Social Security Number will be achieved.
  - (2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.
  - (3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: City employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a City facility.
  - (4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.
  - (5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.
- (D) Any standards of the City for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the City shall control.

**22-2-3      PUBLIC INSPECTION AND COPYING OF DOCUMENTS.** Notwithstanding any other provision of this policy to the contrary, all officers and employees of the City must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an individual's Social Security Number. All officers and employees of the City must redact Social Security Numbers from the information or documents before allowing the public inspection or copying of the information or documents.

**22-2-4      APPLICABILITY.**

(A) This policy does not apply to the collection, use, or disclosure of a Social Security Number as required by State or Federal law, rule, or regulation.

(B) This policy does not apply to documents that are required to be open to the public under any State or Federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois.

**22-2-5      COMPLIANCE WITH FEDERAL LAW.** If a federal law takes effect requiring any federal agency to establish a national unique patient health identifier program, the City shall follow that law.

**22-2-6            EMBEDDED SOCIAL SECURITY NUMBERS.** Beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City may encode or embed a Social Security Number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of removing the Social Security Number as required by this Policy.

**22-2-7            IDENTITY--PROTECTION REQUIREMENTS.**

(A) All officers, employees and agents of the City identified as having access to Social Security Numbers in the course of performing their duties to be trained to protect the confidentiality of all Social Security Numbers. Training shall include instructions on the proper handling of information that contains Social Security Numbers from the time of collection through the destruction of the information.

(B) Only employees who are required to use or handle information or documents that contain Social Security Numbers have access to such information or documents.

(C) Social Security Numbers requested from an individual shall be provided in a manner that makes the Social Security Number easily redacted if required to be released as part of a public records' request.

(D) When collecting a Social Security Number or upon request by the individual, a statement of the purpose or purposes for which the City is collecting and using the Social Security Number be provided.

(E) A written copy of this Privacy Policy, and any amendment thereto, shall be filed with the City Council within **thirty (30) days** after approval of this Policy or any amendment thereto.

(F) The City shall advise its employees of the existence of the Policy and make a copy of this Policy available to each employee, and shall also make this Privacy Policy available to any member of the public, upon request and at no charge for a single copy of this Privacy Policy. If the City amends this Privacy Policy, then the City shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

**22-2-8            PENALTY.** Any person who violates any portion of this Article, as now or hereafter amended, shall be subject to a fine of not less than **One Hundred Dollars (\$100.00)** for the first such violation and a fine of not less than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereafter.

**22-2-9            AMENDMENT OF PRIVACY POLICY.** The Privacy Policy adopted in this Division and Chapter shall be subject to amendment from time to time by the City Council as the City Council shall deem necessary in its sole discretion in order to maintain the City's compliance with the Illinois Identity Protection Act as now or hereafter amended.

**22-2-10          CONFLICT WITH STRICTER LAWS.** This Policy does not supersede any more restrictive law, rule, or regulation regarding the collection, use, or disclosure of Social Security Numbers.

**[NOTE: This Policy is to comply with Public Act 096-9874 of the State of Illinois, cited as the Identity Protection Act, and codified as Title 30, Act 5, Section 1, et seq., as now or hereafter amended.]**



## **ARTICLE III - FREEDOM OF INFORMATION POLICY**

**22-3-1      PUBLIC RECORDS AVAILABLE.** To the extent required by the Freedom of Information Act, **5 ILCS 140-1 et seq.** the City shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of the Freedom of Information Act, **5 ILCSA 140/7.**

### **22-3-2      DESIGNATION, DUTIES AND TRAINING OF FREEDOM OF INFORMATION ACT OFFICERS.**

(A) The City Administrative Assistant is hereby designated to act as Freedom of Information Officer. The Officer shall receive requests submitted to the City under the Freedom of Information Act, insure that the City responds to requests in a timely fashion, and issue responses under the Freedom of Information Act. The Freedom of Information officer shall develop a list of documents or categories of records that the City shall immediately disclose upon request.

(B) Upon receiving a request for a public record, the Freedom of Information Officer shall:

- (1) Note the date the City receives the written request;
- (2) Compute the date on which the period for response will expire and make a notation of that date on the written request;
- (3) Maintain an electronic or paper copy of the written request including all documents submitted with the request until the request has been complied with or denied; and
- (4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the person making the request, and a copy of other communications regarding the request.

(C) The Freedom of Information Act officers shall successfully complete an electronic training curriculum to be developed by the Public Access Counselor in the office of the Attorney General of the State of Illinois and thereafter successfully complete an annual training program. Thereafter when a new Freedom of Information officer is designated by the City, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information officer.

**22-3-3      PROCEDURES.** The City shall prominently display at the City Clerk's office, display on its website, make available for inspection and copying, and send through the mail as requested, each of the following:

(A) A brief description of the City, which will include, but not be limited to a block diagram giving its functional departments, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees and the identification and membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of the City, or which exercises control over its policies or procedures; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officers, the address where request for public records should be directed, and the fees relating thereto.

**22-3-4      REQUESTS TO INSPECT OR COPY.** All requests to inspect or copy records or documents prepared, maintained or under the control of the City shall be made in the following manner:

(A) All requests shall be in writing, shall state with reasonable particularity what records are to be inspected or copied, shall state whether the records are requested for a commercial

purpose, and shall be signed by the person making the request. The request may be, but is not required to be, submitted on a form provided by the City.

(B) The written request shall be submitted to the City Clerk or to the Mayor. If neither the City Clerk nor the Mayor is available, the request shall be submitted to any employee of the City acting under the direction of the City Clerk.

(C) The Officer receiving the request shall date stamp the request and indicate the date by which a response to the request must be made.

(D) Each request for other than commercial purposes shall be granted or denied in writing within **five (5) business days** after its receipt by the City, except as hereafter stated. The failure to grant or deny a request within **five (5) business days** shall operate as a denial, except as provided hereinbelow.

(E) The time limit set forth hereinabove may be extended for an additional **five (5) business days** by notice in writing to the person making the request of the **five (5) business days** extension. The notification shall state the reason(s) for the **five (5) business days** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the City may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the City agree to extend the period for compliance, a failure by the City to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

- (1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.
- (2) **Fifteen Cents (\$0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.
- (3) **One Dollar (\$1.00)** for each certified copy requested.
- (4) **Ten Cents (\$0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at City Hall. If the person making the request asks the City to mail the documents, he or she shall provide the City with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents (\$2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the City shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the City shall furnish it in the format in which it is maintained by the City, or in paper format at the option of the person making the request.

**22-3-5 REQUEST FOR COMMERCIAL PURPOSES.** The City shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. The response shall (1) provide to the person making the request an estimate of the time required by the City to provide the records requested and an estimate of the fees to be charged, which the City may require the person to pay in full before copying the requested documents, (2) deny the request pursuant to **one (1)** or more of the exemptions set out in the Freedom of Information Act, **5 ILCS 140/1 et seq.**, (3) notify the person making the request that the request is unduly burdensome and extend an opportunity to the person making the request to attempt to reduce the request to manageable portions, or (4) provide the records requested.

Unless the records are exempt from disclosure, the City shall comply with a commercial request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

It is unlawful for a person to knowingly obtain a public record for a commercial purpose within disclosing that it is for a commercial purpose, and any person obtaining a public record for commercial purpose without disclosing that it is for a commercial purpose shall be fined in accordance with the City Code.

**22-3-6**            **FEES.** The City Clerk shall determine when the established fees are subject to waiver or reduction because the release of the requested information is in the public interest.

**22-3-7**            **PUBLIC FILE.** The City Clerk shall establish and maintain a central file, open to the public, of all denials of requests for records which shall be indexed according to the exemption utilized to deny a request for records, and to the extent possible, according to the types of records requested.

**22-3-8**            **GRANTING OR DENIAL OF REQUESTS.** A request for all records within a category shall be granted unless the request constitutes an undue burden upon the City. Prior to denying a request based upon the burdensome nature of the request, an opportunity to narrow the request to manageable proportions shall be provided. If the attempt to narrow the request fails, the request may be denied because compliance will unduly burden the operations of the City and the burden outweighs the public interest in the information. The denial shall be in writing, specifying the reasons why compliance will be unduly burdensome and the extent to which compliance will so burden the operations of the City. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided are properly denied under the Freedom of Information Act shall be deemed unduly burdensome under this Section.

**22-3-9**            **CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING.**  
If any record exempt from disclosure contains material which is not exempt, the information which is exempt shall be deleted and the remaining information shall be available for inspection and copying.

**22-3-10**           **NOTICE OF DENIAL OF REQUEST; APPEALS.**  
(A)                If the City denies the request, the City shall notify the person making the request in writing of:

- (1)      the decision to deny the request;
- (2)      the reasons for the denial, including a detailed factual basis for the application of any exemption claim;
- (3)      the names and titles or positions of each person responsible for the denial;
- (4)      the right to review by the Public Access Counselor and the address and phone number for the Public Access Counselor; and
- (5)      the right to judicial review.

If an exemption is claimed, then the denial must include the specific reasons for the denial, including a detailed factual basis and a citation to support a legal authority.

(B)                If the City asserts an exemption under Subsection (1)(c) or (1)(f) of Section 7 of the Freedom of Information Act, it shall, within the time periods provided for Respondent to request, provide written notice to the person making the request and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:

- (1)      a copy of the request for access to records;
- (2)      the proposed response from the City;
- (3)      a detailed summary of the City's basis for asserting its exemption.

If the Public Access Counselor determines that further inquiry is warranted, the procedures set forth in the Freedom of Information Act, as amended from time to time, regarding the review of denials shall be applicable. Times for response compliance by the City to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

## ARTICLE IV - FAIR HOUSING CODE

### **22-4-1      DECLARATION OF POLICY.**

(A) In furthering the policy of the State of Illinois as expressed in its Constitution and other laws; in order that the safety and general welfare, peace and health of all the inhabitants of the City may be ensured, it is hereby declared the policy of the City to assure equal opportunity to all residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical disability to live in decent, sanitary, healthful, standard living quarters.

(B) It is the policy of the City that no owner, lessee, sub-lessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease (or otherwise control) any housing accommodation and/or real property within the City, or any agent of these shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed, or disability in the conditions, terms, privileges of the sale, rental or lease of any housing accommodation and/or real property or in the furnishing of facilities and/or services in connection therewith.

(C) Relocation shall be carried out in a manner that will promote maximum choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

**22-4-2      DEFINITIONS.** Unless a different meaning clearly appears from the context, the following terms shall have the meaning as described in this Section and as used in this Code:

(A) **"Discriminate".** The terms "discriminate" or "discrimination" mean any difference expressed in any way toward a person or persons in the terms of the sale, exchange, lease, rental or financing for housing accommodations and/or real property in regard to such sale, exchange, rental, lease or finance because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person.

(B) **"Housing Accommodation".** The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, maintained, arranged or designed to be used or occupied as a home, residence or sleeping place of **one (1)** or more human beings, or any real estate so used, designed or intended for such use.

(C) **"Real Property".** The term "real property" means any real estate, vacant land, building, structure or housing accommodations within the corporate limits of the City.

(D) **"Real Estate Broker".** The term "real estate broker" means any person, partnership, association, corporation and/or agent thereof, who for a fee or other valuable consideration offers, sells, purchases, exchanges or rents, or negotiates for the sale, purchase, exchange or rental of a housing accommodation and/or real property of another, or collects rental for the use of housing accommodation and/or real property of another.

(E) **"Financial Institution".** The term "financial institution" means any person, institution or business entity of any kind which loans money to persons and receives as security for said loans a secured interest of any kind in the real property of the borrower.

(F) **"Owner".** An "owner" means any person/persons who hold legal or equitable title to, or own any beneficial interest in any real property or who hold legal or equitable title to shares of, or hold any beneficial interest in any real estate cooperative which owns any real property and/or housing accommodations.

(G) **"Decent, Sanitary, Healthful, Standard Living Quarters".** "Decent, sanitary, healthful, standard living quarters" is housing which is in sound, clean, and weather tight condition in conformance with applicable local, state, and national codes.

**22-4-3      PROHIBITED ACTS.** It shall be unlawful for any owner of real estate, lessee, sub-lessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, to discriminate against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or disability with regard to the sale, exchange or rental, or any dealing concerning any housing accommodation and/or real property.

In addition to the foregoing, it shall also be unlawful for any real estate broker or employee thereof, owner or other person, or financial institution dealing with housing or real property of the City:

(A) To discriminate against any person in the availability of or the price, terms, conditions, or privileges of any kind relating to the sale, rental, lease, or occupancy of any housing accommodation or real property in the City or in furnishing of any facilities or services in connection therewith.

(B) To publish or circulate, or cause to be published or circulated, any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purchase, lease, rental or financing of real property, or to make any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or disability of any person.

(C) To discriminate in connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation and/or real property.

(D) To solicit for sale, lease, or listing for the sale or lease, of any housing accommodation and/or real property on the grounds of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability.

(E) To distribute or cause to be distributed, written material or statements designed to induce any owner of any housing accommodation and/or real property to sell or lease his or her property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or disability of persons in the neighborhood.

(F) To make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any housing accommodation and/or real property for the purpose of inducing or attempting to induce the sale or listing for sale of any housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability in the area will or may result in the lowering of property values in the block, neighborhood or area in which the property is located.

(G) For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed or disability.

(H) For an owner to refuse to sell, rent, or otherwise deal with any housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of the proposed buyer or tenant.

**22-4-4      PENALTY.** Any person convicted of violating any of the provisions of this Code shall be punished by a fine of not less than **One Hundred Dollars (\$100.00)** nor more than **Fifteen Hundred Dollars (\$1,500.00)**. Each day a violation continues shall constitute a separate violation. This Section shall in no way abrogate or impair the right of the City to specifically enforce, by any legal means, any of the provisions of this Code.

**(65 ILCS 5/11-11.1-1)**

**(Ord. No. 00-20; 08-03-00)**

## **ARTICLE V – INVESTMENT POLICY**

**22-5-1      INVESTMENT POLICY.** It is the policy of the City to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming to all State and local statutes governing the investment of public funds.

**22-5-2      SCOPE.** This policy includes all public funds of the City.

**22-5-3      PRUDENCE.** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio.

**22-5-4      OBJECTIVE.** The primary objective, in order of priority, shall be:

(A) **Legality.** Conformance with federal, state and other legal requirements.

(B) **Safety.** Preservation of capital and protection of investment principal.

(C) **Liquidity.** Maintenance of sufficient liquidity to meet operating requirements.

(D) **Yield.** Attainment of market rates of return.

The portfolio should be reviewed periodically as to its effectiveness in meeting the City’s needs for safety, liquidity, rate of return, diversification and its general performance.

**22-5-5      DELEGATION OF AUTHORITY.** Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who may establish written procedures for the operation of the investment program.

**22-5-6      ETHICS AND CONFLICTS OF INTEREST.** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

**22-5-7      AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS.** The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security brokers/dealers selected by creditworthiness.

**22-5-8      AUTHORIZED AND SUITABLE INVESTMENTS.** Investments may be made in any type of security allowed for in Illinois statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

**22-5-9      COLLATERALIZATION.** Collateralization may be required, at the discretion of the City, on all funds held in banks or savings and loans above the insured limits provided by the FDIC or FSLIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be a minimum of **one hundred two percent (102%)** of market value of principal and accrued interest.

**22-5-10      SAFEKEEPING AND CUSTODY.** All security transactions, including collateral for repurchase agreements, entered into by the City, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

**22-5-11      DIVERSIFICATION.** The City shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

**22-5-12      MAXIMUM MATURITIES.** To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than **two (2) years** from the date of purchase.

Reserve funds may be invested in securities exceeding **two (2) years** if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

**22-5-13      INTERNAL CONTROL.** The Treasurer is responsible for establishing and maintaining an internal control structure designed to insure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

- (A) Control of collusion.
- (B) Separation of transaction authority from accounting.
- (C) Custodial safekeeping.
- (D) Written confirmation of telephone transactions for investments and wire transfers.

**22-5-14      PERFORMANCE STANDARDS.** The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio maintained by the Illinois Public Treasurer's Investment Pool (IPTIP).

**22-5-15      REPORTING.** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the City Council and available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the City Council. A statement of the market value of the portfolio shall be issued to the City Council quarterly.

**22-5-16      INVESTMENT POLICY ADOPTION AND MODIFICATION.** The investment policy has been adopted by ordinance. The policy shall be reviewed on an annual basis by the Treasurer, and any modifications made thereto shall be made by ordinance.

## **ARTICLE VI – ETHICS CODE**

### **22-6-1        STATE OFFICIALS AND EMPLOYEES ETHICS ACT.**

(A)            The regulations of Sections 5-15 (**5 ILCS 430/5-15**) and Article 10 (**5 ILCS 430/10-10 through 10-40**) of the State Officials and Employees Ethics Act, **5 ILCS 430/1-1 et seq.**, (hereinafter referred to as the “Act” in this Section) are hereby adopted by reference and made applicable to the officers and employees of the City to the extent required by **5 ILCS 430/70-5**.

(B)            The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the City, is hereby prohibited.

(C)            The offering or making of gifts prohibited to be offered or made to an officer or employee of the City, is hereby prohibited.

(D)            The participation in political activities prohibited under the Act, by any officer or employee of the City, is hereby prohibited.

(E)            For the purposes of this Section, the terms “officer” and “employee” shall be defined as set forth in **5 ILCS 430/70-5(c)**.

(F)            The penalties for violations of this Section shall be the same as those penalties set forth in **5 ILCS 430/50-5** for similar violations of the Act.

(G)            This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of City officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of **5 ILCS 430/70-5(a)**.

(H)            Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the City.

(I)            If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court’s decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action by the Corporate Authorities of the City if the Act is found unconstitutional by the Illinois Supreme Court.

(J)            If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the City.

**(Ord. No. 04-11; 05-10-04)**

**22-6-2        ETHICS ADVISOR.** The Mayor shall appoint an Ethics Advisor with the advice and consent of the Council. The said advisor shall be the City Attorney.

**22-6-3        DUTIES.** It shall be the duty of the Municipal Ethics Advisor to provide guidance to the officers and employees of the City of Benton “concerning the interpretation of and compliance with provision of the ordinance of the Act” regarding conduct, incompatibility and conflict of interest issues. **(Ord. No. 2016-04; 02-22-16)**



## **ARTICLE VII - EQUAL EMPLOYMENT POLICY**

**22-7-1      ADOPTION OF CODES.** The City hereby declares to uphold, defend, enforce, and advocate for all laws related to Equal Employment Opportunity including, but not limited to, the following:

(A)      **Title VI of the Civil Rights Act of 1964** which prohibits discrimination in the participation in or benefits of programs or activities receiving federal financial assistance on the basis of race, color, or national origin.

(B)      **Title VII of the Civil Rights Act of 1964** which prohibits discrimination because of race, color, religion, sex or national origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges and conditions of employment.

(C)      **Title IX of the Education Amendments of 1972** which prohibits discrimination in federally assisted education programs.

(D)      **The Equal Pay Act of 1963** which covers all employees who are covered by the Fair Labor Standards Act. The Act forbids pay differentials on the basis of sex.

(E)      **The Age Discrimination Act of 1967** which prohibits discrimination because of age against anyone between the ages of **forty (40)** and **sixty-five (65)**.

(F)      **Federal Executive Order 11246** which requires every contract with federal financial assistance to contain a clause against discrimination because of race, color, religion, sex, or national origin.

(G)      **Section 504 of the Rehabilitation Act of 1973 and DOL Implementing Regulations at 29 CFR 32** which prohibits any discrimination based on disability.

(H)      **Section 188 of WIA and the U.S. DOL Regulations at 29 CFR Parts 31 and 32** which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Labor.

(I)      **Chapter 68, Article I, Section 17-19 of the Illinois Constitution** which prohibits discrimination based on race, color, creed, national ancestry, disability, and sex in the hiring and promotion practices of any employer.

(J)      **The Americans with Disabilities Act of 1990** which prohibits any discrimination against qualified individuals with disabilities on the basis of their disability.

(K)      **Illinois Human Rights Act (775 ILCS 5)** which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

**22-7-2      NON-DISCRIMINATORY PRACTICES.** The City will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

**22-7-3      CONTRACTING WITH NON-COMPLAINTS.** The City will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A)      The City will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

- (1) In the event of the contractor's noncompliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:
  - (a) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
  - (b) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
  - (c) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.
  - (d) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.
  - (e) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.
  - (f) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain

- compliance with the Act and the Department's Rules and Regulations.
- (g) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

**22-7-4      OUTREACH TO ALL.** The City assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

**22-7-5      MINORITY HIRING.** Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the City as well as surrounding areas.

**22-7-6      ACCOMMODATIONS FOR DISABLED.** The City will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

**22-7-7      COMPLIANCE BY EMPLOYEES.** All City employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out City program activities.

**22-7-8      DESIGNATED ENFORCERS.** The City designates the Mayor and the City Council to carry out the EEO/AA plan.

## ARTICLE VIII – POLICY PROHIBITING SEXUAL HARASSMENT

**22-8-1      PROHIBITION ON SEXUAL HARASSMENT.** It is unlawful to harass a person because of that person's sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of this City to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

**22-8-2      DEFINITION OF SEXUAL HARASSMENT.** This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

(A) Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(B) Conduct which may constitute sexual harassment includes:

- (1) **Verbal.** Sexual innuendoes, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside their presence, of a sexual nature.
- (2) **Non-verbal.** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
- (3) **Visual.** Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- (4) **Physical.** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- (5) **Textual/Electronic.** "Sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking or threats via all forms of electronic communication (e-mail, text/picture/ video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

(C) The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a "reasonable person."

**22-8-3      PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT.**

(A) An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible

by clearly communicating his/her position to the offending employee, and his/her immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

(B) Any employee may report conduct which is believed to be sexual harassment, including the following:

- (1) **Electronic/Direct Communication.** If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the city manager or administrator, or the chief executive officer of the Municipality.  
The employee experiencing what he or she believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the Municipality will not be presumed to have knowledge of the harassment.
- (3) **Resolution Outside Municipality.** The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the Municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within **three hundred (300) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within **three hundred (300) days**.

(C) Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

(D) All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

#### **22-8-4 PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS.**

(A) No municipal official, municipal agency, municipal employee or municipal agency or office shall take any retaliatory action against any municipal employee due to a municipal employee's:

- (1) Disclosure or threatened disclosure of any violation of this policy,
- (2) The provision of information related to or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
- (3) Assistance or participation in a proceeding to enforce the provisions of this policy.

(B) For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of

employment of any municipal employee that is taken in retaliation for a municipal employee's involvement in protected activity pursuant to this policy.

(C) No individual making a report will be retaliated against even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(D) Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (**5 ILCS 430/15-10**) provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation;
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee; or
- (3) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

(E) Pursuant to the Whistleblower Act (**740 ILCS 174/15(a)**), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (**740 ILCS 174/15(b)**).

(F) According to the Illinois Human Rights Act (**775 ILCS 5/6-101**), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

(G) An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – either due within **three hundred (300) days** of the alleged retaliation.

**22-8-5 CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT.** In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in **5 ILCS 430/5-65**, may be subject to a fine of up to **Five Thousand Dollars (\$5,000.00)** per offense, applicable discipline or discharge by the Municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the Municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

**22-8-6 CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT.** A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to **Five Thousand Dollars (\$5,000.00)** against any person who intentionally makes a false, frivolous or bad faith allegation.

**(Ord. No. 18-17; 11-12-18)**

## **CHAPTER 23**

### **MANUFACTURED HOUSING CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERAL PROVISIONS</i></b>	
	<i>Section 23-1-1 - Definitions</i>	<i>23-1</i>
	<i>Section 23-1-2 - State Requirements Adopted by Reference</i>	<i>23-3</i>
	<i>Section 23-1-3 - Manufactured Housing Act Adopted</i>	<i>23-3</i>
	<i>Section 23-1-4 - Illinois Department of Public Health Adopted and Regulations</i>	<i>23-3</i>
	<i>Section 23-1-5 - National Safety Standards</i>	<i>23-3</i>
	<i>Section 23-1-6 - Skirting</i>	<i>23-3</i>
	<i>Section 23-1-7 - Fire Extinguishers</i>	<i>23-4</i>
	<i>Section 23-1-8 - Inspection</i>	<i>23-4</i>
	<i>Section 23-1-9 - Off-Street Parking</i>	<i>23-4</i>
	<i>Section 23-1-10 - Prohibited Residential Uses</i>	<i>23-4</i>
	<i>Section 23-1-11 - Carbon Monoxide Alarm Detectors</i>	<i>23-4</i>
	<i>Section 23-1-12 - Owner Occupied</i>	<i>23-4</i>
<b><i>II</i></b>	<b><i>IMMOBILIZED MANUFACTURED HOMES</i></b>	
	<i>Section 23-2-1 - Immobilized Manufactured Homes</i>	<i>23-5</i>
	<i>Section 23-2-2 - Permit - Fee</i>	<i>23-5</i>
	<i>Section 23-2-3 - Lot Size</i>	<i>23-5</i>
	<i>Section 23-2-4 - Foundation Specifications</i>	<i>23-5</i>
	<i>Section 23-2-5 - Limit of Units</i>	<i>23-5</i>
<b><i>III</i></b>	<b><i>MANUFACTURED HOME PARKS</i></b>	
	<i>Division I – Administration Requirements</i>	
	<i>Section 23-3-1 - Compliance with Statutes, Applicability of Article</i>	<i>23-6</i>
	<i>Section 23-3-2 - Permitting and Planning a Park</i>	<i>23-6</i>
	<i>Section 23-3-3 - Local Government Requirements</i>	<i>23-6</i>
	<i>Section 23-3-4 - Permits</i>	<i>23-6</i>
	<i>Section 23-3-5 - Inspection of Manufactured Home Park</i>	<i>23-6</i>
	<i>Section 23-3-6 - Violation Proceedings</i>	<i>23-6</i>
	<i>Section 23-3-7 - Initial Permit Required</i>	<i>23-7</i>
	<i>Section 23-3-8 - 23-3-9 Reserved</i>	
	<i>Division II – Design and Construction Requirements</i>	
	<i>Section 23-3-10 - Plan Document</i>	<i>23-7</i>
	<i>Section 23-3-11 - Application</i>	<i>23-7</i>
	<i>Section 23-3-12 - Location</i>	<i>23-8</i>
	<i>Section 23-3-13 - Roadways and Parking</i>	<i>23-8</i>
	<i>Section 23-3-14 - 23-3-16 Reserved</i>	
	<i>Division III – Generally</i>	
	<i>Section 23-3-17 - Lot Size</i>	<i>23-8</i>
	<i>Section 23-3-18 - Miscellaneous Restrictions</i>	<i>23-8</i>
	<i>Section 23-3-19 - 23-3-20 Reserved</i>	
	<i>Division IV – Fees</i>	
	<i>Section 23-3-21 - License Fee</i>	<i>23-9</i>



## CHAPTER 23

### MANUFACTURED HOUSING CODE

#### ARTICLE I – GENERAL PROVISIONS

**23-1-1**        **DEFINITIONS.** The terms used in this Code shall have the following meanings:

**"AFFIDAVIT"** means an oath in writing, sworn before and attested by an individual who has authority to administer an oath.

**"APPLICANT"** means any person making application for a license or permit.

**"CORPORATE AUTHORITIES"** shall mean the Mayor and the City Council.

**"IMMOBILIZED MANUFACTURED HOME"**: As applied to a manufactured home, "immobilize" means to remove the wheels, tongue and hitch and to affix to a permanent foundation. The term implies that, once affixed to a permanent foundation, the destruction of said foundation would be necessary in order to move the dwelling to another location. The foundation shall be installed pursuant to manufacturer's specifications.

**"LICENSE"** means a license certificate issued by the City allowing a person to operate and maintain a manufactured home park under the provisions of this Code and the rules and regulations issued hereunder.

**"LICENSEE"** means any person having a license or permit under this Chapter.

**"MANUFACTURED HOME"** means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term shall only include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974"**. Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the manufactured home. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a manufactured home shall not exceed a ratio of 3 to 1. As with all residences, a manufactured home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a **"manufactured home"**, but shall be an **"immobilized manufactured home"**. A manufactured home should not be confused with a **"camping trailer"** or **"recreational vehicle"**. **(See 210 ILCS 115/2.10)**

**"MANUFACTURED HOME, DEPENDENT"** means a manufactured home which does not have a toilet and bath or shower facilities. **(See 210 ILCS 115/2.3)**

**"MANUFACTURED HOME, DOUBLE-WIDE"** consists of **two (2) mobile units** joined at the side into a single home, but kept on their separate chassis for repeated transportation to a site.

**"MANUFACTURED HOME, INDEPENDENT"** means a manufactured home which has self-contained toilet and bath or shower facilities. **(See 210 ILCS 115/2.4)**

**"MANUFACTURED HOME LOT"** means a parcel of land for the placement of a manufactured home and the exclusive use of its occupants.

**"MANUFACTURED HOME PAD"** means that part of an individual manufactured home space or lot beneath the manufactured home, including the concrete portion of the pad.

**"MANUFACTURED HOME PARK"** means a tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent manufactured homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home park if they are maintained and operated jointly. Neither an immobilized manufactured home nor a motorized recreational vehicle shall be construed as being a part of a manufactured home park. **(See 210 ILCS 115/2.5)**

**"MANUFACTURED HOME SALES AREA"** means a parcel of land used for the display, sale, and repair of new or used manufactured homes.

**"MANUFACTURED HOME SPACE"** means a portion of a manufactured home park designed for the use or occupancy of **one (1) manufactured home**.

**"MANUFACTURED HOUSING UNIT"** includes all forms of housing units listed in this Section and as regulated in this Code.

**"MOBILE HOME"** means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term **"mobile home"** shall only include homes constructed prior to **June 30, 1976**, not in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974"**.

**"MODULAR HOME"**: A modular home is a factory-fabricated single-family home built in **one (1)** or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed on a full perimeter foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Modular homes shall have a yellow seal in the shape of the State of Illinois on the electrical panel box of the home or on the inside of the kitchen sink cabinet. Local officials may require additional items other than the minimum state requirements such as the National Manufactured Home Construction and Safety Standards (HUD Code) or the International Building Code (IBC). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

**"OWNER" or "OPERATOR"** means the licensee.

**"PERMANENT FOUNDATION"**: A foundation which extends into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, poured wall or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation. In addition, piers may be used, extending into the ground below the frost line, and sufficient in number to properly support the structure, provided the support beams are affixed to the permanent perimeter foundation. The foundation shall comply with the manufacturer's specifications.

**"PERMANENT HABITATION"** means a period of **two (2) or more months**. (See 210 ILCS 115/2.2)

**"PERMIT"** means a certificate issued by the Building or Zoning Inspector, permitting the construction, alteration, or reduction in number of spaces of a manufactured home park under the provisions in this Code.

**"PERSON"** means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the State of Illinois, or any political subdivision or department thereof or any other entity.

**"REVOCATION"** means to declare invalid a permit or license issued to the applicant or licensee by this City for an indefinite period of time.

**"SITE"** means the lot on which the manufactured home is located for permanent habitation. (See 210 ILCS 115/2.7)

**"SPACE"** shall be synonymous with **"Manufactured Home Space"**.

**"SUSPENSION"** means to declare invalid a permit or license issued to the applicant or licensee by this City for a temporary period of time with an expectation of resumption.

**23-1-2      STATE REQUIREMENTS ADOPTED BY REFERENCE.** The Illinois Manufactured Home Park Act and the Manufactured Home Tiedown Act (77 Ill. Adm. Code 870) of the Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

**23-1-3      MANUFACTURED HOUSING ACT ADOPTED.** The Illinois Manufactured Housing and Manufactured Home Act, as passed and approved by the Illinois General Assembly is hereby adopted by the City, the applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the City. (See 430 ILCS 115/1 et seq.)

**23-1-4      ILLINOIS DEPARTMENT OF PUBLIC HEALTH ADOPTED AND REGULATIONS.** The Manufactured Home Community Code as approved by the Illinois Department of Public Health (1998) is hereby adopted by the City. The applicable provisions as they pertain to the Manufactured Home community shall be controlling within the corporate limits.

**23-1-5      NATIONAL SAFETY STANDARDS.** No manufactured home or immobilized manufactured home shall be located in the City unless the unit has the National Manufactured Housing Construction and Safety Standards metal seal affixed thereto.

**23-1-6      SKIRTING.** Skirting shall be used to conceal all underpinning, plumbing, and support piers whether on a permanent foundation or otherwise. All skirting shall be installed on all manufactured housing units within **sixty (60) days** of the placement of the unit.

**23-1-7      FIRE EXTINGUISHERS.** All manufactured housing units located in the City shall be equipped with a fire extinguishing apparatus capable of extinguishing all types of fires. Such extinguishers shall be of sufficient size so that they will reasonably protect the manufactured housing units. All fire extinguishers shall be approved by the Fire Chief or his designated representative prior to installation of the manufactured home. **(See 425 ILCS 60/1-60/4)**

**23-1-8      INSPECTION.** Each manufactured housing unit located in the City shall be subject to reasonable inspection by the Code Enforcement Official, being designated here as the Zoning Administrator or Fire Chief, or the officials designated by the City Council. **(Ord. No. 01-11; 05-14-01)**

**23-1-9      OFF-STREET PARKING.** Every owner of a manufactured housing unit shall provide for an off-street parking area of **four hundred (400) square feet.**

**23-1-10      PROHIBITED RESIDENTIAL USES.**  
(A) **Dependent Manufactured Home.** It shall be unlawful to locate a dependent manufactured home in the City unless placed in a state-licensed travel trailer park.  
(B) **Independent Travel Trailer.** It shall be unlawful to reside in an independent travel trailer in the Municipality unless it is located in a state-licensed travel trailer park.  
(C) **Manufactured Home.** It shall be unlawful to locate a manufactured home or a manufactured home in a state-licensed travel trailer park without written permission of the City Council or the Zoning Board.  
(D) At no time shall anyone use a dependent manufactured home as a permanent residence or dwelling in excess of **sixty (60) days** in any **one (1) year.**

**23-1-11      CARBON MONOXIDE ALARM DETECTORS.** Each unit shall be equipped with a carbon monoxide alarm detector as prescribed by state statute. **(See 430 ILCS 135/1 et seq.)**

**23-1-12      SMOKE AND FIRE DETECTORS.** Each unit shall be equipped with smoke and fire detectors as prescribed by state statute.

**23-1-13      OWNER OCCUPIED.** All manufactured housing units shall be used and occupied by the owner or his immediate family as a residence. If the unit is not located in a licensed manufactured home park, then the lot should be owned by the owner-occupant of the manufactured housing unit. Any manufactured home located with a Special-Use Permit and used as a rental prior to **December 12, 1994**, can continue to be used so long as it conforms to the provisions of this Code.

## **ARTICLE II - IMMOBILIZED MANUFACTURED HOMES**

**23-2-1      IMMOBILIZED MANUFACTURED HOMES.** All immobilized manufactured homes located in the City shall be classified as real estate; therefore, it is mandatory for all persons owning, operating, renting, or leasing an existing manufactured home outside a manufactured home park to remove or cause to have removed the wheels or any other transportation device from the manufactured home. The owner or lessor shall permanently fix it to the ground in a manner that conforms to the definition of an immobilized manufactured home in **Section 23-1-1**. All existing manufactured homes, when replaced, shall comply with the immobilization provisions of this Code.

**23-2-2      PERMIT - FEE.** All persons seeking to locate or replace a manufactured home or an immobilized manufactured home outside a manufactured home park shall obtain a **Building or Zoning Permit** from the City Clerk or Building Inspector. No utility services shall be connected to the unit until the City has issued the appropriate permits. The fee to locate or relocate a manufactured home or immobilized manufactured home shall be **Fifty Dollars (\$50.00)**. **(See Zoning Code for districts permitting these uses.)**

**23-2-3      LOT SIZE.** The minimum lot size for the location of an immobilized manufactured home unit shall be **eight thousand (8,000) square feet**. All units shall be located in the City according to the requirements and restrictions of this Code. They shall not exceed **forty percent (40%) coverage** of the lot or the requirements of the Zoning Code.

**23-2-4      FOUNDATION SPECIFICATIONS.** All immobilized manufactured homes shall conform to the manufacturer's specifications for these units as provided in the definition in **Section 23-1-1**.

**23-2-5      LIMIT OF UNITS.** There shall be **only one (1)** immobilized manufactured home per lot in the City.

## **ARTICLE III - MANUFACTURED HOME PARKS**

### **DIVISION I - ADMINISTRATION REQUIREMENTS**

**23-3-1      COMPLIANCE WITH STATUTES, APPLICABILITY OF ARTICLE.** Every manufactured home park hereafter established in the City shall, at a minimum, conform to the requirements of:

(A) The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

(B) The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the City. The applicable provisions as they pertain to Manufactured Home community shall be controlling within the corporate limits.

(C) **This Code.**

(D) **Zoning Code.**

In case of conflict between any provisions of the above, the more stringent requirement shall prevail.

**23-3-2      PERMITTING AND PLANNING A PARK.** Any person seeking to establish, operate, alter, or expand a manufactured home park shall obtain a permit to construct or a license to operate a manufactured home park.

**"Construct or operate a manufactured home park"**, as used in this Code shall include, but not necessarily be limited to supplying or maintaining common water, sewer, or other utility supplies or services, or the collection of rents directly or indirectly from **two (2)** or more independent manufactured homes. **(All plans shall be submitted to the Plan Commission for approval prior to the granting of a permit.)**

**23-3-3      LOCAL GOVERNMENT REQUIREMENTS.** A permit does not relieve the applicant from complying with this Code or other ordinances applicable thereto. **(See Zoning Code.)**

**23-3-4      PERMITS.** The Plan Commission or the City Council shall review each application and plan documents submitted. When the application and plan documents are found to be in compliance with the **"Manufactured Home Community Code"**, as approved by the **Illinois Department of Public Health**, the City Council or its designee may issue the proper permit to construct or alter a manufactured home park to the applicant. Permits shall be valid for **one (1) year from date of issue.**

**23-3-5      INSPECTION OF MANUFACTURED HOME PARK.** Upon completion of the proposed construction of a manufactured home park or the proposed alteration of a manufactured home park, the applicant shall notify the City or the designated official in order that an inspection of the complete facilities can be made. **(See Section 23-1-8)**

**23-3-6      VIOLATION PROCEEDINGS.** Any license granted hereunder shall be subject to revocation or suspension by the Mayor. However, the Mayor or his representative shall first serve or cause to be served upon the licensee a written notice in which shall be specified the way or ways in which such licensee has failed to comply with the statutes, or any rules or regulations promulgated by the

City pertaining thereto. The notice shall require the licensee to remove or abate such nuisance, unsanitary or objectionable condition, specified in such notice within **five (5) days** or within a longer period of time as may be allowed by the City Council. If the licensee fails to comply with the terms and conditions of the notice within the time specified or such extended period of time, the Mayor or his representative may revoke or suspend such license.

**23-3-7      INITIAL PERMIT REQUIRED.** Each manufactured home that locates on a lot in a manufactured home park shall secure an initial Building or Zoning Permit from the City. All future locations on the same lot shall be exempt from the fee. **(See Zoning Code) (See Section 1-1-20 for penalties)**

**23-3-8 - 23-3-9      RESERVED.**

## **DIVISION II - DESIGN AND CONSTRUCTION REQUIREMENTS**

**23-3-10      PLAN DOCUMENT.** In order to obtain a permit to construct or an original license to operate a manufactured home park, the applicant shall file with the City a written application and plan documents and such plan documents shall be prepared by a registered engineer or architect licensed to practice in the State of Illinois, with registration seal affixed. **Two (2) copies** of the plan document shall accompany the application filed with the Zoning Administrator to obtain a permit to construct or alter a manufactured home park or an original license to operate a manufactured home park, not previously licensed by the City. These plans shall include, but not be limited to the design and construction criteria set forth herein.

**23-3-11      APPLICATION.**  
(A) Every applicant shall file with the City Clerk a written application and plan documents for the proposed construction or alteration of a manufactured home park.  
(B) The application shall be completed by the applicant and the engineer or architect and shall include:

- (1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the present or last occupation of the applicant at the time of the filing of the application. If the applicant is a corporation, a copy of the certificate of incorporation must be filed with the application.
- (2) The proposed method of lighting the structures and land upon which the manufactured home park is to be located.
- (3) The plot plans of the manufactured home park, building plans and specifications for existing buildings and facilities, and the plans and specifications for new buildings and facilities or the proposed alterations in existing facilities.
- (4) An affidavit of the applicant as to the truth of the matters contained in the application shall be attached.
- (5) Each application shall be accompanied by an application fee of **Three Hundred Dollars (\$300.00)** for a permit to construct, or an application fee of **One Hundred Fifty Dollars (\$150.00)** for a permit to alter to increase the size of the park.

**23-3-12      LOCATION.**

(A) Sites selected for manufactured home development shall be well-drained and free from topographical or geological hinderances and from other conditions unfavorable to a proper residential environment. The manufactured home development shall not be located near swamps, wetlands, marshes, or other breeding places of insects, rats, mice or other rodents. When a good, natural drainage is not available, storm water drainage shall be provided and such drainage shall not endanger any water supply or surface watercourse.

(B) The City Council may authorize a site survey to ascertain that the proposed location complies with the above requirements. **(See Flood Plain and Zoning Codes.)**

**23-3-13      ROADWAYS AND PARKING.**

(A) All streets and driveways in every park shall be constructed in compliance with the Subdivision Code in **Chapter 34.**

(B) All streets in parks constructed shall have a minimum right-of-way of **fifty (50) feet** and a minimum road width of **thirty-two (32) feet** for the purpose of this Code, and shall be considered private streets to be maintained by the park owner or operator.

If a manufactured home park has more than **fifty (50) units**, a wider street may be required by the Plan Commission.

(C) Sidewalks and walkways shall be constructed abutting a street in a manufactured home park and shall be a minimum of **four (4) feet** in width; provided, however, there shall be no minimum width requirement for sidewalks for each individual lot. No portion of a manufactured home shall block, in any way, the pedestrian traffic on the walkways.

**23-3-14 - 23-3-16      RESERVED.**

**DIVISION III - GENERALLY**

**23-3-17      LOT SIZE.** The minimum lot size for a manufactured home pad shall be **eight thousand (8,000) square feet**, with a minimum frontage of **sixty (60) feet**.

**23-3-18      MISCELLANEOUS RESTRICTIONS.**

(A) No manufactured home unit parked in a manufactured home park shall be immobilized.

(B) Not more than **one (1) manufactured home unit** shall be parked in **one (1)** space.

(C) No travel-trailer shall be permitted in any manufactured home park, unless a special area has been approved for that purpose by the City Council and the Zoning Board of Appeals.

**23-3-19 - 23-3-20      RESERVED.**



#### **DIVISION IV - FEES**

**23-3-21**      **LICENSE FEE.** The annual license fee per manufactured home park shall be **One Hundred Dollars (\$100.00)**, and shall be due and payable **on or before May 1<sup>st</sup> of each year.** The Zoning Administrator shall notify the owner or operator of the annual fee at least **thirty (30) days** prior to **May 1<sup>st</sup>.**

(Execute in Duplicate)

Application No. \_\_\_\_\_

**APPLICATION FOR BUILDING AND MANUFACTURED HOME OCCUPANCY PERMIT**

Office of the Zoning Administrator  
500 W. Main St.  
PO Box 640  
Benton, Illinois 62812

Application No. \_\_\_\_\_

DATE: \_\_\_\_\_, 20\_\_

---

**(DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY)**

DATE: \_\_\_\_\_, 19\_\_

PERM. PARCEL \_\_\_\_\_

- [ ] Permit Issued  
[ ] Permit Denied  
[ ] Application Appealed

Fee Paid to City Clerk:

\$ \_\_\_\_\_ DATE: \_\_\_\_\_, 20\_\_

IF DENIED, CAUSE OF DENIAL:

\_\_\_\_\_  
\_\_\_\_\_

---

**INSTRUCTIONS TO APPLICANT:** All information required by the application must be completed and submitted herewith. Applicants are encouraged to visit the City Hall for any assistance needed in completing this form.

1. Name of Owner(s): \_\_\_\_\_  
(Attach additional sheets if necessary)  
Address: \_\_\_\_\_ PHONE: \_\_\_\_\_  
(ZIP CODE)
2. Applicant's Name: \_\_\_\_\_ PHONE: \_\_\_\_\_  
Address: \_\_\_\_\_  
(ZIP CODE)
3. Property interest of applicant: \_\_\_\_\_  
(Contract Purchaser, Etc.)
4. Address of proposed construction or mobile home: \_\_\_\_\_
5. Legal Description (Lot, Block, and Subdivision; attach metes and bounds description, if necessary).  
\_\_\_\_\_  
\_\_\_\_\_  
Cost of Improvement: \$ \_\_\_\_\_ Square feet of Improvement \_\_\_\_\_
6. Proposed construction (check one or more, as necessary):  
[ ] New Building Type: \_\_\_\_\_ Brick/Frame Number of Rooms \_\_\_\_\_  
[ ] Alterations or additions to existing buildings (explain): \_\_\_\_\_  
\_\_\_\_\_
7. Use of existing and proposed structures (if applicable):  
Existing Use: \_\_\_\_\_  
Proposed Use: \_\_\_\_\_
8. Two (2) copies of a sketch plat (drawn to approximate scale shall be attached, showing the following:  
a) Dimensions and use of all buildings;  
b) Dimensions of lot;  
c) Distance of each building from lot lines;

d) Distance of principal building from principal buildings on adjacent lot(s);

- e) Distance between accessory buildings and principal buildings;
  - f) Distance from lot line to center line of abutting street(s);
  - g) Location [with dimensions] of driveways and off-street parking spaces;
  - h) Location of all easements;
  - i) Location of all underground utilities, including septic tanks, tile fields, and wells.
9. Application is hereby made for an Occupancy Permit as required under the City Code for the erection, moving, or alteration and use of buildings and mobile homes. In making this application, the applicant represents all of the above statements and any attached maps and drawings to be a true description of the proposed new or altered uses and/or buildings. The applicant agrees that the permit applied for, if granted, is issued on the representations made herein and that any permit issued may be revoked without notice on any breach of representation or conditions. **(See Chapter 40)**

It is understood that any permit issued on this application will not grant right of privilege to erect any structure or to use any premises described for any purpose or in any manner prohibited by the City Code, or by other ordinances, codes, or regulations of the City.

APPLICANT: \_\_\_\_\_

#### **CERTIFICATE OF OCCUPANCY**

The plans and specifications submitted with this Application are in conformity with the district requirements applicable to the subject property. Changes in plans or specifications shall not be made without written approval of the City Council.

Failure to comply with the above shall constitute a violation of the provisions of the **Revised Code of Ordinances of the City.**

DATE: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
ZONING ADMINISTRATOR

**CHAPTER 24**  
**MOTOR VEHICLE CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>DEFINITIONS</i></b>	
	<i>Section 24-1-1 - Illinois Vehicle Code; Definitions Adopted</i>	<i>24-1</i>
<b><i>II</i></b>	<b><i>GENERAL REGULATIONS</i></b>	
	<i>Section 24-2-1 - Obedience to Police</i>	<i>24-1</i>
	<i>Section 24-2-2 - Scene of Fire</i>	<i>24-1</i>
	<i>Section 24-2-3 - Signs and Signals</i>	<i>24-1</i>
	<i>Section 24-2-4 - Unauthorized Signs</i>	<i>24-1</i>
	<i>Section 24-2-5 - Interference with Signs or Signals</i>	<i>24-2</i>
	<i>Section 24-2-6 - Advertising Signs</i>	<i>24-2</i>
	<i>Section 24-2-7 - Animals or Bicycles</i>	<i>24-2</i>
	<i>Section 24-2-8 - Lamps and Other Equipment on Bicycles</i>	<i>24-2</i>
<b><i>III</i></b>	<b><i>STOP AND THROUGH STREETS</i></b>	
	<i>Section 24-3-1 - Through Streets</i>	<i>24-3</i>
	<i>Section 24-3-2 - One-Way Streets or Alleys</i>	<i>24-3</i>
	<i>Section 24-3-3 - Stop Streets</i>	<i>24-3</i>
	<i>Section 24-3-4 - Yield Right-of-Way Streets</i>	<i>24-3</i>
	<i>Section 24-3-5 - Posting Signs</i>	<i>24-3</i>
<b><i>IV</i></b>	<b><i>DRIVING RULES</i></b>	
	<i>Section 24-4-1 - Illinois Vehicle Code; Rules of the Road Adopted</i>	<i>24-4</i>
	<i>Section 24-4-2 - Driving Rules</i>	<i>24-4</i>
	<i>Section 24-4-3 - Duty to Report Accident</i>	<i>24-5</i>
	<i>Section 24-4-4 - Transporting Liquor in Vehicles</i>	<i>24-5</i>
	<i>Section 24-4-5 - Excessive Noise - Stopped Vehicle</i>	<i>24-5</i>
	<i>Section 24-4-6 - Excessive Noise - Wheels</i>	<i>24-5</i>
	<i>Section 24-4-7 - Excessive Noise - Squealing Tires</i>	<i>24-5</i>
	<i>Section 24-4-8 - Reckless, Negligent or Careless Driving</i>	<i>24-5</i>
	<i>Section 24-4-9 - Excessive Noise While Driving</i>	<i>24-5</i>
<b><i>V</i></b>	<b><i>EQUIPMENT OF VEHICLES</i></b>	
	<i>Section 24-5-1 - Illinois Vehicle Code; Equipment of Vehicles Adopted</i>	<i>24-6</i>
	<i>Section 24-5-2 - Muffler</i>	<i>24-6</i>
	<i>Section 24-5-3 - Sound Amplification System</i>	<i>24-6</i>
	<i>Section 24-5-4 - Excessive Engine Braking Noise Prohibited</i>	<i>24-6</i>
<b><i>VI</i></b>	<b><i>PARKING RULES</i></b>	
	<i>Section 24-6-1 - Time Limit Parking</i>	<i>24-7</i>
	<i>Section 24-6-2 - Parking for Sale, Repair or Peddling Prohibited</i>	<i>24-7</i>
	<i>Section 24-6-3 - Private Property</i>	<i>24-7</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VI</b>	<b>PARKING RULES (CONTINUED)</b>	
	Section 24-6-4 - Stopping, Standing or Parking Prohibited in Specified Places	24-7
	Section 24-6-5 - Parking for the Handicapped	24-8
	Section 24-6-6 - Load Limits	24-8
	Section 24-6-7 - Parking Privileges for Physically Handicapped Persons	24-9
	Section 24-6-8 - Towing Cars Away	24-9
	Section 24-6-9 - Parking Violations	24-10
	Section 24-6-10 - Prima Facie Proof	24-10
	Section 24-6-11 - Snow Routes	24-10
	Section 24-6-12 - Parking Tickets - State Statute	24-10
<b>VII</b>	<b>ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLES</b>	
	Section 24-7-1 - Abandonment of Vehicles Prohibited	24-11
	Section 24-7-2 - Abandoned, Lost, Stolen or Unclaimed Vehicle Notification to Law Enforcement Agencies	24-11
	Section 24-7-3 - Removal of Motor Vehicles or Other Vehicles; Towing or Hauling Away	24-11
	Section 24-7-4 - Police Tows; Reports, Release of Vehicles, Payment	24-11
	Section 24-7-5 - Record Searches for Unknown Owner	24-12
	Section 24-7-6 - Identifying and Tracing Vehicle	24-13
	Section 24-7-7 - Reclaimed Vehicles; Expenses	24-13
	Section 24-7-8 - Disposal of Unclaimed Vehicle	24-13
	Section 24-7-9 - Disposal of Unclaimed Vehicles Without Notice	24-13
	Section 24-7-10 - Disposal of Hazardous Dilapidated Motor Vehicles	24-14
	Section 24-7-11 - Collection of Unpaid Charges	24-14
	Section 24-7-12 - Police Record for Disposed Vehicle	24-14
	Section 24-7-13 - Public Sale Proceeds; Disposition of	24-14
	Section 24-7-14 - Liability of Law Enforcement Officers	24-14
	Section 24-7-15 - Violations of Article	24-15
<b>VIII</b>	<b>LOAD LIMITS</b>	
	Section 24-8-1 - Load Limits	24-16
	Section 24-8-2 - Posting of Street Signs	24-16
	Section 24-8-3 - Permits	24-16
	Section 24-8-4 - Application for Permits	24-16
	Section 24-8-5 - Bond	24-16
	Section 24-8-6 - Repair of Streets	24-16
<b>IX</b>	<b>PARKING AGREEMENT</b>	
	Section 24-9-1 - Parking Lot Agreement	24-17
	Section 24-9-2 - Violation Notice	24-17
	Section 24-9-3 - Penalty	24-17
	Section 24-9-4 - Towing	24-17

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>X</i></b>	<b><i>VEHICLE SEIZURE AND IMPOUNDMENT</i></b>	
	<i>Section 24-10-1 - Definitions</i>	<i>24-18</i>
	<i>Section 24-10-2 - Conduct Prohibited</i>	<i>24-18</i>
	<i>Section 24-10-3 - Seizure and Impoundment</i>	<i>24-18</i>
	<i>Section 24-10-4 - Notice</i>	<i>24-18</i>
	<i>Section 24-10-5 - Request for Hearing</i>	<i>24-18</i>
	<i>Section 24-10-6 - Failure to Request Hearing</i>	<i>24-18</i>
	<i>Section 24-10-7 - Hearing Officer</i>	<i>24-19</i>
	<i>Section 24-10-8 - Penalty</i>	<i>24-19</i>
	<i>Section 24-10-9 - Disposition of Impounded Vehicle</i>	<i>24-19</i>
	<i>Section 24-10-10 - Posting of Bond</i>	<i>24-19</i>
	<i>Section 24-10-11 - Failure to Pay Penalty</i>	<i>24-20</i>
	<i>Section 24-10-12 - Judicial Review Pending</i>	<i>24-20</i>
	<i>Section 24-10-13 - Monies Deposited</i>	<i>24-20</i>
 <b><i>XI</i></b>	 <b><i>GOLF CARTS</i></b>	
	<i>Section 24-11-1 - Prohibited</i>	<i>24-21</i>
	<i>Section 24-11-2 - Definitions</i>	<i>24-21</i>
	<i>Section 24-11-3 - Requirements</i>	<i>24-21</i>
	<i>Section 24-11-4 - Permits</i>	<i>24-22</i>
	<i>Section 24-11-5 - Violations</i>	<i>24-23</i>
	<i>Section 24-11-6 - Invalidity of Law</i>	<i>24-23</i>
	 <i>Schedule "A" - Stop and Through Intersections</i>	 <i>MV-1</i>
	<i>Schedule "B" - One-Way Streets</i>	<i>MV-9</i>
	<i>Schedule "D" - Speed Limits</i>	<i>MV-10</i>
	<i>Schedule "E" - No Parking Zones</i>	<i>MV-12</i>
	<i>Schedule "F" - Limited Parking Zones</i>	<i>MV-16</i>
	<i>Schedule "G" - Restricted Parking Zones</i>	<i>MV-19</i>
	<i>Schedule "H" - Handicapped Zones</i>	<i>MV-20</i>
	<i>Schedule "J" - Loading Zones</i>	<i>MV-21</i>
	<i>Schedule "R" - No Passing Zone</i>	<i>MV-22</i>
	<i>Schedule "S" - Speed Bumps</i>	<i>MV-22</i>

## **CHAPTER 24**

### **MOTOR VEHICLE CODE**

#### **ARTICLE I – DEFINITIONS**

**24-1-1**        **ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 1**, entitled "**Title and Definitions**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City, the provisions thereof shall be controlling within the corporate limits of the City. **(See 65 ILCS 5/1-3-2)**

#### **ARTICLE II - GENERAL REGULATIONS**

**24-2-1**        **OBEDIENCE TO POLICE.** Members of the Police Department, Special Police, and Auxiliary Police assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic. **(See 625 ILCS 5/11-203)**

**24-2-2**        **SCENE OF FIRE.** The Fire Department officer in command or any fireman designated by him may exercise the powers and authority of a policeman in directing traffic at the scene of any fire or where the Fire Department has responded to an emergency call for so long as the Fire Department equipment is on the scene in the absence of or in assisting the Police Department.

**24-2-3**        **SIGNS AND SIGNALS.** It shall be unlawful for the driver of any vehicle to disobey the instructions of any traffic sign or signal placed in view by authority of the corporate authorities or in accordance with the laws of the State of Illinois except upon direction of a police officer. All signs and signals established by direction of the governing body shall conform to the Illinois State Manual of Uniform Traffic Control Devices for Streets and Highways. **Schedule "V" - Signs and Signals** shall be an integral part of this Section. **(See 625 ILCS 5/11-301)**

**24-2-4**        **UNAUTHORIZED SIGNS.** No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking, light, reflector or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, nor shall any person or place, maintain or display upon or in view of any street, any other sign which hides from view or interferes with the movement of traffic or effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. No tree, bush or foliage of any kind shall be so placed, maintained, allowed to remain, or be displayed upon either public or private property in such a manner as to hide from view or interfere with the movement of traffic or the effectiveness of any traffic-control device, sign or signal.



**24-2-5            INTERFERENCE WITH SIGNS OR SIGNALS.** It shall be unlawful for any person to deface, injure, move or interfere with any official traffic sign or signal.

**24-2-6            ADVERTISING SIGNS.** It shall be unlawful to maintain anywhere in the City any sign, signal, marking or device other than a traffic sign or signal authorized by the City Council or the Illinois Department of Transportation, which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal in view of any street or highway, and it shall be unlawful to place or maintain any sign which hides from view any lawful traffic-control device. It shall be unlawful to maintain or operate any flashing or rotating beacon of light in view of any street or highway. **(See Chapters 27 and 33) (Also See Chapter 40 - Zoning Code)**

**24-2-7            ANIMALS OR BICYCLES.** Any person riding a bicycle or an animal or driving any animal drawing a vehicle upon any street shall be subject to the provisions of this Code applicable to the driver of a vehicle, except those provisions which can have no application to one riding a bicycle or driving or riding an animal. **(See 625 ILCS 5/11-206)**

- 24-2-8            LAMPS AND OTHER EQUIPMENT ON BICYCLES.**
- (A) Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least **five hundred (500) feet** to the front and with a red reflector on the rear of a type approved by the Department which shall be visible from all distances of **one hundred (100) feet to six hundred (600) feet** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A lamp emitting a red light visible from a distance of **five hundred (500) feet** to the rear may be used in addition to the red reflector.
- (B) A bicycle shall not be equipped with, nor shall any person use any siren upon a bicycle.
- (C) Every bicycle shall be equipped with a brake which will adequately control movement of and stop and hold such bicycle.
- (D) No person shall sell a new bicycle or pedal for use on a bicycle that is not equipped with a reflex reflector or conforming to specifications prescribed by the State on each pedal, visible from the front and rear of the bicycle during darkness from a distance of **two hundred (200) feet.**
- (E) No person shall sell or offer for sale a new bicycle that is not equipped with side reflectors. Such reflectors shall be visible from each side of the bicycle from a distance of **five hundred (500) feet** and shall be essentially colorless or red to the rear of the center of the bicycle and essentially colorless or amber to the front of the center of the bicycle provided. The requirements of this paragraph may be met by reflective materials which shall be at least **three-sixteenths of an inch (3/16th")** wide on each side of each tire or rim to indicate as clearly as possible the continuous circular shape and size of the tires or rims of such bicycle and which reflective materials may be of the same color on both the front and rear tire or rim. Such reflectors shall conform to specifications prescribed by the State.
- (F) No person shall sell or offer for sale a new bicycle that is not equipped with an essentially colorless front-facing reflector. **(See 625 ILCS 5/11-1507)**

### **ARTICLE III - STOP AND THROUGH STREETS**

**24-3-1      THROUGH STREETS.** The streets and parts of streets of the City designated by ordinance as "through streets" are hereby declared to be through streets. The driver of a vehicle shall stop at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so close on a through street as to constitute an immediate hazard unless directed otherwise by the traffic officer. See **Schedule "A"** for applicable through and stop streets.

**24-3-2      ONE-WAY STREETS OR ALLEYS.** It shall be unlawful to operate any vehicle on any streets or alleys designated as one-way streets or alleys by ordinance in any direction other than that so designated. See **Schedule "B"** for the designated one-way streets and alleys. **(See 625 ILCS 5/11-208)**

**24-3-3      STOP STREETS.** The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. See **Schedule "A"** for designated stop intersections. **(See 625 ILCS 5/11-302)**

**24-3-4      YIELD RIGHT-OF-WAY STREETS.** The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. **(See Schedule "C")**

**24-3-5      POSTING SIGNS.** Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(See 625 ILCS 5/11-304)**

## ARTICLE IV - DRIVING RULES

**24-4-1**      **ILLINOIS VEHICLE CODE; RULES OF THE ROAD ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, 5/11-100 et seq.**, entitled "**Rules of the Road**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City except for the following changes, deletions and omissions:

(A)

**Omissions:**

- (1) Omit Sections 11-207, 11-208.1, 11-208.2, 11-209.1, 11-302, 11-303, 11-310(f), 11-313, 11-401 to and including 11-416, 11-500 to and including 11-502, 11-602, 11-603, 11-604, 11-606(b), 11-608, 11-1419, and 11-1422.

(B)

**Changes and Additions:**

- (1) Change 11-904(a) to read: "Preferential right-of-way at an intersection may be indicated by stop or yield signs as authorized by this Code."
- (2) Change 11-1416(a) to read: "Any person who shall willfully and unnecessarily attempt to delay, hinder or obstruct any other person in lawfully driving and traveling upon or along any highway within this State or who shall offer for barter or sale, merchandise on said highway so as to interfere with the effective movement of traffic shall, upon conviction, be guilty of a violation of this Code."

**24-4-2**

**DRIVING RULES.**

(A)

**Careless Driving.** It shall be unlawful to operate a vehicle in the City in a careless manner so as to interfere with the safe or lawful operation of any other vehicle or so as to interfere with or to injure, damage, or endanger persons or property engaged in the lawful use of the street.

(B)

**Drag Racing.** No person shall participate within the City in drag racing as such activity is defined by **625 ILCS 5/11-504.**

(C)

**Fleeing or Attempting to Elude Police Officer.** Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a police officer directing such driver or operator to bring his vehicle to a stop, willfully fails to or refuses to obey such direction, increases his speed, extinguishes his lights or otherwise flees or attempts to elude the officer is guilty of a violation of this Chapter. The signal given by the police officer may be by hand, voice, siren, red or blue light. Provided, however, the officer giving such signal shall be in police uniform and if driving a vehicle, such vehicle shall be marked showing it to be an official police vehicle.

(D)

**Unlawful Possession of Highway Sign or Marker.** The Street Department with reference to traffic-control signals, signs or markers owned by the Municipality are authorized to indicate the ownership of such signs, signals or markers on the back of such devices in letters not less than **three-eighths of an inch (3/8")** or more than **three-fourths of an inch (3/4")** in height, by use of a metal stamp, etching or other permanent means and except for employees of the Municipality, police officers, contractors and their employees engaged in highway construction, contract or work on the highway approved by the City, it is a violation of this Chapter for any person to possess such sign, signal or marker so identified. **(See 625 ILCS 5/11-313)**

(E)

**Special Speed Limitations on Elevated Structures.** No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure when such structure is sign-posted.

Upon the trial of any person charged with the violation of this section, proof of the determination of the maximum speed by the City and the existence of such signs is conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. **(See 625 ILCS 5/11-608)**

(F) **General Speed Restrictions.** The speed limits on the various streets shall be approved by the City Council, but shall not exceed **twenty miles per hour (20 MPH)** in a school zone and not to exceed **twenty-five miles per hour (25 MPH)** on a residential street; otherwise, **thirty miles per hour (30 MPH)** on an arterial street unless otherwise posted. **Schedule "D"** shall list the applicable streets that have specific speed limits thereon. **(See 625 ILCS 5/11-604)**

(G) **Special Speed Limit While Passing Schools.** No person shall drive a motor vehicle at a speed in excess of **twenty miles per hour (20 MPH)** while passing a school zone or while traveling upon any public thoroughfare on or across which children pass going to and from school during school days when school children are present.

This section shall not be applicable unless appropriate signs are posted upon streets and maintained by the City or State wherein the school zone is located. **(See 625 ILCS 5/11-605)**

(H) **Failure to Reduce Speed.** A vehicle shall be driven upon the streets and alleys of this City at a speed which is reasonable and proper with regard to traffic conditions and the use of the street or alley. The fact that the vehicle does not exceed the applicable maximum speed limit does not relieve the driver of the duty to decrease speed when approaching and crossing an intersection or when special hazard exists with respect to pedestrian or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(I) **Traffic Lane Usage.** Whenever any roadway within the City has been divided into **two (2)** or more clearly marked lanes for traffic, a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(J) **U-Turns Prohibited.** No driver of a vehicle shall make a "U-turn" on any street or at any intersection of any streets in the City.

(K) **No Passing Zones.** No driver of a vehicle shall pass another vehicle in a "No Passing Zone" as listed in **Schedule "K"**.

**24-4-3** **DUTY TO REPORT ACCIDENT.** The driver of a vehicle which is in any manner involved in an accident within the City shall, without unnecessary delay, notify the Police Department and shall make a report of such action. Failure to report an accident within the City within **twenty-four (24) hours** shall result in arrests of the person or persons involved. **(See 625 ILCS 5/11-415)**

**24-4-4** **TRANSPORTING LIQUOR IN VEHICLES.** No person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle in this City except in the original container and with the seal unbroken. **(See 625 ILCS 5/11-502)**

**24-4-5** **EXCESSIVE NOISE - STOPPED VEHICLE.** No operator of a motor vehicle shall, when the motor vehicle is stopped, unreasonably accelerate the engine thereof with the gears of the vehicle in neutral, thereby causing an unreasonably loud or excessive noise.

**24-4-6** **EXCESSIVE NOISE - WHEELS.** No operator of a motor vehicle shall when the motor vehicle is stopped, accelerate the engine with the gears of such vehicle in neutral and while so accelerating the engine, shift the gears of the vehicle into a forward or reverse movement, thereby causing an unreasonably loud noise with the drive wheels of the vehicle.

**24-4-7** **EXCESSIVE NOISE - SQUEALING TIRES.** No operator of a motor vehicle shall cause the wheels of such vehicle to spin violently, thereby causing an unreasonably loud or excessive noise. **(See 625 ILCS 5/11-505)**

**24-4-8** **RECKLESS, NEGLIGENT OR CARELESS DRIVING.** It shall be unlawful to operate any vehicle in the City in a careless, reckless, negligent or wanton manner, or carelessly so as to endanger life or property.

**24-4-9**        **EXCESSIVE NOISE WHILE DRIVING.** No operator of a motor vehicle shall, when operating the vehicle, accelerate the vehicle or rapidly stop the vehicle causing an unreasonably loud noise.

## ARTICLE V - EQUIPMENT OF VEHICLES

**24-5-1      ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 12**, entitled "**Equipment of Vehicles**", as passed, approved, and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City. **(See 625 ILCS 5/12-605, 5/12-605.1; and 5/12-605.2)**

**24-5-2      MUFFLER.** No motor vehicle shall be operated on any street unless such vehicle is provided with a muffler in efficient actual working condition; and the use of a cut-out is prohibited. No muffler shall cause an unreasonably loud or excessive noise. **(See 625 ILCS 5/12-602)**

**24-5-3      SOUND AMPLIFICATION SYSTEMS.** No driver of any motor vehicle within this City shall operate or permit operation of any sound amplification system which can be heard outside the vehicle from **seventy-five (75) feet** or more when the vehicle is being operated upon a highway, unless such system is being operated to request assistance or warn of a hazardous situation. This Section shall not apply to authorized emergency vehicles. **(See 625 ILCS 5/12-611)**

**24-5-4      EXCESSIVE ENGINE BRAKING NOISE PROHIBITED.** It shall be unlawful for the operator of a commercial vehicle as defined in **625 ILCS 5/1-111.8** to operate or actuate any engine braking system within the City that emits excessive noise unless it is an emergency. The Superintendent is authorized and directed to post signs stating: "**Quiet Zone. No engine braking except emergency within City limits**" at appropriate locations. **(See 625 ILCS 5/12-602.1)**

## ARTICLE VI - PARKING RULES

**24-6-1      TIME LIMIT PARKING.** It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

**24-6-2      PARKING FOR SALE, REPAIR OR PEDDLING PROHIBITED.** No person shall park a vehicle upon any street for the purpose of:

- (A) displaying such vehicle for sale; or
- (B) washing, greasing or repairing such vehicle, except when emergency repairs are necessary; or
- (C) peddling merchandise.

**24-6-3      PRIVATE PROPERTY.** It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

**24-6-4      STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.**

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control devices, no person shall:

(1) **Stop, Stand or Park a Vehicle:**

- (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (b) On a sidewalk.
- (c) Within an intersection.
- (d) On a crosswalk.
- (e) Between a safety zone and the adjacent curb or within **thirty (30) feet** of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
- (f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
- (h) On any railroad tracks.
- (i) At any place where official signs prohibit stopping.
- (j) On any controlled-access highway.
- (k) In the area between roadways of a divided highway, including crossovers.
- (l) In any alley that is open and maintained.

(2) **Stand or Park a Vehicle** (whether occupied or not, except momentarily to pick up or discharge passengers):

- (a) In front of a public or private driveway.
- (b) Within **fifteen (15) feet** of a fire hydrant.
- (c) Within **twenty (20) feet** of a crosswalk at an intersection.
- (d) Within **thirty (30) feet** upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of the roadway.
- (e) Within **twenty (20) feet** of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within **seventy-five (75) feet** of such entrance (when properly sign-posted).

- (f) At any place where official signs prohibit standing or parking.
- (3) **Parking a Vehicle** (whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers):
- (a) within **fifty (50) feet** of the nearest rail of a railroad crossing;
  - (b) at any place where official signs prohibit parking;
  - (c) in yellow zones.
- (B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.
- (C) Schedules "E", "F" and "G" shall list all applicable no-parking zones.
- (D) **Truck Parking Prohibited.** No second Division vehicle licensed for a "F" classification or higher shall be parked on any street, alley or any public parking lot not so designated for public parking of vehicles described herein in the City except temporary parking for loading and unloading purposes. Vehicle described in this paragraph shall include either the tractor or trailer of such unit.
- (E) Schedule "M" shall designated all applicable "No Parking Tow Away" Zones for both sides of the street. **(Ord. No. 99-29; 11-08-99)**  
**(See 625 ILCS 5/3-815)**

#### **24-6-5 PARKING FOR THE HANDICAPPED.**

- (A) **Designated Parking.** Certain parking spaces within the confines of the City shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.
- (B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et. seq.** furnished by the City.
- (C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. **(See 625 ILCS 5/11-1301.2)**
- (D) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency of a City Handicapped Registration Card will be ticketed and the vehicle will be removed in accordance with departmental policies and in accordance with **Section 5/11-1302, Chapter 625 of the Illinois Compiled Statutes.** The registered owner of the vehicle as ascertained by the registration plates of the vehicle will be presumed to be in control of the vehicle and will be fined **Two Hundred Dollars (\$200.00)**. The same registered owner will be held liable for the cost of removal of the vehicle and must pay that cost, plus storage charges, if any, prior to the release of the vehicle. **(See 625 ILCS 5/11-1301.3(C))**
- (E) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "H"**.

#### **24-6-6 LOAD LIMITS.**

- (A) **Established.** There is hereby established "gross load limit" on City streets listed in **Schedule "J"**. The term "gross load limit" shall mean the total weight of a vehicle and the load it is carrying. The specified streets and the load limits are hereby listed in **Schedule "J"**.
- (B) **Restrictions.** It shall be unlawful to operate a vehicle upon any street where the operation is prohibited by this Section and where such signs of prohibition are posted, except that a vehicle may be driven on such street for not more than the minimum distance necessary for the purpose of making deliveries or picking up loads.



(C) **Exceptions.** This Chapter shall not include pickup trucks, trucks operated by the City maintenance and repairs on the street or the operation of a vehicle owned by the U.S. government or State of Illinois while on lawful business of these agencies.

**24-6-7                    PARKING PRIVILEGES FOR PHYSICALLY HANDICAPPED PERSONS.**

(A) As used in this Section, "physically handicapped person" means:

- (1) Any person who has been issued a parking permit for physically handicapped individuals pursuant to any applicable state or federal statute or regulation;
- (2) Any person who has been issued a handicapped person license plate or decal pursuant to any applicable state or federal statute or regulation;
- (3) Any person who has been issued a disabled veteran license plate pursuant to any applicable state or federal statute or regulation.

(B) As used in this Section, "private business property" and "shopping center" mean privately owned real property on which the public is invited to travel for business purposes.

(C) The owner or manager of a shopping center or private business property may reserve parking spaces within such shopping center or private business property for the exclusive use of physically handicapped persons at all times that such shopping center or private business property is open to the public.

(D) Physically handicapped persons who park at such designated spaces shall display on their vehicle either a parking permit issued pursuant to any applicable state or federal statute or regulation, a handicapped person license plate or decal issued pursuant to any applicable state or federal statute or regulation, or a disabled veteran license plate issued pursuant to any applicable state or federal statute or regulation. Failure to display such placard or plate shall be a violation of this Section and shall subject the owner or operator of the vehicle to the penalties provided for violations of this Chapter.

(E) Physically handicapped persons who park at designated metered spaces shall be subject to all restrictions and requirements applicable to such meters, including time restrictions and charges for parking. Failure to comply with such restrictions and requirements is a violation of this Section and shall subject the owner or operator of the vehicle to the penalties provided for violations of this Chapter. However, the Director of the Department of Transportation shall issue a permit waiving time restrictions and parking charges to any physically handicapped person who files an affidavit with the department stating that he is physically incapable of depositing money in a parking meter. It shall be unlawful for any person to park at a designated metered space without depositing money in the meter unless a permit issued pursuant to this Section is prominently displayed on the vehicle so parked.

(F) A vehicle displaying the placard or license plate required in subsection (D) above, is eligible to be parked in the designated spaces only when the vehicle is being operated by or is providing transportation for the person to whom the placard or license plate has been issued. Failure to comply with this restriction is a violation of this Section and shall subject the owner or operator of the vehicle to penalties provided for violations of this Chapter.

(G) Any person who parks at a space designated pursuant to subsection (C) above, and who fails to display the placard or plate required by subsection (D) or who is not eligible to obtain such a placard or plate shall be in violation of this Section. Such violation shall subject the owner or operator of the vehicle to penalties provided for violations of this Section. However, a vehicle displaying an unexpired handicapped parking permit, an unexpired disabled veteran's registration plate or decal issued under the laws of another state may also park in designated spaces pursuant to this Section.  
**(Ord. No. 98-18; 05-26-98)**

**24-6-8                    TOWING CARS AWAY.** The Police Department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car, boat, trailer, or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant or

obstructs or may obstruct the movement of any emergency vehicle; or any vehicle which has been parked in any public street or other public place for a period of **twenty-four (24) hours**.

Vehicles towed away shall be stored on any City property or in a public garage or parking lot and shall be restored to the owner or operator thereof after payment of the expense incurred by the City in removing and storing such vehicle(s).

**24-6-9      PARKING VIOLATIONS.** Any person accused of a violation of an ordinance prohibiting parking a vehicle in a designated area or restricting the length of time a vehicle may be there parked, may settle and compromise the claim against him or her for such illegal parking by paying to the City **Fifty Dollars (\$50.00)** for each such offense and **Fifty Dollars (\$50.00)** for the second offense within **six (6) months**. Such payment may be made at the City Hall and a receipt shall be issued for all money so received and such money shall be promptly turned over to the Treasurer to be credited to the General Fund. The members of the Police Department are hereby authorized to refrain from instituting a prosecution for the alleged offense involved for at least **five (5) days**.

Provided, this section shall not apply to persons parking a vehicle so as to obstruct the entrance or exit of any place where Police and Fire Department apparatus or other emergency equipment is kept or housed or so as to block an emergency entrance in a hospital. Nor shall this Section apply to any person charged with parking a vehicle so as to entirely obstruct traffic in any street or alley or parking in such a way as to reduce traffic on an arterial street to one-way traffic only; nor to any person who refuses to remove a vehicle illegally parked at the request of any member of the Police Department.

(A) **Removal - Time Limit.** Any vehicle illegally parked for a period in excess of **twenty-four (24) hours** may be removed by a towing service authorized by the Police Department of the municipality. In any emergency, any vehicle may be removed by any means when authorized by the Police Department of the municipality.

(B) **City Parking Lots.** No person shall park a motor vehicle on a City parking lot unattended for more than **five (5)** consecutive days.

**24-6-10      PRIMA FACIE PROOF.** The fact that a vehicle which is illegally parked or operated is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such violation.

**24-6-11      SNOW ROUTES.** It shall be unlawful to park a vehicle on the following designated streets at any time within **eighteen (18) hours** after a snowfall of **three (3) inches** or more, unless the street has been cleared of snow.

**24-6-12      PARKING TICKETS - STATE STATUTE.** The City Council intends to utilize **Illinois Compiled Statutes, Chapter 625; Section 5/6-306.5** and the procedure set forth therein.

The appropriate authorities are hereby authorized to utilize the statute and the procedure set forth therein.

## **ARTICLE VII – ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLES**

### **24-7-1      ABANDONMENT OF VEHICLES PROHIBITED.**

(A) The abandonment of a vehicle or any part thereof on any highway in this City is unlawful and subject to penalties as set forth under **Section 1-1-20** of this Code.

(B) The abandonment of a vehicle or any part thereof on private or public property, other than a highway, in view of the general public, anywhere in this City is unlawful except on property of the owner or bailee of such abandoned vehicle. A vehicle or any part thereof so abandoned on private property shall be authorized for removal, by the City, after a waiting period of **seven (7) days** or more, or may be removed immediately if determined to be a hazardous dilapidated motor vehicle under Section 5/11-40-3.1 of the Illinois Municipal Code. A violation of subsections (A) or (B) of this Section is subject to penalties as set forth under **Section 1-1-20** of this Code.

(C) A towing service may begin to process an unclaimed vehicle as abandoned by requesting a record search by the Secretary of State up to **ten (10) days** after the date of the tow, or any later date acceptable to the Secretary of State. This paragraph shall not apply to vehicles towed by order or authorization of the City or a law enforcement agency. **(625 ILCS 5/4-201)**

**24-7-2      ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLE NOTIFICATION TO LAW ENFORCEMENT AGENCIES.** When an abandoned, lost, stolen or unclaimed vehicle comes into the temporary possession or custody of a person in this City, not the owner of the vehicle, such person shall immediately notify the municipal police when the vehicle is within the corporate limits of any City having a duly authorized police department, or the State Police or the county sheriff when the vehicle is outside the corporate limits of the City. Upon receipt of such notification, the municipal police will authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed vehicle. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow as set forth in **625 ILCS 5/4-204** for law enforcement agencies, until the vehicle is claimed by the owner or any other person legally entitled to possession thereof or until it is disposed of as provided in this Code. **(625 ILCS 5/4-202)**

### **24-7-3      REMOVAL OF MOTOR VEHICLES OR OTHER VEHICLES; TOWING OR HAULING AWAY.**

(A) When a vehicle is abandoned on a highway in an urban district **ten (10) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(B) When a vehicle is abandoned or left unattended on a highway other than a toll highway, interstate highway, or expressway, outside of an urban district for **twenty-four (24) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(C) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction.

**24-7-4      POLICE TOWS; REPORTS, RELEASE OF VEHICLES, PAYMENT.** When a vehicle is authorized to be towed away as provided in **Section 24-7-2** or **24-7-3**:

(A) The authorization, any hold order, and any release shall be in writing, or confirmed in writing, with a copy given to the towing service.

(B) The police headquarters or office of the law officer authorizing the towing shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's

trade name, manufacturer's series name, body style, Vehicle Identification Number, license plate year and number and registration sticker year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the officer authorizing the tow.

(C) The owner, operator, or other legally entitled person shall be responsible to the towing service for payment of applicable removal, towing, storage, and processing charges and collection costs associated with a vehicle towed or held under order or authorization of the law enforcement agency. If a vehicle towed or held under order or authorization of a law enforcement agency is seized by the ordering or authorizing agency or any other law enforcement or governmental agency and sold, any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the proceeds of the sale. If applicable law provides that the proceeds are to be paid into the treasury of the appropriate civil jurisdiction, then any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the treasury of the civil jurisdiction. That payment shall not, however, exceed the amount of proceeds from the sale, with the balance to be paid by the owner, operator, or other legally entitled person.

(D) Upon delivery of a written release order to the towing service, a vehicle subject to a hold order shall be released to the owner, operator, or other legally entitled person upon proof of ownership or other entitlement and upon payment of applicable removal, towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-204)**

#### **24-7-5                    RECORD SEARCHES FOR UNKNOWN OWNER.**

(A) When a law enforcement agency authorizing the impounding of a vehicle does not know the identity of the registered owner, lienholder or other legally entitled person, that law enforcement agency will cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State for the purpose of obtaining the required ownership information.

(B) The law enforcement agency authorizing the impounding of a vehicle will cause the stolen motor vehicle files of the State Police to be searched by a directed communication to the State Police for stolen or wanted information on the vehicle. When the State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the State Police. The information determined from these record searches will be returned to the requesting law enforcement agency for that agency's use in sending a notification by certified mail to the registered owner, lienholder and other legally entitled persons advising where the vehicle is held, requesting a disposition be made and setting forth public sale information. Notification shall be sent no later than **ten (10) business days** after the date the law enforcement agency impounds or authorizes the impounding of a vehicle, provided that if the law enforcement agency is unable to determine the identity of the registered owner, lienholder or other person legally entitled to ownership of the impounded vehicle within a **ten (10) business day period** after impoundment, then notification shall be sent no later than **two (2) days** after the date the identity of the registered owner, lienholder or other person legally entitled to ownership of the impounded vehicle is determined. Exceptions to a notification by certified mail to the registered owner, lienholder and other legally entitled persons are set forth in **625 ILCS 5/4-209**.

(C) When ownership information is needed for a towing service to give notification as required under this Code, the towing service may cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State.

The written request of a towing service, in the form and containing the information prescribed by the Secretary of State by rule, may be transmitted to the Secretary of State in person, by U.S. Mail or other delivery service, by facsimile transmission, or by other means the Secretary of State deems acceptable.

The Secretary of State shall provide the required information, or a statement that the information was not found in the vehicle registration records of the State, by U.S. Mail or other delivery service, facsimile transmission, as requested by the towing service, or by other means acceptable to the Secretary of State.

(D) The Secretary of State may prescribe standards and procedures for submission of requests for record searches and replies via computer link.

(E) Fees for services provided under this Section shall be in amounts prescribed by the Secretary of State under Section 3-821.1 of the Illinois Municipal Code. Payment may be made by the towing service using cash, any commonly accepted credit card, or any other means of payment deemed acceptable by the Secretary of State. **(625 ILCS 5/4-205)**

**24-7-6 IDENTIFYING AND TRACING OF VEHICLE.** When the registered owner, lienholder or other person legally entitled to the possession of a vehicle cannot be identified from the registration files of this State or from the registration files of a foreign state, if applicable, the law enforcement agency having custody of the vehicle shall notify the State Police, for the purpose of identifying the vehicle owner or other person legally entitled to the possession of the vehicle. The information obtained by the State Police will be immediately forwarded to the law enforcement agency having custody of the vehicle for notification purposes as set forth in **Section 24-7-5** of this Code. **(625 ILCS 5/4-206)**

**24-7-7 RECLAIMED VEHICLES; EXPENSES.**  
(A) Any time before a vehicle is sold at public sale or disposed of as provided in **Section 24-7-8**, the owner, lienholder or other person legally entitled to its possession may reclaim the vehicle by presenting to the law enforcement agency having custody of the vehicle proof of ownership or proof of the right to possession of the vehicle.  
(B) No vehicle shall be released to the owner, lienholder, or other person under this Section until all towing, storage, and processing charges have been paid. **(625 ILCS 5/4-207)**

**24-7-8 DISPOSAL OF UNCLAIMED VEHICLE.**  
(A) When an abandoned, lost, stolen or unclaimed vehicle **seven (7) years** of age or newer remains unclaimed by the registered owner, lienholder or other legally entitled person for a period of **thirty (30) days** after notice has been given as provided in **Sections 24-7-5** and **24-7-6** of this Article, the law enforcement agency or towing service having possession of the vehicle shall cause it to be sold at public auction to a person licensed as an automotive parts recycler, rebuilder or scrap processor under **Article 5 of Chapter 625 of the Illinois Compiled Statutes** or the towing operator which towed the vehicle. Notice of the time and place of the sale shall be posted in a conspicuous place for at least **ten (10) days** prior to the sale on the premises where the vehicle has been impounded. At least **ten (10) days** prior to the sale, the law enforcement agency where the vehicle is impounded, or the towing service where the vehicle is impounded, shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner, lienholder, or other legally entitled persons. Notice as provided in **Sections 24-7-5** and **24-7-6** of this Article as provided in this Section shall state the time and place of sale and shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled persons to reclaim the vehicle.  
(B) If an abandoned, lost, stolen, or unclaimed vehicle displays dealer plates, notice under this Section and **Section 24-7-9** of this Code shall be sent to both the dealer and the registered owner, lienholder, or other legally entitled persons.  
(C) In those instances where the certified notification specified in **Section 24-97-5** and **24-7-6** of this Article has been returned by the postal authorities to the law enforcement agency or towing service, the sending of a second certified notice will not be required. **(625 ILCS 5/4-208)**

**24-7-9 DISPOSAL OF UNCLAIMED VEHICLES WITHOUT NOTICE.**  
(A) **New Car.** When the identity of the registered owner, lienholder, or other person legally entitled persons of an abandoned, lost, or unclaimed vehicle of **seven (7) years** of age or newer cannot be determined by any means provided for in this Article, the vehicle may be sold as provided for in **Section 24-7-8** without notice to any person whose identity cannot be determined.  
(B) **Old Car.** When an abandoned vehicle of more than **seven (7) years** of age is impounded as specified by this Article, or when any such vehicle is towed at the request or with the

consent of the owner or operator and is subsequently abandoned, it will be kept in custody or storage for a minimum of **ten (10) days** for the purpose of determining the identity of the registered owner, lienholder, or other legally entitled persons and contacting the registered owner, lienholder, or other legally entitled persons by the U.S. Mail, public service or in person for a determination of disposition; and an examination of the State Police stolen vehicle files for theft and wanted information. At the expiration of the **ten (10) day** period, without the benefit of disposition information being received from the registered owner, lienholder, or other legally entitled persons, the vehicle may be disposed of in either of the following ways:

- (1) The law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk or salvage.
- (2) The towing service may sell the vehicle in the manner provided in **Section 24-7-8** of this Article, provided that the paragraph shall not apply to vehicles towed by order or authorization of a law enforcement agency.

(C) **Antique Vehicle.** A vehicle classified as an antique vehicle, custom vehicle, or street rod may, however, be sold to a person desiring to restore it. **(625 ILCS Sec. 5/4-209)**

**24-7-10 DISPOSAL OF HAZARDOUS DILAPIDATED MOTOR VEHICLES.** Any hazardous dilapidated motor vehicle impounded pursuant to the provisions of this Article and **65 ILCS 5/11-40-3.1**, whether impounded at a public facility or on the property of private towing service, shall be kept in custody for a period of **ten (10) days** for the purpose of determining the identity of the registered owner or lienholder and contacting such owner or lienholder, if known, by regular U.S. Mail. At the expiration of the **ten (10) day** period, without benefit of disposition information being received from the registered owner or lienholder, the law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk. **(65 ILCS 5/4-209.1)**

**24-7-11 COLLECTION OF UNPAID CHARGES.** In an action to collect towing, storage, and processing charges that remain unpaid after disposition of a vehicle towed or relocated under this Code, the towing service may recover reasonable collection costs.

**24-7-12 POLICE RECORD FOR DISPOSED VEHICLE.** When a vehicle in the custody of the City or law enforcement agency is reclaimed by the registered owner, lienholder or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this Article, a report of the transaction will be maintained by that law enforcement agency for a period of **one (1) year** from the date of the sale or disposal. **(625 ILCS 5/4-210)**

**24-7-13 PUBLIC SALE PROCEEDS; DISPOSITION OF.**

(A) When a vehicle located within the corporate limits is authorized to be towed away by a law enforcement agency having jurisdiction and disposed of as set forth in this Article, the proceeds of the public sale or disposition after the deduction of towing, storage and processing charges shall be deposited in the treasury of the City.

(B) The provisions of this Section shall not apply to vehicles disposed of or sold at public sale under subsection (k) of **625 ILCS 5/4-107** of the Illinois Vehicle Code. **(625 ILCS 5/4-211)**

**24-7-14 LIABILITY OF LAW ENFORCEMENT OFFICERS.**

(A) A law enforcement officer or agency, a department of municipal government designated under **625 ILCS 5/4-212.1** or its officers or employees, or a towing service owner, operator, or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, lienholder or any other person

legally entitled to the possession of a vehicle when the vehicle was processed and sold or disposed of as provided by this Article.

(B) A towing service, and any of its officers or employees, that removes or tows a vehicle as a result of being directed to do so by a law enforcement officer or agency or a department of municipal government or its officers or employees shall not be held to answer or be liable for injury to, loss of, or damages to any real or personal property that occurs in the course of the removal or towing of a vehicle or its contents on a limited access highway in a designated Incident Management Program that uses fast lane clearance techniques as defined by the Department of Transportation. **(625 ILCS 5/4-213)**

**24-7-15**

**VIOLATIONS OF ARTICLE.**

(A) Any person who violates **Section 24-7-1** of this Article or who aids and abets in that violation:

- (1) shall be subject to a mandatory fine of **Two Hundred Dollars (\$200.00)**; and
- (2) shall be required by the court to make a disposition on the abandoned or unclaimed vehicle and pay all towing, storage, and processing charges and collection costs pursuant to **Section 24-7-3(A) and (E)**.

(B) When a vehicle is abandoned, it shall be presumed that the last registered owner is responsible for the abandonment and shall be liable for all towing, storage, and processing charges and collection costs, less any amounts realized in the disposal of the vehicle. The last registered owner's liability for storage fees may not exceed a maximum of **thirty (30) days'** storage fees.

The presumption established under this paragraph may be rebutted by a showing that, prior to the time of the tow:

- (1) a report of vehicle theft was filed with respect to the vehicle; or
- (2) the vehicle was sold or transferred and the last registered owner provides the towing service with the correct identity and address of the new owner at the time of the sale or transfer.

If the presumption established under this Section is rebutted, the person responsible for theft of the vehicle or to whom the vehicle was sold or transferred is liable for all towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-214)**



## **ARTICLE VIII - LOAD LIMITS**

**24-8-1      LOAD LIMITS.** The maximum gross load limit allowable henceforth on the streets of this City shall be **twelve (12) tons**. For the purpose of this Article, the term "gross load limit" shall mean the total weight of vehicle and the load it is carrying.

**24-8-2      POSTING OF STREET SIGNS.** The Superintendent of Streets shall cause signs to be erected on all City streets, except those designated as State Highways.

**24-8-3      PERMITS.** Permits may be issued by the City Council to persons who intend to carry loads in excess of the load limit herein specified on streets of this City.

**24-8-4      APPLICATION FOR PERMITS.** Application for Excess Load Permit shall be made in writing to the City Council and filed with the City Clerk, such applications shall set forth the name and address of the applicant, the type or types of vehicles to be used, the maximum gross load limit to be carried, and the streets to be traveled, and such other information as the Council may require.

**24-8-5      BOND.** A bond may be required of all persons, firms, partnerships, and corporations who apply for the Excess Load Limit Permits in such amounts and with such sufficient sureties as the Council may determine from the circumstances as evidenced by the applications submitted. Such bond shall be for the purpose of insuring that any damage done to the streets of this City by the applicants will be repaired.

**24-8-6      REPAIR OF STREETS.** Every person who receives a permit for excess loads as specified hereinabove shall replace and repair every street or alley or portion thereof damaged by such use and such replacement and repair shall be supervised by the Superintendent of Streets of this City and all work shall be completed to his satisfaction.

**(Ord. No. 787; 07-08-68)**

## **ARTICLE IX - PARKING AGREEMENT**

**24-9-1      PARKING LOT AGREEMENT.** The City may enter into Agreements with private shopping centers to regulate the parking of automobiles. These Parking Agreements shall be subject to the terms of **625 ILCS Sec. 5/11-209** as now enacted or as hereinafter amended, and the parties may exercise all rights and powers conferred thereunder. **(Ord. No. 1201; 05/09/88)**

**24-9-2      VIOLATION NOTICE.** Every police officer or meter patrolman of the City shall attach or place upon every vehicle parked in violation of the provisions of any Parking Agreement, a Notice that such vehicle has been illegally parked. The owner or operator in violation of the Parking Agreement may within **seven (7) days** of the time the Notice was attached or placed upon the vehicle pay as the penalty for and in full satisfaction of the violation the sum of **Ten Dollars (\$10.00)**. **(Ord. No. 1229; 02-27-89)**

**24-9-3      PENALTY.** Any violation of the provisions of a Parking Agreement shall be subject to the General Penalty Provision of the Codified Ordinances of the City of Benton, Paragraph 1-1-20. Each and every violation of the Parking Agreement shall constitute a separate offense and shall be punishable as such.

**24-9-4      TOWING.** In addition to the provisions of this Article, any vehicle parked in violation of a Parking Agreement shall be subject to being towed away on order of any police officer or meter patrolman and the cost of removal shall be paid by the owner or operator of the vehicle.

**(Ord. No. 1229; 02-27-89)**

## **ARTICLE X – VEHICLE SEIZURE AND IMPOUNDMENT**

### **24-10-1      DEFINITIONS.**

- (A) For purposes of this Section, "motor vehicle" means every vehicle which is self-propelled, including, but not limited to, all automobiles, trucks, vans, motorcycles, and motor scooters.
- (B) For purposes of this Section, "owners of record" means the record title holders of the vehicle.
- (C) For purposes of this Section, a person engages in conduct "knowingly" if, when the person engages in the conduct, the person is aware of a high probability that he or she is doing so.

**24-10-2      CONDUCT PROHIBITED.** Any motor vehicle used in the commission of the following proscribed conduct is subject to seizure and impoundment under this Article.

- (A) A motor vehicle that is knowingly used in the commission of possession or attempted possession of cannabis or a controlled substance as defined in the Criminal Code of 1961, **720 ILCS 550/2 et seq. and 570/1101 et seq.**
- (B) A motor vehicle that is used in the commission of the offense of driving under the influence of alcohol, drugs, and/or intoxicating compounds as provided in Section 5/11-501 of the Illinois Vehicle Code;
- (C) A motor vehicle that is used in the commission of the offense of driving on a suspended or revoked license in violation of Section 5/6-303 of the Illinois Vehicle Code or similar provision of this Code when the driver's driving privileges are suspended or revoked;
- (D) A motor vehicle that is being operated on a City street and is not covered by liability insurance in accordance with Section 5/7-601 and/or 5/7-602 of the Illinois Vehicle Code or similar provision of this Code;
- (E) A motor vehicle that is used in the commission of the offense of driving without a valid license or permit in violation of Section 5/6-101 of the Illinois Vehicle Code or similar provision of this Code.

**24-10-3      SEIZURE AND IMPOUNDMENT.** Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Article, the police officer shall provide for the towing of the vehicle to a facility controlled by the City or its agents. This Section shall not apply if the vehicle used in the violation of **Section 24-10-2** was stolen at the time of the alleged violation and the theft was reported to the appropriate police authorities within **seventy-two (72) hours** after the theft was discovered or reasonably should have been discovered.

**24-10-4      NOTICE.** Within **seventy-two (72) hours** after a vehicle is seized and impounded, the City Police Department shall notify the owners of record or the person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure, the penalty assessed, and of their right to request a vehicle impoundment hearing under this Section. All notices sent to the City or the owner of record pursuant to this Section shall be provided by certified mail.

**24-10-5      REQUEST FOR HEARING.** A request for a hearing must be made within **thirty (30) days** of the seizure and impoundment of any vehicle. The request for a hearing must be made in writing to the Police Department. A request for a hearing may be made by either the owners of record or the person found to be in control of the vehicle at the time of the alleged violation.

**24-10-6      FAILURE TO REQUEST HEARING.** If a request for a hearing is not made within **thirty (30) days** of the seizure and impoundment, the vehicle shall be deemed abandoned and shall be disposed of in the manner provided by law for the disposition of abandoned vehicles. The

vehicle

shall not be released to the owners of record, or to the person found to be in control of the vehicle until the penalty of **One Hundred Dollars (\$100.00)** is paid to the City, and only after the applicable towing and storage fees have been paid to the towing agent.

**24-10-7 HEARING OFFICER.** Within **seven (7) days** of receiving a written request for a hearing, a hearing shall be held before a hearing officer. The Mayor or his designee shall serve as the hearing officer. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing.

**24-10-8 PENALTY.** The owner of the motor vehicle, or the person in control, may waive his right to a hearing under this Section by agreeing and stipulating in writing that the seized motor vehicle was being used in violation of this Section. Once the stipulation is signed and the penalty is paid, the seized vehicle will be released.

If, after a hearing, the hearing officer determines by a preponderance of evidence that a violation for which a penalty is applicable under this Section has occurred; the hearing officer shall enter an order finding the operator of the vehicle guilty of violating this Section and shall be liable to the City for the penalty of provided for in this Article, and also liable to the agent for any applicable towing and storage fees. If the operator of the vehicle fails to appear at the hearing, the hearing officer may enter a default order in favor of the City requiring payment to the City of a penalty in the amount provided for in this Article as well as payment to the towing agent for any applicable towing and storage fees. If the hearing officer finds that no such violation occurred the hearing officer shall order the immediate return of the vehicle to the owners of record.

The penalty to any owner or operator of any motor vehicle found to be in violation of any Section of this Article shall be liable for a penalty as follows:

- (A) The sum of **One Hundred Dollars (\$100.00)** for a first offense;
- (B) The sum of **Two Hundred Dollars (\$200.00)** for a second offense;
- (C) The sum of **Five Hundred Dollars (\$500.00)** for a third and subsequent offense.

**24-10-9 DISPOSITION OF IMPOUNDED VEHICLE.** A penalty imposed pursuant to this Section shall constitute a debt due and owing the City. A vehicle impounded pursuant to this Section shall remain impounded until:

(A) the penalty provided by paragraph 5(h) is paid to the City and all applicable towing and storage fees are paid to the towing agent in which case the owners of record shall be given possession of the vehicle;

(B) a bond in the amount equal to the prescribed penalty is posted with the Police Department and all applicable towing and storage fees are paid to the agent, at which time the vehicle will be released to the owners of record; or

(C) the vehicle is deemed abandoned pursuant to **Section 24-10-11**, in which case the vehicle shall be disposed of in the manner provided by law for the disposition of abandoned vehicles.

**24-10-10 POSTING OF BOND.** If a bond in the amount of penalty provided is posted with the Police Department, the impounded vehicle shall be released to the owners of record. If a penalty is imposed for violation of this Section, the bond will be forfeited to the City; however, in the event a violation of this Section is not proven by a preponderance of the evidence, the bond will be returned to the person posting the bond. All bond money posted pursuant to this Section shall be held by the Police Department until the hearing officer issues a decision, or, if there is a judicial review, until the court issues its decision.

**24-10-11      FAILURE TO PAY PENALTY.** If the penalty and applicable towing and storage fees are not paid within **eighty (80) days** after a penalty is imposed pursuant to this Section, the vehicle, shall be deemed abandoned and shall be disposed of in the manner provided by law for the disposition of abandoned vehicles.

**24-10-12      JUDICIAL REVIEW PENDING.** Provided, however, the vehicle shall not be deemed abandoned if a petition for judicial review of the hearing officer's determination is filed and pending in a court of proper jurisdiction. Where a petition for judicial review of the hearing officer's determination is sought and is subsequently resolved in favor of the City, the vehicle shall be deemed abandoned and shall be disposed of in the manner provided by law for the disposition of abandoned vehicles, if the penalty and applicable towing and storage fees are not paid within **thirty (30) days** after the resolution of this petition for judicial review.

If a petition is filed for judicial review, the vehicle's owner of record must provide notice of the filing to the Police Department no later than **twenty-four (24) hours** after the petition is filed.

**24-10-13      MONIES DEPOSITED.** All penalties collected and retained by the City for a violation of this Section shall be deposited with the City Treasurer.

**(Ord. No. 05-21; 07-25-05)**

## ARTICLE XI – GOLF CARTS

**24-11-1      PROHIBITED.** Golf carts and recreational off-highway vehicles (not intended for ATV's, four-wheelers), as defined and qualified herein shall be allowed on City streets under the conditions as stated herein.

**24-11-2      DEFINITIONS.**

(A) A "Golf Cart" is defined as a vehicle specifically designed and intended for the purpose, including but not limited to, the transporting of **one (1)** or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

(B) A "Recreational Off-Highway Vehicle" (not intended for ATV's or four-wheelers) is defined as a motorized off-highway device designated to travel primarily off-highway that is **sixty-four (64) inches** or less in width, having a manufacturer's dry weight of **two thousand (2,000) pounds** or less, traveling on **four (4)** or more non-highway tires, designed with a non-straddle seat and a steering wheel for steering control, except equipment such as lawn mowers.

(C) "City Streets" means any of the streets within the boundaries of the City of Benton.

**24-11-3      REQUIREMENTS.** All persons wishing to operate a golf cart or a recreational off-highway vehicle (not intended for ATV's or four-wheelers) on the City streets must insure compliance with the following requirements:

(A) Must have proof of current liability insurance at a level meeting the State minimum requirements;

(B) Must be certified with the City and have the vehicles certified with the City pursuant to inspection by the Chief of Police or designated representative;

(C) Must have an annual City Decal on the rear of the vehicle;

(D) Must have current valid Illinois driver's license;

(E) Must be at least **twenty-one (21) years** of age;

(F) Must be the owner or authorized user of the golf cart or recreational off-highway vehicle (not intended for ATV's or four-wheelers);

(G) Operators must have in his/her possession, evidence of ownership of the golf cart or recreational off-highway vehicles (not intended for ATV's or four-wheelers), his/her current valid Illinois driver's license, proof of current liability insurance, and a current permit issued by the City of Benton, Illinois.

(H) Golf carts and recreational off-highway vehicles (not intended for ATV's or four-wheelers) must be equipped as follows:

(1) Horn;

(2) Brakes and brake lights;

(3) Turn signals;

(4) A steering wheel apparatus;

(5) Tires;

(6) Rearview mirror;

(7) Approved "Slow Moving Vehicle" emblem on the rear of the vehicle (**625 ILCS 5/12-709**);

(8) Headlight that emits a white light visible from a distance of **three hundred (300) feet** to the front of which illuminate when in operation;

(9) Tail lamp that emits red light visible from at least **one hundred (100) feet** from the rear which must be illuminated when in operation;

(10) Any additional requirements which may be amended pursuant to **625 ILCS 5/11-1426.1** of the Illinois Vehicle Code;

(I) Must obey all traffic laws of the State of Illinois and the City of Benton, Illinois;

- (J) Must be operated only on City streets, except where prohibited;
- (K) May not be operated on State Highway Routes 14, 34, or 37, or any other highway or roadway under the jurisdiction of the Illinois Department of Transportation, except to cross said highway at an intersection;
- (L) May not be operated on Petroff Road from State Highway Route 37 to Sugar Creek Road;
- (M) May not be operated on North DuQuoin Street from Carlton Street to Petroff Road;
- (N) May not be operated on the Public Square;
- (O) May not be operated in excess of the posted speed limit;
- (P) May not be operated on any roadway with a posted speed limit greater than **thirty-five (35) MPH**;
- (Q) No person shall operate or be in actual physical control of a golf cart or recreational off-highway vehicle (not intended for ATV's or four-wheelers) while under the influence of alcohol or drugs, pursuant to **625 ILCS 5/11-500 through 11-502**;
- (R) Golf carts and recreational off-highway vehicles (not intended for ATV's or four-wheelers) shall not be operated on any sidewalk; and
- (S) Must comply with all other applicable provisions and requirements of the Illinois Vehicle Code.
- (T) A child under the age of **eight (8) years** old traveling as a passenger must be secured in an appropriate child restraint system. The child restraint system must meet the standards of the U.S. Department of Transportation. **(Ord. No. 15-30)**
- (U) A child **eight (8) years** of age or older, but under **sixteen (16) years** of age must be properly secured in a seat belt. **(Ord. No. 15-30)**
- (V) Must comply with all other applicable provisions of the Child Passenger Protection Act, **625 ILCS 25/1 et seq. (Ord. No. 15-30)**

#### **24-11-4 PERMITS.**

- (A) No person shall operate a golf cart or recreational off-highway vehicle (not intended for ATV's or four-wheelers) without first obtaining a permit from the Benton Police Department as provided herein. Permits shall be granted for a period of **one (1) year**, commencing on **September 1** of each year and renewed annually. The cost of each permit will be **Fifty Dollars (\$50.00)**, with no proration. The cost to replace a lost permit, or to transfer a permit shall be **Five Dollars (\$5.00)**. **(Ord. No. 2016-31; 12-27-16)**
- (B) Every application for a permit shall be made on a form supplied by the City and shall contain the following:
  - (1) Name and address of applicant;
  - (2) Name of liability insurance carrier;
  - (3) The serial number, make, model, and description of golf cart or recreational off-highway vehicle (not intended for ATV's or four-wheelers);
  - (4) Photocopy of applicable liability insurance coverage card specifically for the vehicle to be operated pursuant to the permit; and
  - (5) Such other information as the City may require.
- (C) No permit shall be granted unless the following conditions are met:
  - (1) The vehicle must be inspected by the City Chief of Police (or designee) to insure that the vehicle is safe to operate on City streets and is in compliance with this Article and with the State of Illinois Motor Vehicle Code;
  - (2) A physically handicapped applicant must submit a certificate signed by a physician certifying that the applicant is able to safely operate a golf cart or recreational off-highway vehicle (not intended for ATV's or four-wheelers) on City streets; and
  - (3) The applicant must provide evidence of insurance in compliance with provisions of the Illinois Statutes regarding minimal liability insurance for



passenger motor vehicles to be operated on the roadways in the State of Illinois.

(D) The City may suspend or revoke a permit granted hereunder upon finding that the operator thereof has violated any provision of this Article, or there is evidence that the operator cannot safely operate a golf cart or recreational off-highway vehicle (not intended for ATV's or four-wheelers) on the designated roadways.

**24-11-5 VIOLATIONS.** Any person who violates any provision of this Article shall be guilty of a violation of this Article and shall be punished by a fine of **One Hundred Dollars (\$100.00)**, plus court costs. Any second or subsequent offense shall result in the revocation of the permit for a period of **one (1) year**. To the extent that any violation of this Article also constitutes a violation of a criminal statute of the State of Illinois, then the violator shall also be subjected to criminal prosecution.

**24-11-6 INVALIDITY OF LAW.** In the event that a competent jurisdiction declares any particular provision of this Article to be invalid or unenforceable, the remaining provisions of this Article shall be construed to be valid and enforceable. The invalidity of any part of this Article shall not affect any other part or parts thereof.

**(Ord. No. 15-19; 08-27-15)**

**(65 ILCS 5/11-142(d))**

### CITATION FORM

NO. \_\_\_\_\_

DATE \_\_\_\_\_

TIME \_\_\_\_\_

LICENSE NO. \_\_\_\_\_

STATE \_\_\_\_\_

LICENSE EXPIRES \_\_\_\_\_

MAKE OF VEHICLE \_\_\_\_\_

METER NUMBER \_\_\_\_\_

OFFICER \_\_\_\_\_

#### YOU ARE CHARGED WITH THE VIOLATION MARKED BELOW:

- |    |                                     |             |
|----|-------------------------------------|-------------|
| 1. | Overparked, Two Hour Zone           | \$50.00 [ ] |
| 2. | Double Parked                       | \$50.00 [ ] |
| 3. | Parked at Fire Plug                 | \$50.00 [ ] |
| 4. | Blocking Driveway or Alley          | \$50.00 [ ] |
| 5. | Parked Where Official Signs Erected | \$50.00 [ ] |
| 6. | Improper Parking                    | \$50.00 [ ] |
| 7. | Yellow Line                         | \$50.00 [ ] |
| 8. | Each Additional Hour Violation      | \$50.00 [ ] |
| 9. | Parking on Sidewalk                 | \$50.00 [ ] |

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

You may settle and compromise a claim for illegal parking by paying the sum set forth above for the first particular violation and the same sum shall apply for the same particular offense for the second and each subsequent violation within 5 days after the time set out above. If not paid within this time limit, an **Enforcement Warrant** will be issued and an assessment of not less than **\$50.00** will be collected.

#### FOR YOUR CONVENIENCE

After detaching your Ticket Stub, place the fine in the envelope and deposit at City Hall.

**(Ord. No. 2016-02; 02-08-16)**

## SCHEDULE "A"

### STOP AND THROUGH INTERSECTIONS

In accordance with Sections 24-2-1 and 24-2-3, the following are established as stop and through intersections:

#### **I. ONE OR TWO-WAY STOP INTERSECTIONS.**

<b>THROUGH STREET</b>		<b>STOP STREET - DIRECTION</b>
1st St.	at	Hart-Kirsch St. (West)
1st St.	at	Plum St. (East Bd.) <b>(#1179)</b>
4th St.	at	DuQuoin St. (North)
4th St.	at	Election St. (Both)
6th St.	at	Ash St. (Both)
8th St.	at	Bond St. (Both) <b>(#1187)</b>
8th St.	at	Dial St. (Both)
8th St.	at	Grayson St. (Both)
8 <sup>th</sup> St.	at	Joplin St. (Both) <b>(#05-23)</b>
9th St.	at	Cutler St. (East Bd.) <b>(#1276)</b>
9th St.	at	Joplin St. (Both) <b>(#1278A)</b>
10 <sup>th</sup> St.	at	E. Taylor St. (North Bd.) <b>(#06-58)</b>
Alley between W. Washington and Pine St (Both)	at	Washington St. <b>(#03-19)</b>
Adams St.	at	Seymour St. (West Bd.)
Akin St.	at	Webster St. (Both) <b>(#98-16)</b>
Anna St.	at	Glendale St. (Both) <b>(#97-27)</b>
Ash St.	at	Mitchell St. <b>(#1165)</b>
Benton Camp Rd.	at	Alexander Dr. (South) <b>(#16-09)</b>
Benton Camp Rd.	at	Old Lake Rd. (Both) <b>(#17-01)</b>
Blake St.	at	Eads St. (Both) <b>(#06-27)</b>
Bond St.	at	Maple St. (North)
Buchanan St.	at	Burkitt St. (Both)
Buchanan St.	at	Copple St. (Both)
Buchanan St.	at	Martin St. (Both)
Buchanan St.	at	Reed St. (Both)
Buchanan St.	at	Smith St. (Both)
N. Buchanan St.	at	Taylor St. (Both) <b>(#14-14)</b>
Carlton St.	at	Ash St. (North Bd.) <b>(#06-37)</b>
Carlton St.	at	Sheridan Dr. (South)
Center St.	at	Elizabeth St. (Both)
Center St.	at	Ward St. (Both)
Church St.	at	Jackson St. (South Bd.)
Church St.	at	S. Maple St. (South Bd.)
Church St.	at	Pine St. (Both)

**THROUGH STREET****STOP STREET - DIRECTION**

Commercial St.	at	Blake St. (Both) ( <b>#1001</b> )
Commercial St.	at	Boling St. (East)
Commercial St.	at	Lawrence St. (Both)
Commercial St.	at	Martin St. (Both)
Commercial St.	at	Plum St. (Both)
Commercial St.	at	Smith St. (Both)
Commercial St.	at	Spani St. (Both)
Copple St.	at	Madison St. (Both)
Crisp St.	at	Madison St. (North)
Dawson Lane	at	Church St. (Both) ( <b>#98-16</b> )
Dial St.	at	9th St. (Both)
DuQuoin St.	at	4th St. (West Bd.)
DuQuoin St.	at	5th St. (West Bd.)
DuQuoin St.	at	6th St. (West Bd.)
DuQuoin St.	at	Carlton St. (West Bd.)
DuQuoin St.	at	Clay St. (East Bd.)
DuQuoin St.	at	Division St. (East Bd.)
DuQuoin St.	at	McFall Ave. (West Bd.)
DuQuoin St.	at	Mitchell St. (West Bd.)
DuQuoin St.	at	Reed St. (West Bd.)
DuQuoin St.	at	W. Smith St. (West Bd.)
DuQuoin St.	at	Washington St. (Both)
DuQuoin St.	at	Webster St. (Both)
S. DuQuoin St.	at	Church St. (Both) ( <b>#01-24</b> )
Eads St.	at	Williams St. (Both) ( <b>#04-33</b> )
Fairland St.	at	Anna St. (Both)
Fairland St.	at	Bond St. (Both) ( <b>#97-03</b> )
Fairland St.	at	Dial St. (Both)
Forest St.	at	Duncan St. (North)
Forest St.	at	Taft St. (Both) ( <b>#13-17</b> )
E. Forest St.	at	S. McLeansboro St. (North Bd.) ( <b>#13-13</b> )
Franklin St.	at	Della St. (South Bd.) ( <b>#02-01</b> )
Frisco St.	at	Smith St. (West Bd.) ( <b>#97-06</b> )
Gardner St.	at	9th St. (Both) ( <b>#1293</b> )
Grand St.	at	Bond St. (East)
Grand St.	at	Burkitt St. (East)
Grand St.	at	Crisp St. (East Bd.) ( <b>#01-22</b> )
Grand St.	at	Martin St. (East)
Hickman St.	at	Gardner St. (Both)
Hickman St.	at	Ruth St. (Both)

**THROUGH STREET****STOP STREET - DIRECTION**

Hudelson St.	at	1st St. (Both)
Hudelson St.	at	Pope St. (Both)
Jesse St.	at	Mitchell St. (Both)
Jones St.	at	Webster St. (Both) ( <b>#98-16</b> )
Joplin St.	at	Buchanan St. (Both)
Joplin St.	at	Commercial St. (North)
Joplin St.	at	Fairland St. (South)
Joplin St.	at	Frisco St. (North)
Joplin St.	at	Glendale St. (South)
Joplin St.	at	Grand St. (North)
Joplin St.	at	Highland St. (South)
Layman	at	Webster St. (Both) ( <b>#98-16</b> )
Lickliter St.	at	Adams St. (Both) ( <b>#1297</b> )
Lickliter St.	at	Blake St. (Both)
Madison St.	at	Burkitt St. (Both)
Madison St.	at	Lawrence St. (Both)
Madison St.	at	Reed St. (Both)
Madison St.	at	Smith St. (Both)
N. Madison St.	at	Taylor St. (Both) ( <b>#06-36</b> )
Maple St.	at	6th St. (East)
Maple St.	at	Carlton St. (Both)
Maple St.	at	Charles St. (Both)
Maple St.	at	McFall St. (Both)
Maple St.	at	Mitchell St. (Both)
McFall St.	at	Ash St. (Both)
McKenzie St.	at	Duncan St. (South)
McKenzie St.	at	Kenneth St. (South)
McKinley St.	at	Eads Ave. (North Bd.) ( <b>#04-04</b> )
McKinley St.	at	Taft St. (North)
McLeansboro St.	at	Anna (Both)
McLeansboro St.	at	Bond St. (Both)
McLeansboro St.	at	Dial St. (Both)
McLeansboro St.	at	Gardner St. (Both)
McLeansboro St.	at	Grayson St. (Both)
McLeansboro St.	at	Joplin St. (Both)
McLeansboro St.	at	McKenzie St. (West)
McLeansboro St.	at	Ruth St. (Both)
McLeansboro St.	at	Vale St. (West)
S. McLeansboro St. (North Bd.)	at	E. Forest St. (West Bd.) ( <b>#13-13</b> )
Melody Ln.	at	Twin Oaks (North) ( <b>#16-10</b> )
Mitchell St.	at	Ash St. (Both)
Mitchell St.	at	Election St. (Both)
Oak St.	at	Carlton St. (East)

**THROUGH STREET****STOP STREET - DIRECTION**

E. Park St.	at	N. Lincoln Dr. (North)
E. Park St.	at	N. Lincoln Dr. (South)
E. Park St.	at	Franklin St. (North)
W. Park St.	at	N. Iowa St. (Both)
Reed St.	at	Ash St. (Both)
Ruth St.	at	Fairland St. (Both)
Ruth St.	at	Maple St. (Both)
Scott St.	at	Carbon St. (North Bd.) <b>(#13-18)</b>
Scott St.	at	Eads St. (Both) <b>(#14-10)</b>
Scott St.	at	Taft St. (South Bd.) <b>(#13-18)</b>
Seymour St.	at	Williams St. (Both)
Smith St.	at	College St. (North Bd.) <b>(#04-19)</b>
State St.	at	8th St. (North)
State St.	at	9th St. (North)
State St.	at	Fairland St. (North)
State St.	at	N. Franklin Dr. (South)
State St.	at	Frisco St. (North)
State St.	at	Glendale St. (Both)
State St.	at	Hickman St. (North)
State St.	at	Highland St. (North)
State St.	at	McLeansboro St. (North)
State St.	at	Renshaw Dr. (South)
E. State St.	at	8th St. (Both)
E. State St.	at	9th St. (Both)
E. State St.	at	10th St. (Both)
E. State St.	at	Buchanan St. (South)
E. State St.	at	College Ave. (South)
E. State St.	at	Frisco St. (Both)
E. State St.	at	Madison St. (Both)
E. State St.	at	McKenzie St. (North)
E. State St.	at	McLeansboro St. (South)
E. State St.	at	Stotlar St. (Both)
E. State St.	at	Ward St. (Both)
N. State St.	at	4th St. (East)
N. State St.	at	5th St. (East)
N. State St.	at	Bond St. (Both)
N. State St.	at	Carlton St. (East)
N. State St.	at	Charles St. (East)
N. State St.	at	Copple St. (West)
N. State St.	at	Grayson St. (East)
N. State St.	at	Joplin St. (West)
N. State St.	at	Lawrence St. (West)
N. State St.	at	Martin St. (West)
N. State St.	at	McFall St. (East)
N. State St.	at	Mitchell St. (East)
N. State St.	at	Park St. (Both)

**THROUGH STREET****STOP STREET - DIRECTION**

N. State St.	at	W. Parrish St. (Both)
N. State St.	at	Reed St. (Both)
N. State St.	at	Ruth St. (East)
N. State St.	at	Smith St. (West)
N. State St.	at	Washington St. (Both)
S. State St.	at	Adams St. (East)
S. State St.	at	Blake St. (Both)
S. State St.	at	Boling St. (Both)
S. State St.	at	Capital St. (Both)
S. State St.	at	Center St. (Both)
S. State St.	at	Church St. (Both)
S. State St.	at	Grain St. (West)
S. State St.	at	Hudelson St. (East)
S. State St.	at	Kirsch St. (East)
S. State St.	at	Mine St. (West)
S. State St.	at	Plum St. (Both)
S. State St.	at	Smith St. (East)
S. State St.	at	Spani St. (West)
S. State St.	at	Wastena St. (West)
S. State St.	at	Webster St. (Both)
S. State St.	at	Williams St. (Both)
W. State St.	at	DuQuoin St. (Both)
W. State St.	at	Election St. (South)
W. State St.	at	Hickory St. (Both)
W. State St.	at	Maple St. (Both)
W. State St.	at	Mill St. (South)
W. State St.	at	Oak St. (South)
W. State St.	at	Pope St. (North)
Stotlar Ave.	at	Dimond St. (Both)
Stotlar Ave.	at	Kirkpatrick St. (Both)
Taylor St.	at	Hart-Kirsch St. (East)
Ward St.	at	Cutler St. (Both)
Ward St.	at	Kirkpatrick St. (Both)
Ward St.	at	Putnam St. (Both)
Ward St.	at	Webster St. (Both)
Washington St.	at	Ash St. (North) ( <b>#97-06</b> )
Washington St.	at	Buchanan St. (Both)
Washington St.	at	Election St. (Both)
Washington St.	at	Pine St. (North)
Wastena St.	at	Berlin St. (Both) ( <b>#97-03</b> )
Wastena St.	at	Eads St. (South)
Wastena St.	at	Wilson St. (South)

**THROUGH STREET****STOP STREET - DIRECTION**

Webster St.	at	8th St. (South and East)
Webster St.	at	Commercial St. (North)
Webster St.	at	Frisco St. (South)
Webster St.	at	Jackson St. (South)
Webster St.	at	Pine St. (South)
Williams St.	at	Carroll St. (North and East)
Wilson St.	at	Blake St. (West)

**Special Stop Intersections.** A two (2) way stop at the intersection of Mundell Drive/Cardinal Drive and Skiers Run for north and southbound traffic. Mundell Drive runs on the south side of Skiers Run and Cardinal Drive runs on the north side of Skiers Run. **(#18-16)**

**II. TWO OR THREE-WAY STOP INTERSECTIONS.****STREET - DIRECTION****STREET - DIRECTION**

7 <sup>th</sup> St. (South)	and	Kirkpatrick St. (Both) <b>(#15-28)</b>
Anna St. (Both)	and	Hickman St. (South) <b>(#14-04)</b>
Ash St. (South)	and	W. Washington St. (Both) <b>(#17-02)</b>
Burkitt St. (Both)	and	Frisco St. (West)
Burkitt St. (West)	and	N. Commercial St. (Both) <b>(#18-01)</b>
College St.	and	Lawrence St. <b>(#04-06)</b>
Frisco St.	and	Lawrence St. <b>(#04-05)</b>
Frisco St. (Both)	and	Ruth St. (West) <b>(#1378)</b>
Hickman St. (Both)	and	Joplin St. (West)
Lamberson St.	and	Center St. <b>(#13-27)</b>
McKenzie St. (East)	and	Kenneth St. (Both) <b>(#08-31)</b>
S. McLeansboro St. (Both)	and	McKenzie St. (West) <b>(#13-13)</b>
Oak St. (Both)	and	Carlton St. (East)
S. Pope St. (Both)	and	Cutler St.
S. Pope St. (Both)	and	Williams St. (West) <b>(#97-24)</b>
Taylor St.	and	Hillcrest Ln. <b>(#13-19)</b>
Wilson St.	and	Blake St. <b>(#07-64)</b>
Wilson St. (Both)	and	Scott St. (West)

**III. FOUR-WAY STOP INTERSECTIONS**

4th St.	at	Jesse St.
4 <sup>th</sup> St.	at	Maple St. <b>(#11-29)</b>
5 <sup>th</sup> St.	at	Jesse St.
6th St.	at	Election St.
6 <sup>th</sup> St,	at	Jesse St.



### **III. FOUR-WAY STOP INTERSECTIONS (CONTINUED)**

10 <sup>th</sup> St.	at	Cutler St. (#97-24)
Ash St.	at	4th St.
Ash St.	at	5th St.
Ash St.	at	Mitchell St.
Ash St.	at	McFall St. ( <b>#15-09</b> )
Boling St.	at	Lickliter St. ( <b>#1272</b> )
E. Bond St.	at	Hickman St. ( <b>#11-23</b> )
Carlton St.	at	Maple St. ( <b>#16-24</b> )
Church St.	at	Pope St.
Commercial St.	at	Adams St.
Commercial St.	at	Williams St.
DuQuoin St.	at	Church St.
Eads St.	at	Williams St. ( <b>#13-16</b> )
Election St.	at	6th St. ( <b>#1020</b> )
Election St.	at	McFall St.
Enterprise St.	at	Lamberson St. ( <b>#01-25</b> )
Fairland St.	at	Gardner St.
Fairland St.	at	Grayson St. ( <b>#15-12</b> )
Gardner St.	at	N. 8 <sup>th</sup> St. ( <b>#18-11</b> )
Gardner St.	at	10th St. ( <b>#1272</b> )
Glendale St.	at	Bond St. ( <b>#1353</b> )
Glendale St.	at	Dial St.
Glendale St.	at	E. Illinois St. ( <b>#1198</b> )
Glendale St.	at	Ruth St.
Grayson St.	at	Hickman St. ( <b>#1160</b> )
Hickman St.	at	Dial St. ( <b>#1238</b> )
Highland St.	at	Bond St. ( <b>#1293</b> )
Highland St.	at	Dial St. ( <b>#1240</b> )
Highland St.	at	Grayson St.
Highland St.	at	Ruth St.
Joplin St.	at	9th St. ( <b>#1293</b> )
Joplin St.	at	Madison St.
Kirkpatrick St.	at	10 <sup>th</sup> St. ( <b>#10-27</b> )
Lawrence St.	at	Buchanan St.
Madison St.	at	Martin St. ( <b>#1353</b> )
N. Madison St.	at	Burkett St. ( <b>#13-30</b> )
Maple St.	at	5th St.
McLeansboro St.	at	Wastena St.
McFall St.	at	Election St. ( <b>#1185</b> )
Mitchell St.	at	Maple St. ( <b>#99-26</b> )

### **III. FOUR-WAY STOP INTERSECTIONS (CONTINUED)**

Pope St.	at	Whisper Way
Reed St.	at	Maple St.
Robin Ln.	at	Lakeshore Dr. and Skiers Run ( <b>#17-19</b> )
Ruth St.	at	8 <sup>th</sup> St. ( <b>#17-08</b> )
Stotlar St.	at	Webster St.
Stotlar St.	at	Cutler St.
S. Stotlar St.	at	E. Center St. ( <b>#1326</b> )
E. Washington St.	at	Commercial St.
E. Washington St.	at	Madison St.
W. Washington St.	at	Jesse St. and Mill St. ( <b>#17-03</b> )
W. Washington St.	at	Maple St.
Webster St.	at	Pope St.
Whisper Way	at	Adams St. ( <b>#1162</b> )
Williams St.	at	Lickliter St.

### **IV. SIGNAL LIGHT INTERSECTIONS**

Bailey Lane	at	Main St.
McLeansboro St.	at	E. Main St.
W. Main St.	at	DuQuoin St.

### **V. ALL WAY STOP INTERSECTIONS**

7 <sup>th</sup> St.	and	Dimond St. ( <b>#01-19</b> )
Cardinal St. and Lake Shore Dr.	at	Skier's Run ( <b>#99-24</b> )
Enterprise St.	and	Lamberson St. ( <b>#04-26</b> )
Mitchell St.	and	Election St. ( <b>#02-10</b> )
Robin St. and Mundell Dr.	at	Skier's Run ( <b>#99-23</b> )
Ward St.	and	Oliver St. ( <b>#04-25</b> )

## **SCHEDULE "B"**

### **ONE-WAY STREETS**

In accordance with the provisions of Section 24-3-2, the following are hereby designated as one-way streets; to-wit:

#### **I. REGULAR**

<b><u>STREET - DIRECTION</u></b>		<b><u>LOCATION</u></b>
Burkitt St. (West Bd.)	Between	Frisco St. to N. McLeansboro St. <b>(#1256)</b>
Jesse St. (North Bd.)	Between	Washington St. and 4 <sup>th</sup> St. <b>(#07-12)</b>
E. Webster St. (East Bd.)	Between	S. McLeansboro to S. 9 <sup>th</sup> St. <b>(07-09)</b>

#### **II. TIME PARAMETERS**

<b><u>STREET - DIRECTION</u></b>	<b><u>LOCATION</u></b>
McCann St.	
A.	From 7:30 A.M. until 8:30 A.M. Monday through Friday during days in which the Benton Consolidated High School District No. 103 is in attendance, the traffic shall be restricted to one-way traffic headed in a northerly direction. <b>(#00-23A)</b>
B.	From 2:30 P.M. until 3:30 P.M. Monday through Friday during days in which the Benton Consolidated High School District No. 103 is in attendance, the traffic shall be restricted to one-way traffic headed in a northerly direction. <b>(#00-23A)</b>

## **SCHEDULE "D"**

### **SPEED LIMITS**

In accordance with the provisions of Section 24-4-2(F), the following speed limits are hereby established on the following streets, to-wit:

#### **I. 10 MPH LIMIT.**

<b>STREET</b>		<b>LOCATION</b>
College St.	From	E. Main St. to Lawrence St. ( <b>#932</b> )

#### **II. 15 MPH LIMIT.**

Alexander Dr.		Entire Length ( <b>#16-11</b> )
Carroll St.	From	William St. to Adams St. ( <b>#97-14</b> )
W. Smith St.		Entire Length ( <b>#01-20</b> )
W. Taylor St.		Entire Length ( <b>#01-20</b> )

#### **III. 20 MPH LIMIT.**

Anna St.	From	Frisco St. to Highland St. ( <b>#1279</b> )
Anna St.	From	N. McLeansboro St. to N. 10 <sup>th</sup> St. ( <b>#14-06</b> )
Bond St.	From	Frisco St. to Highland St. ( <b>#1279</b> )
N. Buchanan	From	Joplin St. to Crisp St. ( <b>#16-12</b> )
E. Church St.	From	Railroad St. to S. Main St. ( <b>#1073</b> )
W. Church St.	From	S. Main St. to Pope St. ( <b>#03-05</b> )
S. Commercial St.	From	I.C.R.R. to Mo-Pacific R.R. ( <b>#1411</b> )
Dial St.	From	Frisco St. to Highland St. ( <b>#1279</b> )
S. DuQuoin St.	From	W. Webster to Hudelson St. ( <b>1314</b> )
Fairland St.	From	Joplin St. to Bailey Lane ( <b>#1279</b> )
Frisco St.	From	Joplin St. to Bailey Lane ( <b>#1279</b> )
Frisco St.	From	S. Main St. to Joplin St. ( <b>#1385</b> )
Gardner St.	From	Frisco St. to Highland St. ( <b>#1279</b> )
Glendale St.	From	Joplin St. to Bailey Lane ( <b>#1279</b> )
Grayson St.	From	Frisco St. to Highland St. ( <b>#1279</b> )
Grayson St.	From	N. McLeansboro St. to N. 10 <sup>th</sup> St. ( <b>#14-05</b> )
Hudelson St.	From	S. Main St. to DuQuoin St. ( <b>#15-13</b> )
Highland St.	From	Joplin St. to Bailey Lane ( <b>#1279</b> )
Lake Benton		All Streets ( <b>#1355</b> )
N. Lincoln St.		Entire Distance ( <b>#1402</b> )
Pope St.	From	W. Main St. to Mo-Pac R.R. ( <b>#944</b> )
Ruth St.	From	Frisco St. to Highland St. ( <b>#1279</b> )
Scott St.	From	S. McLeansboro St. to Wilson St. ( <b>#14-11</b> )
Sheridan Dr.	From	Carlton St. to the end of the street ( <b>#18-13</b> )
W. Spani St.	From	S. Main St. to S. 1st St. ( <b>#1071</b> )
Taylor St.	From	N. McLeansboro St. to N. Frisco St. ( <b>#13-29</b> )
E. Webster St.	From	S. Main St. to East corporate limits ( <b>#15-21</b> )
Whisper Way	From	East to West Extremities ( <b>#1379</b> )

IV. **25 MPH LIMIT.**

Iowa St.	From	Park St. to Petroff Rd. ( <b>#09-05</b> )
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V. **30 MPH LIMIT.**

N. DuQuoin St.	From	W. Main St. to Carlton St. ( <b>#10-23</b> )
McLeansboro St.	From	Vale St. to Bailey Ln. ( <b>#00-27</b> )

VI. **35 MPH LIMIT.**

Bowling Alley Rd.		Entire Length ( <b>#01-20</b> )
Central St.		Entire Length ( <b>#02-16</b> )
Petroff Rd.	From	Route 37 North and Central St. ( <b>#05-06</b> )
Petroff Rd.	From	N. Main St. to Sugar Creek Rd. ( <b>#15-15</b> )
Skylane Rd.	From	Sugar Creek Rd. to Old Ben 24 Rd. ( <b>#15-17</b> )
Wastena St.	From	Route 37 South and S. Stuyvesant St. ( <b>#05-08</b> )

VII. **40 MPH LIMIT.**

Sugar Creek Rd.	From	Petroff Rd. to Old Ben 24 Rd. ( <b>#15-16</b> )
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## SCHEDULE "E"

### NO PARKING ZONES

In accordance with the provisions of Section 24-6-4, the following streets are hereby designated as "No Parking" Zones:

#### I. GENERALLY

<b>STREET - SIDE</b>		<b>LOCATION</b>
Illinois Route 34 (Both)	From	Madison St. to Brown St. <b>(#99-16)</b>
4th St. (South)	From	The alley east 90 feet in 100 block <b>(#1312)</b>
5th St. (Both)	From	N. Main St. to N. Maple St. <b>(#1058)</b>
Carlton St. (Both)	From	N. Main St. to N. Maple St. <b>(#1090)</b>
Center St. (South)	From	S. McLeansboro to Elizabeth St. <b>(#1165)</b>
Church St. (South)	From	Jackson St. 100 feet east. <b>(#97-11)</b>
W. Church St. (South)	From	S. Main St. to alley west of S. Main St., except Sundays and legal holidays <b>(#1084)</b>
W. Church St. (North)	From	Pine St. to Pope St. <b>(#08-03)</b>
College St. (East)	From	Lawrence St. to E. Main St. <b>(#1294)</b>
College St. (West)	From	Benton High School Ag Building north driveway to E. Main St. <b>(#1294)</b>
N. Commercial (West Side)	From	Washington St. to Joplin St. <b>(#1060)</b>
Copple St. (Both)	From	N. Main St. to the alley between N. Main St. and N. Commercial 204 feet. <b>(#1051)</b>
S. Duncan St.	From	McKenzie St. to end of S. Duncan St. <b>(#13-34)</b>
N. DuQuoin St. (Both)	From	W. Main St. to W. McFall St. <b>(#1037)</b>
N. DuQuoin St. (North)	From	Washington St. to Main St. <b>(#1225)</b>
S. DuQuoin St. (East)	From	W. Webster St. to W. Taylor St. <b>(#1127)</b>
S. DuQuoin St. (South)	From	Church St. to Main St. <b>(#1225)</b>
S. DuQuoin St. (Both)	From	W. Main St. to Huddelson St. <b>(#01-24)</b>
Election St. (East)	From	W. Main St. to the Federal Building Parking Lot. <b>(#97-13)</b>
Forest St. (North)	From	McLeansboro St. to Kenneth St. <b>(#1029)</b>
Forest St. (South)	From	McLeansboro St. to Kenneth St. between 7:00 A.M. and 5:00 P.M.
Glendale St. (East)	From	40 feet north to 40 feet south of the Lakeshore Inc. Entrance <b>(#1262)</b>

**STREET - SIDE****LOCATION**

Glendale St. (East)	From	40 feet south of the centerline of the south entrance into Terminix to 40 feet north of the centerline of the entrance into the Academy of Dance <b>(#1262)</b>
Glendale St. (East)	From	40 feet south of the centerline entrance to Old Ben Shop to Illinois Ave. <b>(#1262)</b>
Glendale St. (East)	From	100 feet north to 100 feet south of the Consolidated Freightlines Entrance <b>(#1262)</b>
Glendale St. (East)	From	Ill. Rte. 14 to 40 feet north of the Mineweld Inc. Entrance <b>(#1262)</b>
Glendale St. (East)	From	Rte. 14 east to 40 feet north of the centerline of the north entrance of Long Airdox <b>(#1231)</b>
Glendale St. (West)	From	Ill. Rte. 14 to Illinois Ave. <b>(#1262)</b>
W. Hudelson St.	From	S. Main St. to Ill. Central R.R. <b>(#1120)</b>
Industrial Park Rd.	From	Bailey Ln. to Illinois Ave. <b>(#07-25)</b>
Jackson St. (East)	From	E. Webster to E. Church St. <b>(#1160)</b>
Jackson St. (West)	From	E. Church St. north 60 feet <b>(#1305)</b>
Joplin St. (Both)	From	Frisco St. to Fairland <b>(#1386)</b>
Joplin St.	From	622 Joplin St.
Lawrence St. (South)	From	N. Main to Commercial St. <b>(#13-36)</b>
Lawrence St. (North)	From	McCann St. 20 feet east and west <b>(#1226)</b>
Lawrence St. (South)	From	McCann St. west 12 feet <b>(#1226)</b>
Lawrence St. (South)	From	McCann St. east 12 feet <b>(#1226)</b>
E. Lawrence St. (North)	From	College St. to N. McLeansboro St. <b>(#1055)</b>
E. Main St. (Both)	From	Frisco St. to McCann <b>(#931)</b>
N. Main St. (East)	From	Bailey Ln. to Illinois Ave. <b>(#05-25)</b>
N. Main St. (West)	From	W. Bond St. to W. Park St. <b>(#1081)</b>
N. Main St. (Both)	From	Public Square to Rt. 14 <b>(#1109)</b>
S. Main St. (West)	From	Webster St. north 50 feet <b>(#1365)</b>
W. Main St. (Both)	From	Public Square to City Limits <b>(#1093)</b>
W. Main St. (North)	From	Public Square to Pine St. <b>(#1037)</b>
W. Main St. (South)	From	Maple St. to Pine St. <b>(#1037)</b>
N. Maple St.	From	W. Main St. to Washington St. <b>(#06-11)</b>
N. McCann St. (East)	From	E. Main St. to Lawrence St. <b>(#1266)</b>
McKenzie St. (North)	From	Kenneth St. to S. McLeansboro St. <b>(#18-14)</b>
McLeansboro St. (East)	From	50 feet north of Vale St. to 50 feet south <b>(#1317)</b>
Pine St. (West)	From	W. Main St. north to the Federal Building Parking Lot. <b>(#97-13)</b>
Pope St. (Both)	From	W. Main St. to City Parking Lot <b>(#1375)</b>

**STREET - SIDE****LOCATION**

Pope St. (Both)	From	Webster St. south to I.C. Railroad. <b>(#97-26)</b>
Ruth St. (South)	From	10 feet east of sidewalk in front of Grant School west to Highland St. <b>(#1365)</b>
Ruth St. (South)	From	Highland St. for 100 feet. <b>(#98-07)</b>
Ruth St. (South)	From	N. McLeansboro St. for 115 feet. <b>(#98-07)</b>
Skier's Run Rd.	From	On and 30 feet east and west of Skier's Run Bridge <b>(07-14)</b>
N. Stotlar St. (East)	From	One Block north of E. Main St. <b>(#03-25)</b>
E. Taylor St. (South)	From	N. McLeansboro St. to 10 <sup>th</sup> St. <b>(#04-20A)</b>
Vale St. (North)	From	N. McLeansboro St. to N. 8th St. <b>(#1192)</b>
S. Ward St. (East)	From	E. Webster St. to E. Main St. <b>(#18-10)</b>
E. Washington St. (North)	From	N. Main St. to N. Commercial St. <b>(#12-06)</b>
W. Washington St. (North)	From	N. Main St. to N. DuQuoin St. <b>(#1037)</b>
W. Washington St. (South)	From	N. Maple St. to N. DuQuoin St. <b>(#1037)</b>
E. Webster St. (Both)	From	S. Main St. east to Commercial St. <b>(#10-17)</b>

Adjacent to the eastbound and westbound through lanes of Petroff Road from Station 93 + 50 extending northerly to Station 99 + 88 (west edge of southbound Illinois Route 37) and from Station 100 + 12 (east edge of northbound Illinois Route 37) extending easterly to Station 103 + 00 on East Illinois Street. **(#02-03)**

II. **ALLEYS.**

Alleyway	Between	W. Webster St. to W. Taylor St. <b>(#03-10)</b>
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That part of the alley running North from Joplin St. to Gardner St. beginning at Joplin and running North to the parking lot of North Benton Baptist Church. **(#1320)**

III. **NO PARKING TOW AWAY ZONE**

Parking shall be prohibited on the following streets one block from the Public Square: Moore Drive, Lampley Drive, Toler Drive, Lewis Drive, Hair Drive, Center Drive, Scarborough Drive, and Carter Drive. **(#15-25)**

Licklitter St. from East Hudelson St. south to the railroad tracks (dead end). **(#15-31)**

**STREET – SIDE****LOCATION**

E. Anna St.	From	N. Frisco St. to Glendale St.
E. Bond St.	From	N. Frisco St. to Glendale St.
E. Dial St.	From	N. Frisco St. to Glendale St.



Fairland St.	From	E. Bond St. to E. Grayson St.
Franklin St. (West)	Between	Bailey Ln. and Park St. <b>(#18-15)</b>
E. Grayson St.	From	N. Frisco St. to Glendale St.
S. Main St. (East)	Between	The Public Square and N. Church St. <b>(#17-06)</b>
E. Main St. (North)	Between	The Public Square and Commercial St. <b>(#17-15)</b>
S. Maple St. (West)	Between	W. Main St. and the Alley <b>(#17-07)</b>
Mitchell St.	Between	Maple St. and Election <b>(#16-21)</b>
E. Ruth St.	From	N. Frisco St. to Glendale St.
W. Webster St. (Both)	From	S. DuQuoin St. to Aiken St. <b>(#12-08)</b>

IV. **TRUCK PARKING PROHIBITED**

Semi-tractor parking or that of a semi-tractor and/or trailer or dump truck or vehicle of similar size shall be limited. (Parking of vehicles herein described is prohibited in any area not specifically permitted.)

Glendale St. (Both)	From	200 feet south of Illinois Ave. to 1,100 feet south of Illinois Ave. <b>(#01-30)</b>
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**(Ord. No. 99-30)**

## **SCHEDULE "F"**

### **LIMITED PARKING ZONES**

In accordance with the provisions of Section 24-6-4 the following streets are hereby designated as "Limited Parking" Zones:

I. **THIRTY (30) MINUTE LIMIT.** No vehicle shall be parked for more than **thirty (30)** consecutive minutes on the following streets:

<b><u>STREET - SIDE</u></b>		<b><u>LOCATION</u></b>
W. Church St. (North)	From	S. Main St. to Maple St. <b>(#00-09)</b>
W. Church St. (South)	From	S. DuQuoin St. to S. Pope St. <b>(#987)</b>
W. Church St. (South)	From	Pine St. to Pope St. <b>(#03-17)</b>
S. DuQuoin St. (East)	From	W. Church to point 150 feet south <b>(#987)</b>
S. DuQuoin St. (West)	From	W. Church to point 100 feet south <b>(#987)</b>
E. Main St. (North)	From	College St. to McCann St. <b>(#1209)</b>
S. Pope St. (West)	From	W. Main St. to Hudelson St. <b>(#987)</b>
W. Webster St. (North)	From	S. DuQuoin St. to S. Pine St. <b>(#987)</b>

There shall be permitted only a 1/2 hour maximum of parking for purposes of student loading and unloading only for approximately 100 feet on the north side of E. Ruth St. between the Parcels currently owned by the Smiths and the Parcel currently owned by Batts. **(Ord. No. 98-07)**

II. **ONE (1) HOUR PARKING.**

<b><u>STREET - SIDE</u></b>		<b><u>LOCATION</u></b>
N. Stotlar St. (West)	From	One block north of E. Main St. <b>(#04-01)</b>

III. **TWO (2) HOUR LIMITED PARKING.**

W. Church St. (South)	Between	The hours of 7:00 A.M. through 6:00 P.M. both inclusive <b>(#00-09)</b>
S. Main St.		First block of the square from a point 40 feet from the south end of the crosswalk <b>(00-14)</b>

IV. **MISCELLANEOUS.**

**STREET - SIDE**

**LOCATION**

Grayson St.	From	McLeansboro St. to Highland St. from 7:45 A.M. to 8:15 A.M. and from 2:30 P.M. to 3:00 P.M. Monday through Friday. Parking shall not be permitted on Grayson St. from McLeansboro St. to Highland St. on the days and during the hours stated herein. <b>(#1246)</b>
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No Parking Monday - Friday -- 8:00 A.M. to 4:00 P.M. - 30 Minute Limit:

Lawrence St. (Both)	From	Frisco St. to College St. <b>(#08-32)</b>
Lawrence St. (South)	From	College St. to N. McLeansboro St. <b>(#08-32)</b>

No Parking Monday - Friday -- 8:00 A.M. to 4:00 P.M.

N. McCann St. (West)	From	E. Main St. to E. Lawrence St. <b>(#08-32)</b>
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No Parking Monday – Saturday – 30 Minute Limit:

W. Church St. (South)	From	Pine St. to Pope St. <b>(#08-32)</b>
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No Parking - 1:00 A.M. to 5:00 A.M. on:

Public Square		On outside and inside curb <b>(#1200)</b>
E. Main St. (Both)	From	Public Square to N. Madison St. <b>(#1200)</b>

No Parking – Monday – Saturday – 7:00 A.M. to 6:00 P.M. - 10 Minute Limit:

Election St. (East)	From	W. Main St. north 130 feet <b>(#08-32)</b>
Madison St. (East)	From	E. Main St. north 140 feet <b>(#08-32)</b>

No Parking – Monday – Saturday – 6:00 A.M. to 5:00 P.M. - 2 Hour Limit:

E. Main St.	From	Public Square to N. Madison St. <b>(#08-32)</b>
S. Main St.	From	Public Square to Webster St. <b>(#08-32)</b>

No Parking Everyday -- 1:00 A.M. to 6:00 A.M.

Outside curb locations of Public Square – VIOLATORS WILL BE TOWED AT OWNER’S EXPENSE **(#08-32)**

Restricted Parking:

Limited parking for disabled veterans in the first space west of Church St. and Center Dr. **(#1167)**

No Parking Monday - Friday -- 6:00 A.M. to 6:00 P.M.

S. Main St. (West)	From	Church St. south for a distance of 213 feet <b>(Ord. No. 1237; 06-12-89)</b>
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No Parking - 6:00 P.M. to 6:00 A.M.

The public parking lot at W. Main and Maple St. shall be a no loitering or no parking area; except for authorized vehicles. **(#1397)**

Public Parking Lots

24-hour parking will be allowed in public parking lots and locations unless otherwise designated as restricted parking. **(#15-26)**

## **SCHEDULE "G"**

### **RESTRICTED PARKING ZONES**

In accordance with the provisions of Section 24-6-4 the following streets are hereby designated as "Restricted Parking" Zones:

**I. NO SEMI-TRUCKS.\***

<b>STREET/ALLEY</b>		<b>LOCATION</b>
S. DuQuoin St.	From	First alley south of W. Main St. running south to W. Webster St. <b>(#1354)</b>

The alley beginning at W. Ruth St. running north to its intersection with the alley running west from N. Main St. to Maple St. **(Ord. No. 1333; 04-21-93)**

\*Semi-trailers delivering to local business shall be authorized to make regular deliveries within the area proscribed by the ordinance. **(Ord. No. 1356; 01-24-94)**

II. Semi-Tractor parking or that of a semi-tractor and/or trailer or dump truck or vehicle of similar size shall be limited to a point 650 feet south of Illinois Ave. (Parking of vehicles herein described is prohibited in any area not specifically permitted.)

Glendale St., commonly known as the Industrial Park Road, from a point two hundred (200) feet south of Illinois Ave. to a point six hundred fifty (650) feet south of Illinois Ave. (Ord. No. 98-01; 01-12-98)

III. Parking only for City business during business hours. Violators will be towed at their own expense. **(Ord. No. 13-58; 12-23-13)**

IV. Tow Away Zone – Violators will be towed at their own expense.

<b>(A) <u>STREET/ALLEY</u></b>		<b>LOCATION</b>
W. Reed St. (Both)	From	N. Main St. to Maple St. <b>(#15-3)</b>

(B) Loading Zones: Tow Away

Eight loading zones are hereby established around the Public Square. **(#15-24)**

## **SCHEDULE "H"**

### **HANDICAPPED ZONES**

In accordance with the provisions of Section 24-6-5, the following streets are hereby designated as "Handicapped Parking" Zones:

<b>STREET/LOT (SIDE)</b>		<b>LOCATION</b>
Parking Lot (NW Corner)	at	Intersection of Lewis Dr. and E. Washington St. <b>(#1357)</b>
E. Washington St. (North)	at	Intersection of E. Washington St. and N. Commercial St. <b>(#1273)</b>
Maple St. (West)	at	3rd parking place
W. Washington St. (South)	at	The first space east of Lampley Dr. <b>(#1327)</b>
E. Washington St. (South)	at	N. Main St. - 2nd space west <b>(#1406)</b>

The two spaces east of the intersection of S. Main and the Square. **(#1348)**

The two spaces east of the intersection of N. Main and the Square. **(#1348)**

The two spaces north of the intersection of E. Main and the Square. **(#1348)**

The north side of the 600 block of Joplin St. from Highland St. west 50 feet, adjacent to North Benton Baptist Church. **(#1315)**

The south side of W. Church St. east 20 feet, adjacent to the First Baptist Church. **(#1315)**

Corner of Maple St. and 4<sup>th</sup> St. **(#01-15)**

Corner of 4<sup>th</sup> St. and Maple St. **(#01-15)**

## **SCHEDULE "J"**

### **LOADING ZONES**

In accordance with the provisions of Section 24-6-6, the following described locations are designated to be loading zones and shall be used for the sole purpose of loading and unloading vehicles for the benefit of the business in said location, as follows:

<b>STREET - SIDE</b>		<b>LOCATION</b>
E. Church St. (North)	From	S. Main St. to Alley ( <b>#1391</b> )
W. Church St. (North)	From	S. Main St. to Center Dr. ( <b>#16-01</b> )
Lawrence St. (North)	From	225 feet east from N. Main St. ( <b>#13-36</b> )
S. Main St. (West)	From	Public Square south 25 feet ( <b>#1391</b> )

The south side of W. Washington St. running from N. Main St. a distance of 50 feet west along W. Washington St., as indicated by curb markings.

The south side of E. Main St. running from the Public Square a distance of 50 feet along E. Main St. as indicated by curb markings.

The maximum time for loading and unloading vehicles at said locations specified above, during normal business hours shall be 30 minutes. (**Ord. No. 1037; 11-26-79**)

**TWENTY (20) MINUTE LIMIT.** Parking is prohibited during regular business hours one block from the Public Square on the streets listed herein, and that 20-minute loading zones be designated for vehicle loading and unloading. (**#03-18; 09-22-03**)

Carter Dr.  
Center Dr.  
Hair Dr.  
Lampley Dr.  
Lewis Dr.  
Moore Dr.  
Scarborough Dr.  
Toler Dr.

The 20-minute loading zones shall be available for vehicles on said sections of streets where parking is prohibited.

Any vehicle so situated shall have its emergency lights flashing during loading and unloading. Failure to engage emergency lights in this manner during the 20-minute period of loading or unloading shall be a violation of this Code as if the vehicle were parked in violation of this Code. Stopping the vehicle for the purposes of loading or unloading, if in excess of 20 minutes, is a violation of this Code.

## **SCHEDULE "R"**

### **NO PASSING ZONE**

In accordance with the provisions of **Section 24-4-2(K)** the "no passing zones" are hereby established as follows:

#### **STREETS**

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E. Forest St. from S. McLeansboro east to Kenneth St. (**#15-06**)

Kenneth St. south to McKenzie St.

McKenzie St. east to Kenneth St. (**#15-4**)

## **SCHEDULE "S"**

### **SPEED BUMPS**

In accordance with the provisions of Section 24-4-2(K), the following "speed bumps" are hereby established:



## **CHAPTER 25**

### **NUISANCES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 25-1-1 - Specific Nuisances Enumerated</i>	<i>25-1</i>
	<i>Section 25-1-2 - Nuisances Detrimental to Health Generally</i>	<i>25-2</i>
	<i>Section 25-1-3 - Notice to Abate</i>	<i>25-3</i>
	<i>Section 25-1-4 - Hearing</i>	<i>25-3</i>
	<i>Section 25-1-5 - Appeal</i>	<i>25-3</i>
	<i>Section 25-1-6 - Abatement by City</i>	<i>25-3</i>
	<i>Section 25-1-7 - Failure to Comply with Notice</i>	<i>25-3</i>
<b><i>II</i></b>	<b><i>WEEDS</i></b>	
	<i>Section 25-2-1 - Definition</i>	<i>25-4</i>
	<i>Section 25-2-2 - Height</i>	<i>25-4</i>
	<i>Section 25-2-3 - Service of Notice</i>	<i>25-4</i>
	<i>Section 25-2-4 - Abatement</i>	<i>25-4</i>
	<i>Section 25-2-5 - Lien</i>	<i>25-4</i>
	<i>Section 25-2-6 - Payment</i>	<i>25-4</i>
	<i>Section 25-2-7 - General Penalty; Foreclosure of Liens</i>	<i>25-5</i>
	<i>Section 25-2-8 - Duties of Zoning Administrator – Foreclosure</i>	<i>25-5</i>
<b><i>III</i></b>	<b><i>GARBAGE AND DEBRIS</i></b>	
	<i>Section 25-3-1 - Accumulation Prohibited</i>	<i>25-6</i>
	<i>Section 25-3-2 - Notice to Person</i>	<i>25-6</i>
	<i>Section 25-3-3 - Service of Notice</i>	<i>25-6</i>
	<i>Section 25-3-4 - Abatement</i>	<i>25-6</i>
	<i>Section 25-3-5 - Lien</i>	<i>25-6</i>
	<i>Section 25-3-6 - Payment</i>	<i>25-6</i>
	<i>Section 25-3-7 - Foreclosure of Lien</i>	<i>25-6</i>
<b><i>IV</i></b>	<b><i>INOPERABLE MOTOR VEHICLE</i></b>	
	<i>Section 25-4-1 - Definitions</i>	<i>25-7</i>
	<i>Section 25-4-2 - Declaration of Nuisance</i>	<i>25-7</i>
	<i>Section 25-4-3 - Notice to Owner</i>	<i>25-7</i>
	<i>Section 25-4-4 - Exclusions</i>	<i>25-7</i>
<b><i>V</i></b>	<b><i>BUILDING AS NUISANCE</i></b>	
	<i>Section 25-5-1 - Building Condition – Nuisance</i>	<i>25-8</i>
	<i>Section 25-5-2 - Time Limit</i>	<i>25-8</i>
	<i>Section 25-5-3 - Notification</i>	<i>25-8</i>
	<i>Section 25-5-4 - Dangerous and Unsafe Building Defined</i>	<i>25-8</i>
	<i>Section 25-5-5 - Standards for Repair, Vacation or Demolition</i>	<i>25-9</i>
	<i>Section 25-5-6 - Dangerous and Unsafe Buildings – Nuisances</i>	<i>25-9</i>
	<i>Section 25-5-7 - Duties of the Attorney</i>	<i>25-9</i>
	<i>Section 25-5-8 - Liens</i>	<i>25-9</i>

<b><u>ARTICLE</u></b>		<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>VI</i></b>	<b><i>VIOLATIONS</i></b>		
	<i>Section 25-6-1</i>	- <i>Prosecution of Violation</i>	<i>25-10</i>
	<i>Section 25-6-2</i>	- <i>Violation Penalties</i>	<i>25-10</i>
	<i>Section 25-6-3</i>	- <i>Abatement of Violation</i>	<i>25-10</i>

## CHAPTER 25

### NUISANCES

#### ARTICLE I - GENERALLY

**25-1-1      SPECIFIC NUISANCES ENUMERATED.** It is hereby declared to be a nuisance and to be against the health, peace and comfort of the City, for any person, firm or corporation within the limits of the City to permit the following; but the enumeration of the following nuisances shall not be deemed to be exclusive:

(A)            **Filth.** To cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected, deposited or to remain in any place, to the prejudice of others.

(B)            **Deposit of Offensive Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any water course, lake, pond, spring, well or common sewer, street or public highway.

(C)            **Corruption of Water.** To corrupt or render unwholesome, or impure, the water of any spring, river, stream, pond or lake, well, public or private, to the injury or prejudice of others.

(D)            **Highway Encroachment.** To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

(E)            **Manufacturing Gunpowder.** To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefore, in any building within **three hundred (300) feet** of any valuable building erected at the time such business may be commenced.

(F)            **Powder Magazines.** To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within **eight hundred (800) feet** of any occupied dwelling house.

(G)            **Noxious Odors.** To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals, or of the public.

(H)            **Unlawful Advertising.** To advertise wares or occupations by painting notices of the same on, or affixing them to fences or other private property, or on rocks or other natural objects without the consent of the owner, or if in the highway or other public place, without permission of the proper authorities.

(I)            **Wells Unplugged.** To permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled.

(J)            **Burn-Out Pits.** To construct or operate any salt water pit or oil field refuse pit, commonly called a "**burn-out pit**" so that salt water, brine or oil field refuse or other waste liquids may escape therefrom in any manner except by the evaporation of such salt water or brine or by the burning of such oil field waste or refuse.

(K)            **Discarded Materials.** To permit concrete bases, discarded machinery and materials to remain around any oil or gas well or to fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well.

(L)            **Underground Wells.** To permit any salt water, oil, gas or other wastes from any well drilled for oil, gas or exploratory purposes to escape to the surface, or into a mine or coal seam, or into any underground fresh water supply or from one underground stratum to another.

(M)            **Harassment.** To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease, or has bought or leased a residence or other real property, when the harassment, intimidation, or threat relates to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.

(N) **Business.** To establish, maintain, and carry on any offensive or unwholesome business or establishment within the limits of the City or within **one and one-half (1 ½) miles** of the City limits.

(O) **Filthy Premise Conditions.** To keep or suffer to be kept any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by any person, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

(P) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(Q) **Litter on Streets.** It shall be unlawful for any person to deposit upon or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter or material objects of any size or description to fall upon the streets of the City from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(R) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, used lumber, derelict truck trailers, camping trailers, or boats, appliances, construction materials, demolition debris, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any residential home lot, piece or parcel of land or upon any public or private alley, street or public way within the City.

(S) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

(T) **Bringing Nuisances into the City.** To bring into the City or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance, or thing which shall be a nuisance or which shall occasion a nuisance in the City, or which may or shall be dangerous or detrimental to health.

(U) **Offensive Liquids.** To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive, or putrid, nor permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(V) **Dense or Offensive Smoke.** To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the City so as to cause annoyance or discomfort to the residents thereof.

(W) **Scrap Tires, Both Mounted and Dismounted.** To keep any scrap tires, either mounted or dismounted, in open view, or so as to allow such tires to accumulate stagnant water so as to provide a breeding ground for mosquitoes and other pests. All persons charged with illegal tires shall be assessed a fee of **Twenty-Five Dollars (\$25.00)** per tire.

(X) **Motor Transport Engines.** To operate motor vehicle transport engines in the nighttime between the hours of **eight (8:00) o'clock P.M.** and **six (6:00) o'clock A.M.,** in any place in which a majority of the buildings, within a radius of **four hundred (400) feet** are used exclusively for residence purposes, excluding state and federal highways.

(Y) **Accumulation of Debris.** To store, dump or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public. All persons charged with illegal tires shall be assessed a fee of **Twenty-Five Dollars (\$25.00)** per tire.

(Z) **Generally.** To commit any act which is a nuisance according to the common law of the land or made such by statute of the State. **(See 740 ILCS 55/221 – 55/222)**

Nothing in this Section shall be construed to prevent the corporate authorities of this City from declaring what shall be nuisances, and abating them within the City limits.

**25-1-2      NUISANCES DETRIMENTAL TO HEALTH GENERALLY.** No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained or operated in the City if such use, keeping or maintaining shall be dangerous or detrimental to health.

**25-1-3      NOTICE TO ABATE.** Whenever the Superintendent, Mayor, Zoning Administrator or Police Chief finds that a nuisance exists, he shall direct the Zoning Administrator to mail (certified) to the party responsible for the nuisance and to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A)            A description of what constitutes the nuisance;
- (B)            The location of the nuisance;
- (C)            A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D)            The date by which abatement must be completed;
- (E)            The date by which a request for a hearing must be filed and a statement of the procedure for so filing;
- (F)            A statement that the responsible party has a right to appeal the abatement order to the City Council.
- (G)            A statement indicating that if the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this City will abate the nuisance and assess the costs against the property and/or impose a fine.

**25-1-4      HEARING.** Any person ordered to abate a nuisance may have a hearing with the Police Chief or his designated representative ordering the abatement. A request for a hearing must be made in writing and delivered to the City Clerk within the time stated in the notice; otherwise, it will be presumed that a nuisance exists, and that such nuisance must be abated as ordered. The hearing shall not be a formal trial-type proceeding, but appropriate procedural safeguards shall be observed to ensure fairness. At the conclusion of the hearing, the Police Chief or his designated representative shall render his decision and the reasons therefor in writing. If he finds that a nuisance exists, he shall order it abated within an additional time which must be reasonable under the circumstances.

**25-1-5      APPEAL.** Any party aggrieved by the decision of the Police Chief may appeal to the City Council. Such appeal shall be taken by filing with the City Clerk within **five (5) days** of such decision a written statement indicating the basis for the appeal.

The appeal shall be heard by the City Council at the next regular or special meeting after such filing. Their findings shall be conclusive and if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

**25-1-6      ABATEMENT BY CITY.** If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this City may perform the required action to abate. Any City official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the City Clerk who shall pay such expenses on behalf of this City. **(See 65 ILCS 5/11-60-2)**

**25-1-7      FAILURE TO COMPLY WITH NOTICE.** If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The City shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

**(See 65 ILCS 5/11-60-2 and 720 ILCS 5/47-5; 5/47-10 and 5/47-15)**

## ARTICLE II - WEEDS

**25-2-1**        **DEFINITION.** "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Rag Weed (giant), Rag Weed (Common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milk Weed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp, Johnson Grass, grass and all other noxious weeds as defined by the statutes of the State of Illinois.

**25-2-2**        **HEIGHT.** It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding **eight (8) inches** above ground level anywhere in the City. Any such plants, weeds, or grass exceeding such height are hereby declared to be a nuisance.

All property owners and/or persons in control of the land are responsible for maintenance of the lawn, cutting of the grass, and compliance with this Article for the entirety of the property to the curb, street, and/or alleyway. **(Ord. No. 2003-08; 06-09-03)**

**25-2-3**        **SERVICE OF NOTICE.** Notice shall be posted in an open and visible area on the property where the weeds are growing. Said notice may be posted by the Commissioner of Public Affairs, the Code Enforcement Officer working under the direction of the Commissioner of Public Affairs, the Commissioner of Public Safety, the Chief of Police, any uniformed Police Officer of the City of Benton, the Street Commissioner, the Street Superintendent, and/or any employee of the Street Department. The notice shall be posted **seven (7) days** prior to the taking of any action by the City to remedy the nuisance by which the weeds must be abated as a nuisance. **(Ord. No. 2003-08; 06-09-03)**

**25-2-4**        **ABATEMENT.** It shall not be a requirement that the owner or other responsible party be given any personal notice by any means and that the posting of the property in accordance with the immediately-preceding paragraph shall be sufficient notice. **(Ord. No. 2003-08; 06-09-03)**

**25-2-5**        **LIEN.** Costs and expenses for such weed removal is a lien upon the real estate affected, superior to all other liens and encumbrances, except tax liens and as otherwise provided by **65 ILCS 5/11-20-7**. Within **one hundred eighty (180) days** after such costs and expenses are incurred the City, a notice of lien shall be filed in the office of the recorder of Franklin County, Illinois. The notice shall consist of a sworn statement setting out (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred or payable for the service, and (3) the date or dates when such cost and expense was incurred by the City.

After the removal of the weeds and prior to filing said lien, a notice shall be personally served on, or sent by certified mail to the person to whom was sent the tax bill for the general taxes on the property for the last preceding year. The notice shall state the substance of this Section and the substance of any ordinance of the City implementing this Section and shall identify the property, by common description, and the location of the weeds to be cut. **(Ord. No. 08-09; 07-28-08)**

**25-2-6**        **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien. All lien and release filing fees shall be paid by the owner of the property. There shall be established the fee of **Two Hundred Dollars (\$200.00)** per lot for each time that the City must abate or remedy the nuisance of the weeds pursuant to notice given in this Chapter. In addition, when special circumstances require additional fees,

which by way of illustration but not by way of limitation may include, for example, removal of garbage, debris, or other impediments to mowing, then the lien shall include not only the fee for mowing but also such reasonable and necessary charges as were incurred in order to enable the City to abate or remedy the nuisance pursuant to this Chapter. The Mayor, acting as the Commissioner of Public Affairs, or his designee shall be authorized without further action of the Council to execute and record in the office of the County Recorder of Franklin County, Illinois, such documents as are necessary to perfect a lien upon the subject real estate upon which the work is performed. **(Ord. No. 2003-08; 06-09-03)**

**25-2-7                    GENERAL PENALTY; FORECLOSURE OF LIENS.**

(A)                    **General Penalty.** Whenever in this Code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not exceeding **Seven Hundred Fifty Dollars (\$750.00)**. Each day any violation of any provision of this Code or any ordinance shall constitute a separate offense.

(B)                    **Foreclosure of Liens.** In addition to any other legal remedy available under this Code or applicable state or federal law, any lien in accordance with the City Code shall be enforced by proceedings to foreclose, as in the case of mortgage or mechanic's liens under Illinois law, against the property subject to said lien for the collection of costs incurred by the City for services rendered, including any and all administrative, filing and/or legal fees or costs for the enforcement of the provisions of this Code. **(Ord. No. 2000-13)**

**25-2-8                    DUTIES OF ZONING ADMINISTRATOR – FORECLOSURE.**

(A)                    The Zoning Administrator is hereby authorized to take any and all necessary and reasonable action to foreclosure on any liens which have been filed against a property owner's real estate for outstanding weed cutting costs and fees, when such liens equal or exceed a total of **Two Hundred Fifty Dollars (\$250.00)** collectively against a parcel of property (i.e. one or more weed liens filed on the same property for weed cutting costs, including administrative, filing and legal fees) and has been recorded in the Franklin County Recorder's Office for a **one (1) year** period or longer without being paid.

(B)                    The Zoning Administrator is hereby authorized to pursue any and all legal remedies available under Illinois law, in addition to foreclosure, for the enforcement of liens filed against property whose owner(s) or person(s) in control has received the benefit of City services but failed or refused to submit payment in full for such services within the administrative time period allowed.

(C)                    The Zoning Administrator is hereby authorized to and shall take any and all reasonable, necessary and proper action to carry out the intent and purposes of this Article.  
**(Ord. No. 2000-13)**

### ARTICLE III - GARBAGE AND DEBRIS

**25-3-1      ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

**25-3-2      SERVICE OF NOTICE.** Notice shall be posted in an open and visible area on the property where the weeds are growing. Said notice may be posted by the Commissioner of Public Affairs, the Code Enforcement Office working under the direction of the Commissioner of Public Affairs, the Commissioner of Public Safety, the Chief of Police, any uniformed Police Officer or the City of Benton, the Street Commissioner, the Street Superintendent, and/or any employee of the Street Department. The notice shall be posted **seven (7) days** prior to the taking of any action by the City to remedy the nuisance by which the weeds must be abated as a nuisance. **(Ord. No. 2003-08; 06-09-03)**

**25-3-3      ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

**25-3-4      LIEN.** Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the City shall be recorded in the following manner:

- (A)                      A description of the real estate sufficient for identification thereof.
- (B)                      The amount of money representing the cost and expense incurred or payable for the service.
- (C)                      The date or dates when said cost and expense was incurred by the City and shall be filed within **sixty (60) days** after the cost and expense is incurred.

**25-3-5      PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien.

**25-3-6      FORECLOSURE OF LIEN.** Property subject to a lien for unpaid charges shall be sold non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City, after lien is in effect for **sixty (60) days**. Suit to foreclose this lien shall be commenced within **two (2) years** after the date of filing notice of lien.

**(See 65 ILCS 5/11-20-13 and 720 ILCS 5/47-10)**



## **ARTICLE IV - INOPERABLE MOTOR VEHICLE**

**25-4-1      DEFINITIONS.** For the purpose of this Code, the following term(s) shall have the meanings ascribed to them as follows:

**"INOPERABLE MOTOR VEHICLES"** shall mean any motor vehicle which, for a period of at least **seven (7) days**, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

**25-4-2      DECLARATION OF NUISANCE.** All inoperable motor vehicles, whether on public or private property in view of the general public, are hereby declared to be a nuisance.

**25-4-3      NOTICE TO OWNER.** The Police Chief or a designated representative shall notify the owner of the motor vehicle, informing him that he shall dispose of any inoperable vehicles under his control. If the owner fails to dispose of said inoperable vehicle(s) after **seven (7) days** from the issuance of the notice, the Police Chief or a designated representative may authorize a towing service to remove and take possession of the inoperable vehicle or parts thereof.

**25-4-4      EXCLUSIONS.** Nothing in this Article shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over **twenty-five (25) years** of age, or to a motor vehicle on the premises of a licensed business engaged in the wrecking or junking of motor vehicles.

**(See 65 ILCS 5/11-40-3)**

## ARTICLE V - BUILDING AS NUISANCE

**25-5-1            BUILDING CONDITION - NUISANCE.** The Zoning Administrator, being designated here as the Zoning Administrator or Fire Chief, shall report to the City Council when any building or structure in the City is in a dangerous condition and constitutes a nuisance. **(Ord. No. 01-11; 05-14-01)**

**25-5-2            TIME LIMIT.** The owner of such building shall begin repair or alter it so as to make it safe within **fifteen (15) days** from the time the notice is served upon him in the manner provided by law, unless extended by approval of the Zoning Administrator. **(Ord. No. 2016-30; 11-28-16)**

**25-5-3            NOTIFICATION.** The Zoning Administrator, with the approval of the City Council, shall place a notice on all "dangerous and unsafe buildings", which notice shall read as follows:

"This building has been found to be a dangerous and unsafe building by the City officials. This notice shall remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, or person or persons in whose name or names such building was last assessed, and all other persons having an interest in said building as shown by the land records of the County Recorder of Deeds. It is unlawful to remove this notice until such notice is complied with."

**25-5-4            DANGEROUS AND UNSAFE BUILDING DEFINED.** All buildings or structures which have any or all of the following defects shall be deemed "dangerous and unsafe buildings".

(A) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(B) Those which, exclusive of the foundation, show **thirty-one percent (31%)** or more of damage or deterioration of the supporting member or members, or **fifty percent (50%)** of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(C) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(D) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City.

(E) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those living therein.

(F) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(G) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(H) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(I) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this City.

(J) Those buildings existing in violation of any provision of the Building Code of this City, or any provision of the Fire Prevention Code, or any other ordinances of the City.

- (K) Those vacant buildings with unguarded openings shall be deemed to constitute a fire hazard and to be unsafe within the provisions of this Code.
- (L) Those buildings which are uncompleted or abandoned.

**25-5-5            STANDARDS FOR REPAIR, VACATION OR DEMOLITION.** The following standards shall be followed in substance by the Zoning Administrator in ordering repair, vacation, or demolition:

(A) If the "dangerous and unsafe building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(B) If the "dangerous and unsafe building" can reasonably be repaired so that it will no longer exist in violation of the terms of this Code, it shall be ordered repaired.

(C) In any case when a "dangerous and unsafe building" is **fifty percent (50%)** damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Code, it shall be demolished. In all cases where a "dangerous and unsafe building" is a fire hazard existing or erected in violation of the terms of this Code, or any ordinance of the City, or statute of the State of Illinois, it shall be demolished. **(See "Non-Conforming Uses" of the Zoning Code)**

**25-5-6            DANGEROUS AND UNSAFE BUILDINGS - NUISANCES.** All dangerous and unsafe buildings within the terms of this Article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore or hereinafter provided.

**25-5-7            DUTIES OF THE ATTORNEY.** The City Attorney shall apply to the Circuit Court for an order authorizing the demolition, repair, or vacation of dangerous and unsafe buildings or uncompleted or abandoned buildings when notices have not been complied with and when requested to do so by the Zoning Administrator.

**25-5-8            LIENS.** The cost of repair, demolition, vacation, or enclosure shall be recoverable from the owner or owners of such real estate and shall be a lien thereon, which lien shall be subordinate to all prior existing liens and encumbrances; provided that within **thirty (30) days** after said cost and expense is incurred, the City or person performing the service by authority of the City, in his or its own names, shall file notices of lien in the office of the County Recorder of Deeds. The notice shall consist of a sworn statement setting out:

- (A) A description of the real estate sufficient for identification therefor;
- (B) The amount of money representing the cost and expense incurred or payable for the service; and
- (C) The date or dates when said cost and expense was incurred by the City.

Upon payment of said cost and expense by the owner of or persons interested in said property after notice of lien has been filed, the lien shall be released by the City or person in whose name(s) the lien has been filed and said release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in the case of mortgages or mechanics of lien. Suit to foreclose this lien shall be commenced within **three (3) years** after the date of filing notice of lien.

**(See 65 ILCS 5/11-31-1)**

## **ARTICLE VI - VIOLATIONS**

**25-6-1      PROSECUTION OF VIOLATION.** Where any person, firm, or corporation has violated a provision of this Chapter by refusing or neglecting to comply with the requirements set forth in the Notice of Violation, the Code Enforcement Official or the Police personnel shall issue a citation of violation.

**25-6-2      VIOLATION PENALTIES.** Any person, firm, or corporation who shall violate a provision of this Chapter shall be guilty of an offense, punishable by a fine of not less than **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day that a violation continues after a citation is issued shall be deemed a separate offense.

**25-6-3      ABATEMENT OF VIOLATION.** The imposition of the penalties herein prescribed shall not preclude the legal counsel of the City from instituting appropriate action at law or in equity to correct or abate violations of this Chapter.

**(Ord. No. 99-44; 11-22-99)**

**CITY OF BENTON**

**NUISANCE VIOLATION NOTICE**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that the Police Chief, Zoning Administrator or his representatives has determined that the property owned by you (and/or occupied by you, as the case may be) located at \_\_\_\_\_ located within the Municipality contains an unlawful nuisance(s) as defined by **Section 25-1-1** of the Revised Code of Ordinances as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are required pursuant to **Section 25-1-3** to abate and remove any nuisance(s) within **three (3) days** from the date of this notice as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you wish to appeal this notice, then the appeal shall be made to the City Hall by:

\_\_\_\_\_.

If the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, the Police Chief, Zoning Administrator or his representative will abate the nuisance and assess the costs against the property and/or impose a fine as provided by the **Revised Code of Ordinances, Chapter 25; Article I.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
SIGNATURE/DATE/TITLE  
CITY OF BENTON

**NOTE:        The penalty for failure to abate said nuisance(s) may be as high as \$750.00 per violation plus the cost of the clean-up.**

**CITY OF BENTON**

**N O T I C E**

**UNLAWFUL WEED GROWTH**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that \_\_\_\_\_  
has determined that property owned by you (and/or occupied by you, as the case may be) at  
\_\_\_\_\_, located within the City Limits contains  
unlawful weed growth as defined by **Chapter 25-2-2** of the Revised Code of Ordinances.

You are required to remove all growth within **three (3) days** from the date of this  
Notice.

If you refuse or neglect to remove such growth, the authorities of this Municipality may  
provide for the removal thereof. The cost of such growth removal shall be paid by you.

\_\_\_\_\_  
ZONING ADMINISTRATOR  
CITY OF BENTON

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**CITY OF BENTON**

**N O T I C E**

**UNLAWFUL GARBAGE AND/OR DEBRIS**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that the \_\_\_\_\_

\_\_\_\_\_ has determined that property owned by you (and/or occupied by you, as the case may be) located at \_\_\_\_\_, located within the City Limits contains garbage and/or debris as defined by **Chapter 25, Article III**, of the Revised Code of Ordinances.

You are required to remove all such material within **three (3) days** from the date of this Notice.

If you refuse or neglect to remove such garbage and/or debris, the corporate authorities of this Municipality may provide for the removal thereof. The cost of the garbage and/or debris removal shall be paid by you.

\_\_\_\_\_  
SIGNATURE/TITLE

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF BENTON**

**N O T I C E**

**INOPERABLE VEHICLE**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that the Zoning Administrator and Police Department have determined that an "inoperable vehicle(s)" owned by you (and/or stored by you, as the case may be) located at \_\_\_\_\_, located within the Corporate Limits of this Municipality contains an inoperable vehicle(s), as defined by **Chapter 25, Article IV**, of the Revised Code of Ordinances.

You are required to abate and remove any and all inoperable vehicles within **seven (7) days** from the date of this Notice.

If you wish to appeal said notice, then the appeal shall be made to the Corporate Authorities within **five (5) days** of this Notice.

If you refuse or neglect to remove and dispose of the specified inoperable vehicle(s), the Health Officer or Police Chief of this Municipality may provide for the removal and abatement thereof. The cost of such removal and abatement shall be paid by you.

\_\_\_\_\_  
SIGNATURE/TITLE

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.



**CITY OF BENTON**  
**NOTICE**  
**ABANDONED VEHICLE VIOLATION**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that the \_\_\_\_\_ has determined that the property owned by you (and/or occupied by you, as the case may be) located at \_\_\_\_\_, located within the Corporate Limits contains an unlawful abandoned vehicle(s), as defined by **Section 25-4-1** of the Revised Code of Ordinances.

You are required to abate and remove any abandoned vehicle(s) within **seven (7) days** from the date of this Notice.

If you wish to appeal said notice, then the appeal shall be made to the City Clerk within **seven (7) days** of this Notice.

If you refuse or neglect to remove and abate specified nuisance(s), the corporate authorities of this Municipality may provide for the removal and abatement thereof. The cost of such removal and abatement shall be paid by you.

\_\_\_\_\_  
SIGNATURE/TITLE

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF BENTON**  
**LETTER OF NOTICE**  
**DANGEROUS AND UNSAFE BUILDING**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You, as owner(s) of the property lawfully described below, are hereby notified by the undersigned **City of Benton, Illinois** that said property has upon it a building which is:

- ☐ Dangerous and/or unsafe
- ☐ Uncompleted and/or abandoned

The lawful property shall be described as \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(legal description)

located at \_\_\_\_\_  
(address)

Unless such building is put into safe condition or demolished within **ninety (90) days** of the receipt of this notice, the City shall apply to the Circuit Court for an order authorizing such action to be taken by the **City** with respect to the above described building. Any costs incurred by the City to restore the building to a safe condition or to demolish the building shall be recovered from the owner(s) of the above described property pursuant to **Chapter 65, Paragraph 5/11-31-1, Illinois Compiled Statutes**.

\_\_\_\_\_  
Dated at \_\_\_\_\_, this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
SIGNATURE/TITLE

**(SEAL)**

## **CHAPTER 27**

### **OFFENSES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>DEFINITIONS</i></b>	
	Section 27-1-1 - Meanings of Words and Phrases	27-1
	Section 27-1-2 - Criminal Code Adopted	27-1
<b><i>II</i></b>	<b><i>GENERALLY</i></b>	
	Section 27-2-1 - Disturbing Police Officer/Firefighter	27-1
	Section 27-2-2 - Impersonation of Officer	27-1
	Section 27-2-3 - Disturbing Lawful Assemblies	27-1
	Section 27-2-4 - Unlawful Assembly	27-1
	Section 27-2-5 - Disturbing the Peace	27-2
	Section 27-2-6 - Admission Fees; Fraudulently Avoiding Payment of	27-2
	Section 27-2-7 - Tobacco Regulations - Minors	27-2
	Section 27-2-8 - Smokeless Tobacco	27-3
	Section 27-2-9 - Unlawful Conduct on a Public Way	27-3
	Section 27-2-10 - Aid in Escape	27-3
	Section 27-2-11 - Escapes	27-4
	Section 27-2-12 - False Pretenses	27-4
	Section 27-2-13 - Renting Premises for Unlawful Purposes	27-4
	Section 27-2-14 - Aid to an Offense	27-4
	Section 27-2-15 - Posting Bills	27-4
	Section 27-2-16 - Intoxication in Public	27-4
	Section 27-2-17 - Begging	27-4
	Section 27-2-18 - Concealed Weapons	27-4
	Section 27-2-19 - Discharge of Firearms or Bow and Arrow	27-5
	Section 27-2-20 - Games in Street	27-5
	Section 27-2-21 - Storage of Explosives	27-5
	Section 27-2-22 - Throwing Rocks	27-5
	Section 27-2-23 - Destruction of Public Property	27-5
	Section 27-2-24 - Abandoned Refrigerators or Iceboxes	27-5
	Section 27-2-25 - Halloween Curfew	27-5
	Section 27-2-26 - Theft of Recyclables Unlawful	27-5
	Section 27-2-27 - Throwing Objects From Motor Vehicles	27-6
	Section 27-2-28 - Depositing of Snow and Ice Restricted	27-6
	Section 27-2-29 - Protective Covering or Fencing	27-6
	Section 27-2-30 - Curfew Hours for Minors	27-6
	Section 27-2-31 - Sanctity of Funeral and Memorial Services	27-8
	Section 27-2-32 - Use of Upholstered Furniture in Outdoor Locations Prohibited	27-8
	Section 27-2-33 - Loud and Unnecessary Noise	27-8
	Section 27-2-34 - Abetting or Encouraging Violation	27-9
	Section 27-2-35 - Unattended Machinery	27-9
	Section 27-2-36 - Fortune Telling	27-9
	Section 27-2-37 - Grass and Weeds Along Streets	27-9
	Section 27-2-38 - Trash Containers	27-9
	Section 27-2-39 - Burning Materials	27-9
	Section 27-2-40 - Wild Game Sanctuary	27-9
	Section 27-2-41 - Hunting on City Property	27-9

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>OFFENSES AGAINST PROPERTY</b>	
	Section 27-3-1 - Petty Theft	27-10
	Section 27-3-2 - Criminal Damage to Property	27-10
	Section 27-3-3 - Criminal Damage to Fire-Fighting Apparatus, Hydrants or Equipment	27-10
	Section 27-3-4 - Injury to Utility Wires and Poles	27-10
	Section 27-3-5 - Damage or Destruction of Street Signs Prohibited	27-10
	Section 27-3-6 - Tampering With Public Notice	27-11
	Section 27-3-7 - Climbing Utility Poles	27-11
	Section 27-3-8 - Vandalism	27-11
	Section 27-3-9 - Loitering Unlawful	27-11
	Section 27-3-10 - False Alarms	27-11
<b>IV</b>	<b>PUBLIC HEALTH, SAFETY AND DECENCY</b>	
	Section 27-4-1 - Disorderly Conduct; Elements of the Offense	27-12
	Section 27-4-2 - Resisting or Obstructing a Peace Officer	27-12
	Section 27-4-3 - Refusing to Aid an Officer	27-12
	Section 27-4-4 - Assembling at Public Places and Businesses	27-12
	Section 27-4-5 - Trapping Animals	27-13
	Section 27-4-6 - Fighting	27-13
	Section 27-4-7 - Loud and Unnecessary Noise and Music	27-13
	Section 27-4-8 - Profanity	27-14
	Section 27-4-9 - Peeping Tom	27-14
	Section 27-4-10 - Nudity Prohibited	27-15
	Section 27-4-11 - Scavengers Prohibited	27-15
	Section 27-4-12 - False Report of Offense	27-15
	Section 27-4-13 - Interfering with Firemen	27-15
	Section 27-4-14 - Assault, Battery, Affray and Reckless Conduct	27-15
	Section 27-4-15 - Sale of Firearms or Weapons to Minors	27-15
	Section 27-4-16 - Intimidation	27-16
	Section 27-4-17 - Use of Potable Water Supply	27-16
	Section 27-4-18 - Excavations	27-16
<b>V</b>	<b>ANTI-LITTER</b>	
	Section 27-5-1 - Definitions	27-17
	Section 27-5-2 - Littering Prohibited	27-17
	Section 27-5-3 - Prevention of Scattering	27-18
	Section 27-5-4 - Receptacles - Upsetting or Tampering	27-18
	Section 27-5-5 - Sidewalks and Alleys Free From Litter	27-18
	Section 27-5-6 - Owner to Maintain Private Premises	27-18
	Section 27-5-7 - Littering from Vehicles	27-18
	Section 27-5-8 - Littering from Aircraft	27-18
	Section 27-5-9 - Litter in Parks	27-18
	Section 27-5-10 - Handbills	27-18
	Section 27-5-11 - Posting Notices Prohibited	27-19
	Section 27-5-12 - Construction Sites	27-19
	Section 27-5-13 - Loading and Unloading Docks	27-19
	Section 27-5-14 - Parking Lots	27-19
	Section 27-5-15 - Clearing of Litter from Open Private Property By the City	27-20

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VI</b>	<b>TRESPASS</b>	
	Section 27-6-1 - Trespasses Prohibited	27-21
	Section 27-6-2 - Specifically Enumerated Trespasses – Suppression	27-21
<b>VII</b>	<b>PARENTAL RESPONSIBILITY REGULATIONS</b>	
	Section 27-7-1 - Definitions	27-22
	Section 27-7-2 - Parents and Guardians Responsible for Acts	27-22
<b>VIII</b>	<b>TRUANCY AND CURFEW CODE</b>	
	Section 27-8-1 - Definitions	27-23
	Section 27-8-2 - Curfew Restrictions	27-24
	Section 27-8-3 - Truancy Restrictions	27-24
	Section 27-8-4 - Establishment Restrictions	27-25
	Section 27-8-5 - Enforcement Restrictions	27-25
	Section 27-8-6 - Penalty	27-25
	Section 27-8-7 - Civil Liability	27-26
<b>IX</b>	<b>OPEN BURNING</b>	
	Section 27-9-1 - Definitions	27-27
	Section 27-9-2 - Burning Prohibited	27-27
	Section 27-9-3 - Restrictions on Burning of Landscape Waste	27-27
<b>X</b>	<b>OBSCENITY</b>	
	Section 27-10-1 - Obscenity	27-28
	Section 27-10-2 - Harmful Material	27-29
	Section 27-10-3 - Tie-In Sales of Obscene Publications to Distributors	27-30
<b>XI</b>	<b>ADULT USES REGULATED</b>	
	Section 27-11-1 - Purpose and Additional Findings	27-31
	Section 27-11-2 - Definitions	27-31
	Section 27-11-3 - Prohibition	27-32
	Section 27-11-4 - Limitation	27-32
	Section 27-11-5 - Adult Entertainment Facility	27-32
<b>XII</b>	<b>SYNTHETIC DRUGS</b>	
	Section 27-12-1 - Sale, Possession or Delivery of Synthetic Cocaine Prohibited	27-33
	Section 27-12-2 - Sale, Possession or Delivery of Synthetic Cannabis Prohibited	27-34

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>XIII</b>	<b>REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS</b>	
	Section 27-13-1 - Definitions	27-36
	Section 27-13-2 - Prohibited Acts	27-36
	Section 27-13-3 - Penalty	27-37
	Section 27-13-4 - Other Provisions	27-37
<b>XIV</b>	<b>DRUG PARAPHERNALIA</b>	
	Section 27-14-1 - Definitions	27-38
	Section 27-14-2 - Determination of Drug Paraphernalia	27-39
	Section 27-14-3 - Offenses and Penalties	27-39
	Section 27-14-4 - Forfeiture of Property	27-40
	Section 27-14-5 - Prohibition of Possession of Weapons, Liquor and Drugs in the City Hall	27-40
<b>XV</b>	<b>SMOKE FREE AIR CODE</b>	
	Section 27-15-1 - Short Title	27-41
	Section 27-15-2 - Findings	27-41
	Section 27-15-3 - Definitions	27-41
	Section 27-15-4 - Smoking in Public Places, Places of Employment, And Governmental Vehicles Prohibited	27-43
	Section 27-15-5 - Posting of Signs; Removal of Ashtrays	27-43
	Section 27-15-6 - Smoking Prohibited in Student Dormitories	27-43
	Section 27-15-7 - Designation of Other Nonsmoking Areas	27-43
	Section 27-15-8 - Exemptions	27-43
	Section 27-15-9 - Enforcement; Complaints	27-44
	Section 27-15-10 - Violations	27-44
	Section 27-15-11 - Injunctions	27-44
	Section 27-15-12 - Discrimination Prohibited	27-44
	Section 27-15-13 - Severability	27-44
	Section 27-15-14 - Home Rule and Other Local Regulations	27-45
	Section 27-15-15 - Entrances, Exits, Windows, and Ventilation Intakes	27-45
	Section 27-15-16 - Rules	27-45
	Section 27-15-17 - Amendment	27-45

## CHAPTER 27

### OFFENSES

#### ARTICLE I - DEFINITIONS

**27-1-1        MEANINGS OF WORDS AND PHRASES.** For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-16; 2-19 and 2-20**, as approved, adopted and amended are hereby adopted by the City, as fully as if set out herein. **(See 65 ILCS 5/1-3-2)**

**27-1-2        CRIMINAL CODE ADOPTED.** The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City; the provisions thereof shall be controlling within the corporate limits of the City; provided, however, the penalties as provided by this Code shall apply. **(See 65 ILCS 5/1-3-2 and 5/11-1-1)**

#### ARTICLE II - GENERALLY

**27-2-1        DISTURBING POLICE OFFICER/FIREFIGHTER.** No person shall, by violent or disruptive behavior, disturb any police officer, any firefighter, the Police Chief, and/or the Fire Chief in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers, any firefighters, the Police Chief, and/or the Fire Chief in the discharge of his/her duties or permit such conduct in or upon any house or premises in the City owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer, firefighter, the Police Chief and/or the Fire Chief does not become a crime unless the language provokes a breach of the peace or constitutes fighting words evoking some violent response. **(See 65 ILCS 5/11-1-1) (Ord. No. 99-43; 11-22-99)**

**27-2-2        IMPERSONATION OF OFFICER.** No person in the City shall falsely represent himself to be an officer of the City or shall, without being duly authorized by the City, exercise or attempt to exercise any of the duties, functions or powers of the City officer, or hinder, obstruct, resist or otherwise interfere with any City officer in the discharge of the duties of his office. **(See 720 ILCS 5/32-5.1)**

**27-2-3        DISTURBING LAWFUL ASSEMBLIES.** It shall be unlawful for any person to willfully interrupt or disturb any funeral assembly, funeral procession, school, any assembly met for the worship of God or any other assembly met for a lawful purpose by any offensive behavior, or by any disorderly conduct. **(See 65 ILCS 5/11-5-2)**

**27-2-4        UNLAWFUL ASSEMBLY.** It shall be illegal for persons to assemble unlawfully in the following situations:

- (A)        The use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law; or
- (B)        The assembly of **two (2)** or more persons to do an unlawful act; or

(C) The assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence. **(See 720 ILCS 5/25-1) (See 65 ILCS 5/11-5-2)**

**27-2-5                    DISTURBING THE PEACE.** No person shall disturb the peace of any individual or private family, or of any lawful congregation within the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or unreasonable conduct. **(See 65 ILCS 5/11-5-2)**

**27-2-6                    ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF.** It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

**27-2-7                    TOBACCO REGULATIONS - MINORS.**  
(A) **Definitions.**  
(1) **Person** as used herein shall include any natural person, partnership, limited liability company, corporation, company or other business or entity, or the manager, agent, officer, or employee of any of them.  
(2) **Tobacco Products** as used herein shall include cigarettes, cigars, smokeless tobacco, or other tobacco products.  
(3) **Tobacco Vendor** as used herein shall mean all persons engaged in the business of selling tobacco products at retail in the City.

(B) **Tobacco Vendor Prohibitions and Requirements, Sale to Minors**  
**Prohibited.**  
(1) **Prohibited Sales and Delivery.** It shall be unlawful for any person, including any tobacco vendor to sell, offer for sale, give away or deliver tobacco products to any person under the age of **eighteen (18) years**.  
(2) **Certain Free Distributions or Sales Prohibited.** It shall be unlawful for any tobacco vendor or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, or any employee or agent of any such tobacco vendor or person, in the course of such tobacco vendor's or person's business, to distribute, give away, or delivery tobacco products free of charge to any person on any right-of-way.  
(3) **Penalty.** Any person, firm or corporation who violates any of the provisions of this Section shall, in addition to such other relief as the law may afford, be punishable by a minimum penalty of not less than **One Hundred Dollars (\$100.00)**.

(C) **Purchase by Minor Prohibited.**  
(1) **Generally.** It shall be unlawful for any person under the age of **eighteen (18) years** to purchase tobacco products, or to misrepresent their identity or age, or the use of any false or altered identification for the purpose of purchasing tobacco products.  
(2) **Penalty.** Any person, firm or corporation who violates any of the provisions of this Section shall, in addition to such other relief as the law may afford, be punishable by a minimum penalty of not less than **Fifty Dollars (\$50.00)**.

(D) **Possession by Minor Prohibited.**  
(1) **Generally.** It shall be unlawful for any person under the age of **eighteen (18) years** to possess any tobacco products; provided that



the possession by a person under the age of **eighteen (18) years** is under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.

- (2) **Penalty.** Any person, firm, or corporation who violates any of the provisions of this Section shall, in addition to such other relief as the law may afford, be punishable by a minimum penalty of not less than **Twenty-Five Dollars (\$25.00)**.
- (3) **Tobacco: Possession/Purchase by Minors Prohibited.** The penalties for possession or purchasing tobacco products by minors as provided in this Section shall be as follows:
  - (a) **First Offense.** First time violators of said ordinance provisions may, at the discretion of the court, be ordered to complete a program of education regarding the dangers of tobacco use, or fined not less than the sum of **Twenty-Five Dollars (\$25.00)** for violation of **Section 27-2-7(C)** (purchase) or **Ten Dollars (\$10.00)** for violation of this Section (possession). It shall be the policy of the City to recommend, absent aggravating circumstances, that such first time violators receive a sentence of supervision subject to completion of an appropriate program of education as directed by the court.
  - (b) **Subsequent Offenses.** Those who violates **Section 27-2-7(C)** (purchase) for the second and subsequent time shall be fined not less than **Fifty Dollars (\$50.00)**, nor more than **One Hundred Dollars (\$100.00)**. Those who violate **Section 27-2-7(D)** (possession) for the second and subsequent time shall be fined not less than **Twenty-Five Dollars (\$25.00)**, nor more than **Fifty Dollars (\$50.00)**.

(Ord. No. 97-39; 11-10-97) (See 720 ILCS 675/1)

**27-2-8 SMOKELESS TOBACCO.**

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Eighteen (18).** No person shall sell any smokeless tobacco product to any person under the age of **eighteen (18)**.

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **eighteen (18)**, without charge or at a nominal cost, any smokeless tobacco product. (See 720 ILCS 680-1 et seq.)

**27-2-9 UNLAWFUL CONDUCT ON A PUBLIC WAY.**

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

(C) It shall be unlawful to urinate on public ways.

(D) It shall be unlawful to urinate on private property when such conduct could be seen from a public way or from private property open to the public.

**27-2-10 AID IN ESCAPE.** It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from

any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(See 720 ILCS 5/31-7)**

**27-2-11      ESCAPES.** It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(See 720 ILCS 5/31-6(C))**

**27-2-12      FALSE PRETENSES.** It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

**27-2-13      RENTING PREMISES FOR UNLAWFUL PURPOSES.** It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

**27-2-14      AID TO AN OFFENSE.** It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

**27-2-15      POSTING BILLS.** It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper City and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

**27-2-16      INTOXICATION IN PUBLIC.** No person shall, in the City, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this City or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the City, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(See 65 ILCS 5/11-5-3)**

**27-2-17      BEGGING.** No person shall beg or solicit alms within the City without having obtained permission in writing from the Mayor. **(See 65 ILCS 5/11-5-4)**

**27-2-18      CONCEALED WEAPONS.** No person shall, within the City, carry or wear under his clothes, or concealed about his person, any pistol or colt, or sling-shot, or cross knuckles or knuckles of lead, brass or other metal, or any switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any sheriff or deputy sheriff or constable of this State, nor to any United States Marshal. This Section shall not apply to those persons who have a State of Illinois concealed carry permit for a gun.

**27-2-19      DISCHARGE OF FIREARMS OR BOW AND ARROW.** It shall be unlawful to discharge any firearm, bow and arrow or air gun in the City or so that the bullet, arrow, missile or projectile therefrom enters the City without written permission from the Mayor, provided that this Section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to prevent any citizen from discharging a firearm when lawfully defending his person or property; nor to prevent the discharge of bow and arrow by students upon school grounds while under the direct and immediate supervision of teachers or other school supervisory personnel.

**27-2-20      GAMES IN STREET.** No person shall, upon any City street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

**27-2-21      STORAGE OF EXPLOSIVES.**  
(A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the City, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.

(B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the City in any quantity exceeding **five (5) pounds.** (See 65 ILCS 5/11-8-4)

**27-2-22      THROWING ROCKS.** No person in the City shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

**27-2-23      DESTRUCTION OF PUBLIC PROPERTY.** No person in the City shall deface, destroy, or in any way, injure any public property, or any other apparatus of the City.

**27-2-24      ABANDONED REFRIGERATORS OR ICEBOXES.** It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. (See 720 ILCS 505/1)

**27-2-25      HALLOWEEN CURFEW.** It shall be illegal for any person to engage in Halloween practice, commonly called "**Trick or Treat**", by calling at the homes or dwelling places within the City, either masked or unmasked, except on a day designated by the City Council and no later than **8:00 P.M.** unless otherwise provided by the City Council. (See 65 ILCS 5/11-1-5)

**27-2-26      THEFT OF RECYCLABLES UNLAWFUL.** It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the City limits unless said person is acting as an agent for the City or acting as an agent for a waste hauler licensed by the City.

**27-2-27      THROWING OBJECTS FROM MOTOR VEHICLES.** Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions.

The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the City Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

**27-2-28      DEPOSITING OF SNOW AND ICE RESTRICTED.** No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(See 65 ILCS 5/11-80-13)**

**27-2-29      PROTECTIVE COVERING OR FENCING.** Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS 605/1)**

**27-2-30      CURFEW HOURS FOR MINORS.**

**(A)      Definitions.** Whenever used in this Section.

- (1) **"Curfew hours"** means:
  - (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
  - (b) 12:01 A.M. until 6:00 A.M. on Saturday; and
  - (c) 12:01 A.M. until 6:00 A.M. on Sunday.
- (2) **"Emergency"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (3) **"Establishment"** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.
- (4) **"Guardian"** means:
  - (a) A person who, under court order, is the guardian of the person of a minor; or
  - (b) A public or private agency with whom a minor has been placed by a court.
- (5) **"Minor"** means any person under **eighteen (18) years** of age.
- (6) **"Operator"** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (7) **"Parent"** means a person who is:
  - (a) A natural parent, adoptive parent, or stepparent of another person; or

- (b) At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.
- (8) **"Public Place"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (9) **"Remain"** means to:
  - (a) linger or stay; or
  - (b) fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
- (10) **"Serious bodily injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B)

**Offenses.**

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C)

**Defenses.**

- (1) It is a defense to prosecution under subsection (B) that the minor was:
  - (a) Accompanied by the minor's parent or guardian;
  - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (c) In a motor vehicle involved in interstate travel;
  - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - (e) Involved in an emergency;
  - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civil organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor;
  - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
  - (i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.
- (2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) **Enforcement.** Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (C) is present. **(See 65 ILCS 5/11-1-5 and 720 ILCS 555/1)**

**27-2-31 SANCTITY OF FUNERAL AND MEMORIAL SERVICES.** It shall be unlawful for a person to violate any of the following provisions of this Section:

(A) Engaging in any loud protest of signing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates.

**27-2-32 USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS PROHIBITED.**

(A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:

- (1) on unenclosed exterior porches or balconies;
- (2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

- (1) wood, metal, or plastic furniture;
- (2) outdoor patio furniture with weather-resistant cushions;
- (3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

**27-2-33 LOUD AND UNNECESSARY NOISE.** No person in the City shall create any unreasonably loud or unnecessary noise and disturb the peace and quiet of the City or of any citizens thereof by:

(A) Sounding of any horn, whistle, siren, or other signaling device, except where necessary to warn of the danger of an approaching vehicle;

(B) Playing of radio, loud speaker, public address system, or other electronic device in a loud and unnecessary manner;

(C) Keeping any animal or bird which by frequent and long continued noise disturbs the comfort and repose of any person in the vicinity;

(D) Unnecessary banging, pounding, clanging, clattering, or other loud noises not necessary in the performing of any useful work.

**27-2-34      ABETTING OR ENCOURAGING VIOLATION.** No person shall abet or encourage any unlawful act or any violation of any provision of the City Code.

**27-2-35      UNATTENDED MACHINERY.** It shall be unlawful for any person to permit any construction, compaction, earth-grading or farm machinery which is self-propelled and moves upon the surface of the earth, and which is owned or controlled by him to stand for any period of time unattended without locking the ignition system or otherwise rendering said machinery inoperable so as to prevent any person unauthorized by the owner or individual in control thereof from starting said machinery.

**27-2-36      FORTUNE TELLING.** No person in the City shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

**27-2-37      GRASS AND WEEDS ALONG STREETS.** Property owners and/or residents shall be required to cut the grass and weeds of the abutting or fronting lawn strip regardless of whether it is owned by the City or by the owner of the adjacent abutting private property. This requirement shall be in full force and effect regardless of whether the strip of lawn abuts the private property or is between the street and the sidewalk that abuts the property. **(Ord. No. 2004-34; 12-27-04) (See Article II of Chapter 25 for additional regulations.)**

**27-2-38      TRASH CONTAINERS.** It shall be unlawful for a person to leave his or her trash container adjacent to the street right-of-way or the sidewalk for longer than **twelve (12) hours** after it was emptied or picked-up. Provided however, trash containers may be set adjacent to the street right-of-way or sidewalk the evening before the pick-up.

**27-2-39      BURNING MATERIALS.** No person shall burn or cause to be burned within the limits of the City any leaves, grass, wood, or any other materials in any outside open fire between the hours of sundown to sunrise, or at such other times as may be ordered by the Fire Chief for the protection of the public safety. No material of any kind may be burned on the surface of "curb and guttered" streets at any time. Leaves, grass and yard waste may be burned in open ditches during permissible burning times. No other materials, except as specified herein, may be burned in open ditches. **(Ord. No. 07-62; 10-22-07) (See Section 33-2-18)**

**27-2-40      WILD GAME SANCTUARY.** It shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner, any type of wild game, any bird, or wild fowl, or to rob bird nests or wild fowl nests. If starlings, pigeons, or similar birds are found to be congregating in such numbers in a particular locality so that the birds constitute a nuisance or menace to health or property, in the opinion of the Commission of Public Health and Safety, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by said health authorities under the supervision of the Chief of Police. **(Ord. No. 99-46; 11-22-99)**

**27-2-41      HUNTING ON CITY PROPERTY.** Hunting and all other forms of recreational usage in any manner whatsoever is prohibited on City-owned property unless specifically permitted by the City Council. **(Ord. No. 04-27; 11-22-04)**

**(See 65 ILCS 5/11-80-15)**

## ARTICLE III

### OFFENSES AGAINST PROPERTY

**27-3-1      PETTY THEFT.** A person commits a petty theft when the value of the property is under **Three Hundred Dollars (\$300.00)** and he knowingly:

(A) obtains or exerts unauthorized control over property of the owner; or  
(B) obtains by deception, control over property of the owner; or  
(C) obtains by threat, control over property of the owner; or  
(D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; and

- (1) intends to deprive the owner permanently of the use or benefit of the property;
- (2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit;
- (3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(E) It shall be unlawful to commit a petty theft.  
(See 720 ILCS 5/16-1)

**27-3-2      CRIMINAL DAMAGE TO PROPERTY.** Any of the following acts by a person shall be a violation of this Code.

(A) To knowingly damage any property of another without his consent; or  
(B) recklessly, by means of fire or explosive, damage property of another; or  
(C) knowingly start a fire on the land of another without his consent; or  
(D) knowingly injure a domestic animal of another without his consent; or  
(E) knowingly deposit on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby, intend to interfere with the use by another of the land or building. (See 720 ILCS 5/21-1)

**27-3-3      CRIMINAL DAMAGE TO FIRE-FIGHTING APPARATUS, HYDRANTS OR EQUIPMENT.** No person shall willfully and maliciously cut, injure, damage, tamper with or destroy or deface any fire hydrant or any fire hose or any fire engine, or other public or private fire-fighting equipment or any apparatus appertaining to such equipment, or to intentionally open any fire hydrant without proper authorization. (See 720 ILCS 5/21-1.1)

**27-3-4      INJURY TO UTILITY WIRES AND POLES.** It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric light post, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

**27-3-5      DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the City.



**27-3-6            TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(See 720 ILCS 5/32-9)**

**27-3-7            CLIMBING UTILITY POLES.** It shall be unlawful for any person in the City to climb upon any telegraph pole, telephone pole, electric light pole, or sign pole unless in the performance of his duties.

**27-3-8            VANDALISM.** No person shall willfully, without the consent of the owner, cut, pick, mar, mutilate, injure, or remove any tree, shrub, bush, plant, flower, vegetable, or other growth nor deface, mar, tear down, or injure any building structure, sign, public notice, vehicle, fence, monument, tomb stone, statue, or other object of ornament or utility in any public park, arboretum, street, or other public place, or on any private property in the municipality.

**27-3-9            LOITERING UNLAWFUL.**  
(A) **Defined.** As used in this Section, "loitering" shall mean remaining idle in essentially **one (1) location** and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall also include the colloquial expression "hanging around".  
(B) **Prohibited.** No person, after first being warned by a law enforcement officer, shall loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, street, curb, crosswalk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians thereon, nor shall any person block or obstruct, or prevent the free access to the entrance of any building open to the public. **(Ord. No. 1206; 07-11-88)**

**27-3-10           FALSE ALARMS.**  
(A) **Defined.** False alarms shall be defined herein as any report to any police, fire, health or safety organization or to the county 9-1-1 system that the responding agency determines to be without merit or justification.  
(B) **Penalty.** There shall be imposed a fine of **One Hundred Twenty-Five Dollars (\$125.00)** per false alarm for each false alarm placed in any calendar year from any **one (1) location** after the **third (3<sup>rd</sup>) false alarm** from that location.  
(C) **Number of Alarms.** For purposes of this Section, the number of false alarms from any **one (1) location** shall be determined based upon the number of calls placed from each address, whether it be a business or residential address, during the course of the year, regardless of occupancy. **(Ord. No. 97-41; 11-10-97) (See Section 27-4-1(C))**

## ARTICLE IV

### PUBLIC HEALTH, SAFETY AND DECENCY

**27-4-1        DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE.** A person commits disorderly conduct when he knowingly:

- (A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or
- (B) transmits in any manner to the Fire Department of any City, town, city or fire protection district, a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or
- (C) transmits in any manner to another a false alarm to the effect that a bomb or other explosive device of any nature is concealed in such a place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive device is concealed in such a place; or
- (D) transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed; or
- (E) enters upon the property of another and for a lewd or unlawful purpose, deliberately looks into a dwelling on the property through any window or other opening in it;
- (F) while acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or
- (G) transmits a false report to the Department of Children and Family Services.

**(See 720 ILCS 5/26-1)**

**27-4-2        RESISTING OR OBSTRUCTING A PEACE OFFICER.** A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(See 720 ILCS 5/31-1)**

**27-4-3        REFUSING TO AID AN OFFICER.** A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

- (A) apprehending a person whom the officer is authorized to apprehend; or
- (B) preventing the commission by another of any offense.

**(See 720 ILCS 5/31-8)**

**27-4-4        ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.**

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

- (1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any

loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.

(2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:

- (a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.
- (b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.
- (c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.
- (d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two inches (2") or more in height and readable:

**"CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED MOTOR VEHICLES MAY BE LEFT ON THE PREMISES WITHOUT THE CONSENT OF THE OWNER."**  
(See 65 ILCS 5/11-5-2)

**27-4-5      TRAPPING ANIMALS.** It shall be unlawful for anyone to trap game or fur-bearing animals unless permission is granted by the City Council.

**27-4-6      FIGHTING.** No person in the City shall start a fight, offer to fight, engage in a fight, assault or strike another person or provoke a breach of the peace by threatening to assault or strike another person.

**27-4-7      LOUD AND UNNECESSARY NOISE AND MUSIC.**  
(A) No person or entity in the City shall create any unreasonably loud or unnecessary noise and disturb the peace and quiet of the City or of any citizens thereof by:

- (1) Sounding of any horn, whistle, siren, or other signaling device, except where necessary to warn of the danger of any approaching vehicle;
- (2) Playing of radio, loud speaker, public address system, or other electronic device in a loud and unnecessary manner;
- (3) Keeping any animal or bird which by frequent and long continued noise disturbs the comfort and repose of any person in the vicinity;
- (4) Unnecessary banging, pounding, clanging, clattering, or other loud noises not necessary in the performing of any useful work;

- (5) Excessively loud operation of motor vehicles, including, but not limited to automobiles, motorcycles and motorbikes.
- (B) The following acts are declared to be unreasonably loud or disturbing noises in violation of this Code, to wit:
- (1) The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, stereo, or other machine or device for the producing, or reproducing or broadcast of music or other sound in a loud or disturbing manner between the hours of **1:00 a.m.** and **8:00 a.m.**, wherein the sound emanating from such device is plainly audible at a distance of **fifty (50) feet** from the source or is plainly audible inside a neighboring residential occupancy with the doors and windows closed.
  - (2) The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, stereo or other machine or device for the producing, or reproducing or broadcast of sound in such manner wherein the sound emanating from such device is plainly audible inside a school, church, hospital, medical clinic or nursing home during operating or business hours with the doors and windows closed.
  - (3) For the purpose of this Section, "plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. An Enforcement Officer need not determine the title of a song, specific words or the artist performing the song; the detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound. A "residential occupancy" includes single family dwellings, multiple family dwellings, boarding house rooms, hotel rooms or motel rooms.
  - (4) The following uses and activities shall be exempt from these regulations:
    - (a) School sponsored activities conducted on school property at times other than between the hours of **10:00 p.m.** and **7:00 a.m.** (Additional hours by permit)
    - (b) Church related activities conducted on church property at times other than between the hours of **10:00 p.m.** and **7:00 a.m.** (Additional hours by permit)
    - (c) Authorized City sponsored or permitted parades and events.
  - (5) The first violation of the Section shall result in a written or verbal warning and the issuance of a ticket by the City with a fine of no less than **Seventy-Five Dollars (\$75.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**. If a second or subsequent violation occurs within **ninety (90) days** of a previous written or verbal warning, the City shall order the permanent cessation of the activity causing or creating the violation or the revocation of any permits or license for any business in violation of the Section and issue a subsequent ticket with a fine not to exceed **Seven Hundred Fifty Dollars (\$750.00)**, each day a violation occurs shall be considered a separate offense.

**27-4-8      PROFANITY.** No person in the City shall use obscene, profane, vulgar, offensive, or unseemly language to the annoyance or vexation of others.

**27-4-9      PEEPING TOM.** No person in the City shall enter upon the property of another and for a lewd and unlawful purpose deliberately look into a dwelling or property through the window or other opening in the City.

**27-4-10      NUDITY PROHIBITED.** All nude or semi-nude performances, use of employees who are nude or semi-nude or any promotion of nude or semi-nude exhibition are hereby prohibited. (**Ord. No. 1334; 05-24-93**)

**27-4-11      SCAVENGERS PROHIBITED.**  
(A) The term "**scavenger**" as used in this Section shall mean a person who collects or disposes of refuse, wastes or rubbish as described in **Article III**, of **Chapter 25** of this Code.  
(B) It shall be unlawful for any person to work or function as a scavenger, as defined herein, in the City. No person shall scavenge through any trash receptacle, dumpster, or container.

**27-4-12      FALSE REPORT OF OFFENSE.** No person shall transmit in any manner to any police officer or other public official or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed.

**27-4-13      INTERFERING WITH FIREMEN.** No person shall, at any fire, hinder, delay, resist, or obstruct any officer, fireman, or other person in the discharge of his duties or neglect or refuse to obey the lawful command of any police officer or fireman at the scene of a fire.

**27-4-14      ASSAULT, BATTERY, AFFRAY AND RECKLESS CONDUCT.** It shall be unlawful for any person to knowingly start a fight, or to fight, or to commit any assault and battery or perform any reckless conduct anywhere within the City.

(A) **Assault Defined.** A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

(B) **Battery Defined.** A person commits battery if he intentionally or knowingly, without legal justification, and by any means:

- (1) causes bodily harm to any individual; or
- (2) makes physical contact of an insulting or provoking nature with an individual.

(C) **Affray Defined.** A person commits an affray if he engages in a noisy brawl, or quarrel, public fight, riot, or breach of the peace.

(D) **Reckless Conduct Defined.** A person who causes bodily harm to or endangers the bodily safety of an individual by any means commits reckless conduct if he performs recklessly the acts which cause the harm or endangers the safety of an individual, whether they are lawful or are unlawful.

(E) All owners and/or proprietors of businesses in the City, including taverns, shall report all offenses contained in this Section to the police department while occurring or immediately after they occur.

**27-4-15      SALE OF FIREARMS OR WEAPONS TO MINORS.**

(A) It shall be unlawful for any person in the City to sell to any minor person any firearm, bludgeon, blackjack, slingshot, sand-club, sandbag, metal knuckles, dagger, dirk, bill, dangerous knife, stiletto, or any knife commonly referred to as a switchblade, which has a blade that open automatically by hand pressure applied to a button, spring, or other device in the handle of the knife.

(B) It shall be unlawful for any person in the City to sell, lend, rent, give, or otherwise transfer any "air rifle" to a person under **thirteen (13) years** of age, except where the relationship of parent-child, guardian-ward, or adult instructor-pupil exists between such person and the person under **thirteen (13) years** of age.

- (C) It shall be an affirmative defense for any person in the City having sold such weapon that:
- (1) The minor procured the sale by use of false or forged identification cards;
  - (2) That he did not know and could not reasonably have known of the falsity or forgery; and
  - (3) That he exercised reasonable diligence to determine the veracity of the representation.

**27-4-16 INTIMIDATION.** It shall be unlawful for any person to commit an act of intimidating another within the City. A person commits intimidation when, with intent to cause another person to perform or to omit the performance of any act, he communicated to another without otherwise lawful authority a threat to perform any of the following acts:

- (A) Inflict physical harm on the person threatened or any other person or property;
- or
- (B) Subject any person to physical confinement or restraint; or
- (C) Commit any criminal offense; or
- (D) Accuse falsely any person of an offense; or
- (E) Expose any person to hatred, contempt, or ridicule; or
- (F) Unlawfully take action as a public official against anyone or withhold official action or cause such action or withholding; or
- (G) Bring about or continue any strike, boycott, or other collective or mob action.

**27-4-17 USE OF POTABLE WATER SUPPLY.**

(A) **Definitions.** The following definition shall apply to this Section:

- (1) **Person** is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.
- (2) **Potable Water** is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes or preparing foods.

(B) **Use of Groundwater as a Potable Water Supply Prohibited.** The use or attempt to use as a potable water supply groundwater from within the corporate limits of the City of Breese by the installation or drilling of wells or by any other method is hereby prohibited. This prohibition extends to any wells owned, utilized or otherwise operated by the City of Breese.

**(See 35 Ill. Adm. Code 620)**

**27-4-18 EXCAVATIONS.** It shall be unlawful for any person who owns, maintains, uses, abandons, any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing. This Section shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS 605/1)**

## **ARTICLE V - ANTI-LITTER**

**27-5-1      DEFINITIONS.** For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

**"AIRCRAFT"** is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

**"AUTHORIZED PRIVATE RECEPTACLE"** is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

**"CONSTRUCTION SITES"** means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

**"HANDBILL"** is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A) advertise for sale any merchandise, product, commodity or thing; or
- (B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

**"LITTER"** is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

**"LOADING AND UNLOADING DOCK"** means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

**"PRIVATE PREMISES"** means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

**"PUBLIC PLACE"** means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

**"PUBLIC RECEPTACLES"** means any receptacles provided by or authorized by the City.

**"VEHICLE"** is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

**27-5-2      LITTERING PROHIBITED.** No person shall deposit any litter within the City except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

**27-5-3            PREVENTION OF SCATTERING.** Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

**27-5-4            RECEPTACLES – UPSETTING, TAMPERING, OR PILFERING.** No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises. No person shall pilfer through any public or private receptacles, sealed box, tied bag or other device intended to hold litter for trash pick-up by a disposal service. **(Ord. No. 05-15; 06-13-05)**

**27-5-5            SIDEWALKS AND ALLEYS FREE FROM LITTER.** Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

**27-5-6            OWNER TO MAINTAIN PRIVATE PREMISES.**  
(A)            The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.  
(B)            The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

**27-5-7            LITTERING FROM VEHICLES.**  
(A)            No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.  
(B)            No person shall drive or move any loaded or partly loaded truck or other vehicle within the City unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

**27-5-8            LITTERING FROM AIRCRAFT.** No person in an aircraft shall throw out, drop or deposit any litter within the City.

**27-5-9            LITTER IN PARKS.** No person shall deposit litter in any park within the City except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

**27-5-10           HANDBILLS.**  
(A)            **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.  
(B)            **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested



by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.

(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

**27-5-11 POSTING NOTICES PROHIBITED.** No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

**27-5-12 CONSTRUCTION SITES.**  
(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

**27-5-13 LOADING AND UNLOADING DOCKS.** The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

**27-5-14 PARKING LOTS.**  
(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces**.

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

**27-5-15      CLEARING OF LITTER FROM OPEN PRIVATE PROPERTY BY THE CITY.**

The procedure for the removal of litter from private premises and the charging of expense(s) thereof as a lien upon such property to be collected shall be in accordance with the state statutes. The Mayor or his designated representative shall be responsible for the implementation of this enforcement program.

**(See 65 ILCS 5/11-1-1 and 415 ILCS 105/1 et seq.)**

## **ARTICLE VI - TRESPASS**

**27-6-1        TRESPASSES PROHIBITED.** It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

**27-6-2        SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION.** Without constituting any limitation upon the provisions of **Section 27-6-1** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-6-1**, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A)            An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B)            the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C)            a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D)            an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

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

## ARTICLE VII

### PARENTAL RESPONSIBILITY REGULATIONS

**27-7-1**        **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

**"ACTS OF VANDALISM AND SIMILAR OFFENSES"** shall include any of the following acts:

- (A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the City, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or
- (B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or
- (C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or
- (D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or
- (E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

**"LEGAL GUARDIAN"** shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act**.

**"MINOR"** shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

**"PARENT"** shall include the lawful father and mother of a minor child whether by birth or adoption.

**"PROPERTY"** shall include any real estate including improvements thereon and tangible personal property.

**27-7-2**        **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

- (A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and
- (B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the City, following said adjudication or non-judicial sanctions; and
- (C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

**(See 740 ILCS 115/1 et seq. and 740 ILCS 115/4)**  
**(See also 740 ILCS 5/21-1.2 et seq.)**

## ARTICLE VIII – TRUANCY AND CURFEW CODE

**27-8-1**      **DEFINITIONS.** As used in this Article unless the context requires otherwise the following words and phrases shall mean:

**"CITY CURFEW HOURS"** means the period of time specified in **Section 27-2-30** of the Chapter.

**"COURT"** means the 2<sup>nd</sup> Judicial Circuit; Franklin County, Illinois.

**"CUSTODIAN"** means:

- (A) a person who under court order is the custodian of the person of a minor or
- (B) a public or private agency with which the court has placed a minor or
- (C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.

**"EMERGENCY"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.

**"ESTABLISHMENT"** means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

**"GUARDIAN"** means:

- (A) parent or
- (B) a person who under court order is the guardian of the person of a minor; or
- (C) a public or private agency with which the court has placed a minor.

**"MINOR"** means a person under **eighteen (18) years** of age.

**"PARENT"** means a person who is a natural parent, adoptive parent, or step-parent of another person.

**"PUBLIC PLACE"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

**"RESPONSIBLE ADULT"** means a person at least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

**"SERIOUS BODILY INJURY"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

**"TRUANCY CURFEW HOURS"** means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

**"TRUANT OFFICER"** means any officer, appointee, employee or other agency of any school district or any federal, state or local government, entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute. **(105 ILCS 5/26-1 et seq.)**

**"TRUANCY REVIEW BOARD"** means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof recognized by the City and/or the court as an agency which provides service to improve education performance and/or attendance.

**27-8-2                    CURFEW RESTRICTIONS.**

(A)                    It is unlawful for any minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(B)                    It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(C)                    It is a defense to prosecution under **Section 27-8-2(A) and (B)** or **Section 27-8-4** (hereinafter) that the minor was:

- (1)                    accompanied by the minor's parent, guardian, custodian or responsible adult;
- (2)                    on an errand at the direction of the minor's parent, guardian, custodian or responsible adult; without any detour or stop;
- (3)                    in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
- (4)                    engaged in, going to or returning home from an employment activity without any detour or stop;
- (5)                    involved in an emergency;
- (6)                    on the sidewalk abutting the minor's residence;
- (7)                    engaged in, going to or returning home from official school, religious or other recreational activity supervised by adults, sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
- (8)                    exercising First Amendment rights protected by the United States Constitution; or
- (9)                    emancipated pursuant to law.

**27-8-3                    TRUANCY RESTRICTIONS.**

(A)                    It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(B)                    It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(C)                    It is a defense to prosecution under this Section or **Section 27-8-4** that the minor was:

- (1)                    accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
- (2)                    involved in an emergency;
- (3)                    going to or returning from a medical appointment without any detour or stop;
- (4)                    engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
- (5)                    in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6)                    a bona fide participant in an alternative education or home schooling program;
- (7)                    engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

**27-8-4**        **ESTABLISHMENT RESTRICTIONS.** It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of **Sections 27-8-2** or **27-8-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of **Sections 27-8-2** or **27-8-3** notified a law enforcement agency that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

**27-8-5**        **ENFORCEMENT RESTRICTIONS.** Every member of the Police Department while on duty is hereby authorized as follows:

(A)            For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B)            Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.

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

- (1)        state the name of the person being cited and the person's address if known;
- (2)        set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;
- (3)        be signed by the issuing Police Officer, Truant Officer or complaining party.

In each instance where a citation is issued to a minor for violation of this Code a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D)            A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E)            Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-8-3** of this Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

**27-8-6**        **PENALTY.**

(A)            Any person who violates any provision of this Article shall, upon conviction thereof, be fined as provided in **Section 1-1-20** of this Code. **(See also Section 1-1-20)**

(B)            In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal

care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-8-7** hereinafter.

**27-8-7      CIVIL LIABILITY.** If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the penalties described within **Section 27-8-6** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the City in collecting.



## ARTICLE IX - OPEN BURNING

**27-9-1**        **DEFINITIONS.** Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

**"AGRICULTURAL WASTE"** means any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.

**"GARBAGE OR HOUSEHOLD TRASH"** means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products; including plastic containers.

**"LANDSCAPE WASTE"** means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

**"OPEN BURNING"** means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

**27-9-2**        **BURNING PROHIBITED.** It shall be unlawful to cause or allow open burning of agricultural waste, household trash or garbage.

**27-9-3**        **RESTRICTIONS ON BURNING OF LANDSCAPE WASTE.** The open burning of landscape waste shall be permitted only on the following conditions:

(A)            Landscape waste shall be burned on the premises on which such waste is generated; and

(B)            Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and,

(C)            Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks; and,

(D)            Open burning of landscape waste may only take place during daylight hours with a person over **eighteen (18) years** of age in attendance during the entire period of burning; and,

(E)            No open burning of landscape waste shall be permitted on any streets or roadways; and,

(F)            No open burning shall occur during periods of time when the Fire Chief or the Chief of Police have determined that atmospheric conditions or local circumstances make such fires hazardous and dangerous.

**(See 415 ILCS 5/1 et seq.)**

## ARTICLE X - OBSCENITY

### 27-10-1 **OBSCENITY.**

(A) **Elements of the Offense.** A person commits an obscenity offense when, with the knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

- (1) sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) presents or directs an obscene play, dance, or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) publishes, exhibits or otherwise makes available anything obscene; or
- (4) performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
- (5) creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(B) **Obscene Defined.** Any material or performance is obscene if:

- (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
- (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
- (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) **Interpretation of Evidence.** Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section, evidence shall be admissible to show:

- (1) the character of the audience for which the material was designed or to which it was directed;
- (2) what the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (3) the artistic, literary, scientific, educational or other merits of the material, or the absence thereof;
- (4) the degree, if any, of public acceptance of the material in this State;
- (5) appeal to prurient interest or absence thereof in advertising or other promotion of the material;
- (6) purpose of the author, creator, publisher or disseminator.

(D) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies, or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate. **(See 65 ILCS 5/11-5-1)**

**27-10-2**

**HARMFUL MATERIAL.**

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) **Definitions.**

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D) **Affirmative Defenses.**

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:
  - (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail,

telephone, or similar means of communication and delivery of such

harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

**"NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor."**

(E) **Child Falsifying Age.** Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(See 65 ILCS 5/11-5-1)**

**27-10-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS.** Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. **(See 720 ILCS 5/11-22)**

## ARTICLE XI – ADULT USES REGULATED

### 27-11-1 PURPOSE AND ADDITIONAL FINDINGS.

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

(B) **Findings.** The City Council finds:

- (1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.
- (2) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.
- (3) Allowing public nudity creates unhealthy conditions.
- (4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.
- (5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.
- (11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.
- (12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (13) The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Article.

### 27-11-2 DEFINITIONS. As used in this Article:

(A) **"Adult Oriented Business"** means an establishment as defined in the City

Code.

(B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.

(C) **"Nude"** means the showing of:

- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
- (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
- (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.

(D) **"Person"** means any live human being aged **ten (10) years** of age or older.

(E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

**27-11-3      PROHIBITION.** It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

**27-11-4      LIMITATION.** This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

**27-11-5      ADULT ENTERTAINMENT FACILITY.** It shall be unlawful within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

- (A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or
- (B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(See 65 ILCS 5/11-5-1.5)**

## ARTICLE XII - SYNTHETIC DRUGS

### 27-12-1 PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cocaine, "Bath Salts" or Substances Containing Cocaine** includes but not limited to the names, MDPK, Magic, Super Coke, PV, Ivory Wave, Ocean, Cloud Nine, Charge Plus, White lightning, Scarface, Hurricane, Charlie Red Dove and White Dove. It is an herbal and chemical product which mimics the effects of Cocaine, including but not limited to Methylenedioxypyrovalerone, (a psychoactive drug), or cathinone derivatives.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cocaine or substance containing cocaine, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
  - (a) the nature or attendant circumstances of his/her conduct described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
  - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
  - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **"Bath salts"** a substance that contains methylenedioxypyrovalerone (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI).
- (5) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cocaine or a substance containing cocaine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cocaine or a substance containing cocaine or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cocaine as an incident to lawful research, teaching or chemical analysis and not for sale.
- (6) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (7) **Possession.** Possession may be either actual or constructive.
  - (a) actual possession means exercising physical dominion.
  - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cocaine or substance containing cocaine or drug paraphernalia.

### (B) **Possession of Synthetic Cocaine or Substance Containing Cocaine or "Bath Salts" Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cocaine or a substance containing cocaine.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.



- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cocaine for research purposes shall be exempt from the provisions of this Section.

(Ord. No. 2011-13; 03-28-11)

**27-12-2 SALE, POSSESSION OR DELIVERY OF SYNTHETIC CANNABIS PROHIBITED.**

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cannabis** includes, but not limited to, the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis, including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
  - (a) the nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
  - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
  - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.
- (5) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (6) **Possession.** Possession may be either actual or constructive.
  - (a) actual possession means exercising physical dominion.
  - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.
- (7) **Produce or Production.** Planting, cultivating, tending or harvesting.

(B) **Possession of Synthetic Cannabis Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cannabis.

- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.
- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cannabis for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

## ARTICLE XIII

### REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

#### **27-13-1**      **DEFINITIONS.** The following definitions apply to this Section:

(A) A **"Child Sex Offender"** includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

- (1) Sexual exploitation of a child (**720 ILCS 5/11-9.1**);
- (2) Predatory criminal sexual assault of a child (**720 ILCS 5/12-14.1**);
- (3) Indecent solicitation of a child (**720 ILCS 5/11-6**);
- (4) Public indecency committed on school property (**720 ILCS 5/11-9**);
- (5) Child luring (**720 ILCS 5/10-5(b)(10)**);
- (6) Aiding and abetting child abduction (**720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10)**);
- (7) Soliciting for a juvenile prostitute (**720 ILCS 5/11-15.1**);
- (8) Patronizing a juvenile prostitute (**720 ILCS 5/11-18.1**);
- (9) Exploitation of a child (**720 ILCS 5/11-19.2**);
- (10) Child pornography (**720 ILCS 5/11-20.1**);
- (11) Criminal sexual assault (**720 ILCS 5/12-13**);
- (12) Aggravated criminal sexual assault (**720 ILCS 5/12-14**);
- (13) Aggravated criminal sexual abuse (**720 ILCS 5/12-16**);
- (14) Kidnapping or aggravated kidnapping (**720 ILCS 5/10-1 or 5/10-2**);
- (15) Unlawful restraint or aggravated unlawful restraint (**720 ILCS 5/10-3 or 5/10-3.1**).

and also as defined by **720 ILCS 5/11-9.3**.

(B) **"School"** means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) **"Loiter"** shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) **"Park"** includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term "Park" includes ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

(E) **"Public Pool"** includes any parcel of real estate containing any natatorium or other improved real estate, designated or intended for swimming, water recreation, or water sports. Whether operated or owned by a public entity, or to which memberships are sold to the public.

#### **27-13-2**      **PROHIBITED ACTS.**

(A) It is unlawful for a child sex offender to reside within **five hundred (500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**;
- (2) The real property comprising any park; or

(3) Any public pool.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **five hundred (500) feet** of any of the following, unless the person loitering is with a child under the age of **eighteen (18) years** and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**;

(2) The real property comprising any park; or

(3) Any public pool.

(C) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **five hundred (500) feet** of any of the following, unless the person loitering is with a child under the age of **eighteen (18) years** and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**;

(2) The real property comprising any park; or

(3) Any public pool.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **five hundred (500) feet** of any of the following:

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or

(2) The real property comprising any park; or

(3) Any public pool.

**27-13-3 PENALTY.** Any person found guilty of violating paragraphs (B) or (C) or (D) of **Section 27-13-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **One Thousand Dollars (\$1,000.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraph (D) of **Section 27-13-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **One Thousand Dollars (\$1,000.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity violating paragraph (D) of **Section 27-13-2** shall be presumed to have had knowledge of the tenant's status as a child sex offender, where that tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

**27-13-4 OTHER PROVISIONS.**

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property, public pool property, or school property, and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

## ARTICLE XIV - DRUG PARAPHERNALIA

### 27-14-1 DEFINITIONS.

(A) The term "**drug paraphernalia**" means all equipment, products, and materials of any kind which are used, intended for use, or marketed for use with illegal cannabis or drugs, as defined by the **Illinois Compiled Statutes**, or designed for use in planting, propagating, cultivating, growing, harvesting, manufactured, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the. Illinois Controlled Substances Act, **Illinois Compiled Statutes, Chapter 720, Paragraph 570/100, et seq.**, "Drug paraphernalia" includes, but is not limited to:

- (1) Kits used, intended for use or designed for use in the planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment, used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;
- (6) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
  - (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
  - (b) water pipes;
  - (c) Carburetion tubes and devices;
  - (d) Smoking and carburetion masks;
  - (e) Roach clips or other objects used to hold burning materials, such as a marijuana cigarette which has become too small or short to be held in the hand;

- (f) Miniature cocaine spoons and cocaine vials;
- (g) Chamber pipes;
- (h) Carburetor pipes;
- (i) Electric pipes;
- (j) Air-driven pipes;
- (k) Chilams;
- (l) Bongs;
- (m) Ice pipes or chillers.

**27-14-2 DETERMINATION OF DRUG PARAPHERNALIA.** In determining whether an object is "drug paraphernalia", a court or other authority should consider, in addition to all other relevant factors, the following:

- (A) Statements by an owner or anyone in control of the object concerning its use;
- (B) Prior convictions, if any, of an owner or anyone in control of the object, under any state or federal law relating to any controlled substances;
- (C) The proximity of the object, in time and place, to a direct violation of this Article;
- (D) The proximity of the object to controlled substances;
- (E) The existence of any residue of controlled substances on the object;
- (F) Direct or circumstantial evidence of the intent of an owner or anyone in control of the object to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Article; and the innocence of any owner or anyone in control of the object, as to a direct violation of this Article, shall not prevent a finding that the object is intended or designed for use as "drug paraphernalia";
- (G) Instructions, oral or written, provided with the object concerning its use;
- (H) Descriptive materials accompanying the object which explain or depict its use;
- (I) National and local advertising concerning the object's use;
- (J) The manner in which the object is displayed for sale;
- (K) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licenses distributor or dealer of tobacco products;
- (L) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise in question;
- (M) The existence and scope of legitimate uses for the object in the community;
- (N) Expert testimony concerning the object's use.

**27-14-3 OFFENSES AND PENALTIES.**

(A) **Possession of Drug Paraphernalia.** It is unlawful for any person to use, or possess with the intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the **Illinois Controlled Substance Act, (720 ILCS 570/100 et seq.)**.

(B) **Manufacture or Delivery of Drug Paraphernalia.** It is unlawful for any person to deliver, to sell, to possess with the intent to deliver or sell, or to manufacture with the intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the **Illinois Controlled Substance Act, (720 ILCS 570/100, et seq.)**.

(C) **Delivery of Drug Paraphernalia to a Minor.** Any person **eighteen (18) years** of age or older who violates subsection (B) of this Section by delivering, selling, or giving drug paraphernalia to a juvenile is guilty of an additional offense, and upon conviction, shall be fined as provided in **Section 1-1-20**.

(D) **Advertisement of Drug Paraphernalia.** It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing or under

circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

**(See Section 1-1-20 for penalty.)**

**27-14-4      FORFEITURE OF PROPERTY.**

- (A) All articles defined in subsection (B)(1) shall be subject to forfeiture.
- (B) Property subject to forfeiture under this Article may be seized by any peace officer upon process issued by any court having jurisdiction over the property. Seizure by any police officer without process may be made:
  - (1) If the property subject to seizure has been the subject of a prior judgment in favor of the City in an ordinance violation proceeding;
  - (2) If there is probable cause to believe that the property is either directly or indirectly dangerous to health or safety.
- (C) In the event of seizure pursuant to subsection (B), proceedings under subsection (D) shall be promptly instituted.
- (D) Property taken or detained under this Article shall not be subject to replevin, but is deemed to be in the custody of the Chief of Police, subject only to the orders of the court having jurisdiction over the forfeiture proceedings. When property is seized under this Article, the Chief of Police may:
  - (1) Place the property under seal; or
  - (2) Remove the property to a place designated by him; or
  - (3) Take custody of the property and remove it to an appropriate location for destruction.

**27-14-5      PROHIBITION OF POSSESSION OF WEAPONS, LIQUOR AND DRUGS IN THE CITY HALL.** Except for evidence purposes, it shall be unlawful for any person other than police officers to possess within the City Hall:

- (A) a dangerous weapon as defined in **Illinois Compiled Statutes, Chapter 720, Section 5/33A-1**, as now and hereafter amended or renumbered, or
- (B) alcoholic liquor as defined in **Chapter 21**, or
- (C) a controlled substance as defined in **Illinois Compiled Statutes, Chapter 720, Section 570/102**, as now and hereafter amended or renumbered, or
- (D) cannabis, as defined in the **"Cannabis Control Act", Illinois Compiled Statutes, Chapter 720, Section 550/1, et seq.**, as now and hereafter amended or renumbered.

## ARTICLE XV – SMOKE FREE AIR CODE

**27-15-1**      **SHORT TITLE.** This Article may be cited as the Smoke Free Illinois Act.

**27-15-2**      **FINDINGS.** The General Assembly finds that tobacco smoke is harmful and dangerous carcinogen to human beings and a hazard to public health. Secondhand tobacco smoke causes at least 65,000 deaths each year from heart disease and lung cancer according to the National Cancer Institute. Secondhand tobacco smoke causes heart disease, stroke, cancer, sudden infant death syndrome, low-birth-weight in infants, asthma and exacerbation of asthma, bronchitis and pneumonia in children and adults. Secondhand tobacco smoke is the third leading cause of preventable death in the United States. Illinois workers exposed to secondhand tobacco smoke are at increased risk of premature death. An estimated 2,900 Illinois citizens die each year from exposure to secondhand tobacco smoke.

The General Assembly also finds that the United States Surgeon General's 2006 report has determined that there is no risk-free level of exposure to secondhand smoke; the scientific evidence that secondhand smoke causes serious diseases, including lung cancer, heart disease, and respiratory illnesses such as bronchitis and asthma, is massive and conclusive; separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate secondhand smoke exposure; smoke-free workplace policies are effective in reducing secondhand smoke exposure; and smoke-free workplace policies do not have an adverse economic impact on the hospitality industry.

The General Assembly also finds that the Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are capable only of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke. The American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) based its ventilation standards on totally smoke-free environments because it cannot determine a safe level of exposure to secondhand smoke, which contains cancer-causing chemicals, and ASHRAE acknowledges that technology does not exist that can remove chemicals that cause cancer from the air. A June 30, 2005 ASHRAE position document on secondhand smoke concludes that, at present<sup>6</sup>, the only means of eliminating health risks associated with indoor exposure is to eliminate all smoking activity indoors.

**27-15-3**      **DEFINITIONS.** For the purposes of this Article, the following terms shall have the following meanings:

**"Bar"** means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than **ten percent (10%)** of its gross revenue from the sale of food consumed on the premises. "Bar" includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

**"Department"** means the Department of Public Health.

**"Employee"** means a person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a non-profit entity.

**"Employer"** means a person, business, partnership, association, or corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

**"Enclosed Area"** means all space between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

**"Enclosed or partially enclosed sports arena"** means any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley, or other similar place where members of the general public assemble to engage on physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational or other events.

**"Gaming equipment or supplies"** means gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.



**"Gaming Facility"** means an establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

**"Healthcare Facility"** means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. "Healthcare facility" includes all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

**"Place of Employment"** means any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not limited to entrances and exits to places of employment, including a minimum distance, as set forth in **Section 27-15-15** of this Article, of **fifteen (15) feet** from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, it not a "place of employment".

**"Private club"** means a not-for-profit association that (1) has been in active and continuous existence for at least **three (3) years** prior to the effective date of this amendatory Act of the 95<sup>th</sup> General Assembly, whether incorporated or not, (2) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (3) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and (4) only sells alcoholic beverages incidental to its operation. For purposes of this definition, "private club" means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

**"Private residence"** means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin, or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home, or assisted living facility shall not be considered a private residence.

**"Public Place"** means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance, as set forth in **Section 27-15-15** of this Article, of **fifteen (15) feet** from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A "public place" includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased, or operated by the State or State subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than **seventy-five percent (75%)** of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodations that are rented to guests, but excludes private residences.

**"Restaurant"** means (i) an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that gives or offers for sale food to the public, guests, or employees, and (ii) a kitchen or catering facility in which food is prepared on the premises for a serving elsewhere. "Restaurant" includes a bar area within the restaurant.

**"Retail Tobacco Store"** means a retail establishment that derives more than **eighty percent (80%)** of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes,

and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

**"Smoke" or "Smoking"** means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment.

**"State agency"** has the meaning formerly ascribed to it in subsection (a) of Section 3 of the Illinois Purchasing Act (now repealed).

**"Unit of local government"** has the meaning ascribed to it in Section 1 of Article VII of the Illinois Constitution of 1970.

**27-15-4      SMOKING IN PUBLIC PLACES, PLACES OF EMPLOYMENT, AND GOVERNMENTAL VEHICLES PROHIBITED.** No person shall smoke in a public place or in any place of employment or within **fifteen (15) feet** of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State or political subdivision of the State. Smoking is prohibited in indoor public places and workplaces unless specifically exempted by **Section 27-15-8** of this Article.

**27-15-5      POSTING OF SIGNS; REMOVAL OF ASHTRAYS.**

(A) "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this Act by the owner, operator, manager, or other person in control of that place.

(B) Each public place and place of employment where smoking is prohibited by this Article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(C) All ashtrays shall be removed from any area where smoking is prohibited by this Article by the owner, operator, manager, or other person having control of the area.

**27-15-6      SMOKING PROHIBITED IN STUDENT DORMITORIES.** Notwithstanding any other provision of this Article, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

**27-15-7      DESIGNATION OF OTHER NONSMOKING AREAS.** Notwithstanding any other provision of this Article, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in **Section 27-15-5(A) and (B)** of this Article.

**27-15-8      EXEMPTIONS.** Notwithstanding any other provision of this Article, smoking is allowed in the following area:

(A) Private residences or dwelling places, except when used as a child care, adult care, or healthcare facility or any other home-based business open to the public.

(B) Retail tobacco stores as defined in **Section 27-15-3** of this Article in operation prior to the effective date of this amendatory Act of the 95<sup>th</sup> General Assembly. The retail tobacco store shall annually file with the Department by **January 31<sup>st</sup>** an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking

accessories. Any retail tobacco store that begins operation after the effective date of this amendatory Article may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

(C) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other area of the nursing home.

(D) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than **twenty-five percent (25%)** of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

**27-15-9      ENFORCEMENT; COMPLAINTS.**

(A) The Department, State-certified local public health departments, and local law enforcement agencies shall enforce the provisions of this Act and may assess fines pursuant to **Section 27-15-10** of this Article.

(B) Any person may register a complaint with the Department, a State-certified local public health department, or a local law enforcement agency for a violation of this Article. The Department shall establish a telephone number that a person may call to register a complaint under this subsection (B).

**27-15-10      VIOLATIONS.**

(A) A person, corporation, partnership, association or other entity who violates **Section 27-15-4** of this Article shall be fined pursuant to this Section. Each day that a violation occurs is a separate violation.

(B) A person who smokes in an area where smoking is prohibited under **Section 27-15-4** of this Article shall be fined in an amount that is not less than **One Hundred Dollars (\$100.00)** and not more than **Two Hundred Fifty Dollars (\$250.00)**. A person who owns, operates, or otherwise controls a public place or place of employment that violations **Section 27-15-4** of this Article shall be fined (i) not less than **Two Hundred Fifty Dollars (\$250.00)** for the first violation, (ii) not less than **Five Hundred Dollars (\$500.00)** for the second violation within **one (1) year** after the first violation, and (iii) not less than **Two Thousand Five Hundred (\$2,500.00)** for each additional violation within **one (1) year** after the first violation.

(C) A fine imposed under this Section shall be allocated as follows:

- (1) **one-half (1/2)** of the fine shall be distributed to the Department; and
- (2) **one-half (1/2)** of the fine shall be distributed to the enforcing agency.

**27-15-11      INJUNCTIONS.** The Department, a State-certified local public health department, local law enforcement agency, or any individual personally affected by repeated violations may institute, in a circuit court, an action to enjoin violations of this Article.

**27-15-12      DISCRIMINATION PROHIBITED.** No individual may be discriminated against in any manner because of the exercise of any rights afforded by this Article.

**27-15-13      SEVERABILITY.** If any provision, clause or paragraph of this Article shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this Article.

**27-15-14      HOME RULE AND OTHER LOCAL REGULATIONS.**

(A) Any home rule unit of government, and any non-home rule municipality, or any non-home rule county within the unincorporated territory of the county may regulate smoking in public places, but that regulation must be no less restrictive than this Article. This subsection (A) is a limitation on the concurrent exercise of home rule power under subsection (i) of the Section 6 of Article VII of the Illinois Constitution.

(B) In addition to any regulation authorized under subsection (A) or authorized under home rule powers, any home rule unit of local government, any non-home rule municipality, or any non-home rule county within the unincorporated territory of the county may regulate smoking in any enclosed indoor area used by the public or serving as a place of work if the area does not fall within the definition of a "public place" under this Article.

**27-15-15      ENTRANCES, EXITS, WINDOWS, AND VENTILATION INTAKES.** Smoking is prohibited within a minimum distance of **fifteen (15) feet** from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited under this Article so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

**27-15-16      RULES.** The Department shall adopt rules necessary for the administration of this Article.

**27-15-17      AMENDMENT.** The State Mandates Act is amended by adding section 8.31 as follows: (30 ILCS 805/8.31 new)

Sec. 8.31. Exempt mandate. Notwithstanding Section 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 95<sup>th</sup> General Assembly.

(410 ILCS 80/Act rep.)

Section 90. The Illinois Clean Indoor Air Act is repealed.

INDEX

Statutes amended in order of appearance.

New Act

30 ILCS 805/8.31 new

410 ILCS 80/Act rep.

**(Ord. No. 07-65; 12-10-07)**

## **CHAPTER 28**

### **OIL AND GAS WELLS**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>OIL WELLS IN CITY</i></b>	
	<i>Section 28-1-1 - Permit Required</i>	<i>28-1</i>
	<i>Section 28-1-2 - Permits Per Drilling Block</i>	<i>28-1</i>
	<i>Section 28-1-3 - Permitted Wells: Drilling Blocks</i>	<i>28-1</i>
	<i>Section 28-1-4 - Restricted Permits</i>	<i>28-1</i>
	<i>Section 28-1-5 - Royalty to Owners</i>	<i>28-1</i>
	<i>Section 28-1-6 - Royalty Allocations</i>	<i>28-2</i>
	<i>Section 28-1-7 - Permits; Issuance Of</i>	<i>28-3</i>
	<i>Section 28-1-8 - Permit – Streets and Alleys</i>	<i>28-3</i>
	<i>Section 28-1-9 - Oil Well Drilling – Application Deposit</i>	<i>28-3</i>
	<i>Section 28-1-10 - Terms of Permit</i>	<i>28-4</i>
	<i>Section 28-1-11 - Distance From Residence, Business, Hospital, Nursing Home, Assisted Living Facility, and/or Other Public Buildings</i>	<i>28-4</i>
	<i>Section 28-1-12 - Lease Required for Permit</i>	<i>28-5</i>
	<i>Section 28-1-13 - Owner’s Permission Required for Drilling</i>	<i>28-5</i>
	<i>Section 28-1-14 - Removal of Oil, Gas and Water</i>	<i>28-5</i>
	<i>Section 28-1-15 - Permit; Time Constraints</i>	<i>28-5</i>
	<i>Section 28-1-16 - Piping for Production</i>	<i>28-6</i>
<b><i>II</i></b>	<b><i>LAKE BENTON</i></b>	
	<i>Section 28-2-1 - Drilling Permit Required</i>	<i>28-7</i>
	<i>Section 28-2-2 - Permits Restricted</i>	<i>28-7</i>
	<i>Section 28-2-3 - Well Limit to Particular Stratum</i>	<i>28-7</i>
	<i>Section 28-2-4 - Maximum Number per Drilling Block</i>	<i>28-4</i>
	<i>Section 28-2-5 - Lien</i>	<i>28-7</i>
	<i>Section 28-2-6 - Application - Deposit</i>	<i>28-7</i>
	<i>Section 28-2-7 - Locations Prohibited</i>	<i>28-8</i>
	<i>Section 28-2-8 - Issuance of Permit by Council</i>	<i>28-8</i>
	<i>Section 28-2-9 - Fire Extinguishers</i>	<i>28-8</i>
	<i>Section 28-2-10 - Storage Facilities</i>	<i>28-8</i>
	<i>Section 28-2-11 - Ownership of Land for Permit</i>	<i>28-9</i>
	<i>Section 28-2-12 - Permit: Personal Privilege</i>	<i>28-9</i>
	<i>Section 28-2-13 - Consent of Owner Required</i>	<i>28-9</i>
	<i>Section 28-2-14 - Tanks for Storage</i>	<i>28-9</i>
	<i>Section 28-2-15 - Sanitary Sewer Use Prohibited</i>	<i>28-9</i>
	<i>Section 28-2-16 - Acidization of Well</i>	<i>28-10</i>
	<i>Section 28-2-17 - Time Limit on Well Permit</i>	<i>28-10</i>
	<i>Section 28-2-18 - Inspection of Well Site</i>	<i>28-10</i>
	<i>Section 28-2-19 - Pipe Lines</i>	<i>28-10</i>
	<i>Section 28-2-20 - Pumping Equipment</i>	<i>28-10</i>
	<i>Section 28-2-21 - Electric Pump Required</i>	<i>28-10</i>
	<i>Section 28-2-22 - Posting of Permits</i>	<i>28-11</i>
	<i>Section 28-2-23 - Identification Sign</i>	<i>28-11</i>
	<i>Section 28-2-24 - Dikes Required</i>	<i>28-11</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>II</b>	<b>LAKE BENTON (CONTINUED)</b>	
	Section 28-2-25 - Capacity of Reservoir	28-11
	Section 28-2-26 - Storage of Oil in Reservoir Unlawful	28-11
	Section 28-2-27 - Burn-Out Pits Prohibited	28-11
	Section 28-2-28 - Well Debris Prohibited	28-11
	Section 28-2-29 - Unplugged Well	28-11
	Section 28-2-30 - Damage by Reservoir Contents	28-12
	Section 28-2-31 - Polluting Well Area	28-12
	Section 28-2-32 - Storage of Wastes	28-12
	Section 28-2-33 - Nuisance Declared	28-12
<b>III</b>	<b>FEES – LAKE BENTON: DRAINAGE</b>	
	Section 28-3-1 - Permit to Drill	28-13
	Section 28-3-2 - Application for Permit; Fee	28-13
	Section 28-3-3 - Posting of Permits	28-13
	Section 28-3-4 - Sign Posting	28-13
	Section 28-3-5 - Dikes to Protect	28-13
	Section 28-3-6 - Dike Capacity	28-13
	Section 28-3-7 - Storage of Oil Prohibited	28-14
	Section 28-3-8 - Burn-Out Pits	28-14
	Section 28-3-9 - Well Debris Prohibited	28-14
	Section 28-3-10 - Unplugged Well Prohibited	28-14
	Section 28-3-11 - Approval of Storage	28-14
	Section 28-3-12 - Polluting Well Area	28-14
	Section 28-3-13 - Storage of Wastes	28-14
	Section 28-3-14 - Inspection by Officials	28-15
	Section 28-3-15 - Nuisance Declared	28-15
	Schedule "A" -	28-16
	Schedule "B" -	28-22

## CHAPTER 28

### OIL AND GAS WELLS

#### ARTICLE I – OIL WELLS IN CITY

**28-1-1 PERMIT REQUIRED.** It shall be unlawful for any person, partnership, association of persons, trust or corporation to drill or to commence to drill a well for oil or gas within the area of the City, described in words and figures in Schedule "A" attached hereto; the schedule being hereby expressly incorporated herein and made a part of this Chapter, or to work upon or assist in any way in the prosecution of the work upon any such well, without a permit for such well and for the prosecution of such work having first been issued by the authority of the City Council of the City, in accordance with the terms and provisions of this Chapter.

**28-1-2 PERMITS PER DRILLING BLOCK.** Within the area of the City mentioned in **Section 28-1-1** of this Article, the issuance of permits shall be restricted and limited as provided in this Chapter, and for the purpose of restricting and limiting the number of permits to be issued under the provisions of this Chapter, the area mentioned in **Section 28-1-1** of this Chapter shall be and hereby is subdivided into **forty-seven (47) separate tracts**, each of which tracts shall be referred to in this Chapter as a "drilling block," and all of which drilling blocks are designated by a number and the boundaries thereof described in words and figures in a schedule attached hereto; the schedule being hereby expressly incorporated herein and made a part of this Chapter, and all provisions in this Chapter with respect to a drilling block of any particular number shall apply to the drilling block so numbered as described in the aforesaid Schedule "A".

**28-1-3 PERMITTED WELLS: DRILLING BLOCKS.**

(A) Not more than **one (1) well** for oil or gas shall be drilled to and completed in any sand, stratum, or horizon productive of oil and/or gas in the following drilling block:

(1) Drilling block numbered 1;

(B) Not more than **two (2) wells** for oil or gas shall be drilled to and completed in any sand, stratum, or horizon productive of oil and/or gas in any of the following drilling blocks:

(1) Drilling blocks numbered 2, 3, 4, 5, 6, 12, 13, 24, 25, 36, 37, 42 and 47;

(C) Not more than **four (4) wells** for oil or gas shall be drilled to and completed in any sand, stratum, or horizon productive of oil and/or gas in any of the following drilling blocks:

(1) Drilling blocks numbered 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 38, 39, 40, 41, 43, 44, 45, and 46.

**28-1-4 RESTRICTED PERMITS.** The issuance of permits for the drilling of wells in the various drilling blocks comprising the area mentioned in **Section 28-1-1** of this Chapter shall be restricted and limited in such manner and to the extent that not more than the maximum number of wells per drilling block as provided in **Section 28-1-3** of this Chapter shall be commenced or drilled in such drilling block. Nothing contained in this Chapter shall give any authority for the issuance of a permit for drilling of wells where the mining and extraction of minerals is otherwise prohibited by the Zoning Ordinances of the City, and any amendments thereto.

**28-1-5 ROYALTY TO OWNERS.** In case a permit for the drilling of a well is issued to a person, partnership, association of persons, trust or corporation owning an oil and gas mining lease or leases, or similar drilling contract, covering the portion of the drilling block upon which the well is drilled, which lease or similar contract is hereafter referred to in this Section as the "drilling lease," but not

covering the remaining portions of this drilling block, whether or not such permittee shall hold other



leases or similar drilling contracts covering other portions of the drilling block not included in the drilling lease, it shall be a condition of the permit that the permittee and his, its, or their heirs, executors, administrators, successors and assigns shall deliver, as royalty, to the credit of each such owners whose land shall not be under said drilling lease, free of cost, in the pipe line to which the well may be connected, a share of all oil produced by the drilling lease to be delivered to the credit of the lessor or lessors therein, in the proportion that the area of land so owned by such party, and not held under the drilling lease, bears to the total area contained in said drilling block, exclusive of streets and alleys, together with a like share, as royalty, of the sums provided by the drilling lease to be paid to the lessor or lessors by reason of the sale or utilization of gas and casinghead gas from the well, to the end that the owner or owners of each portion of land within the drilling block shall share the gross oil and gas royalties stipulated in the drilling lease in proportion to the respective fractional areas of the drilling block, exclusive of streets and alleys; provided, however, that in no event shall the quantity of oil to be delivered to the credit of, or the sums of money to be paid to such owner or owners whose land shall not be under the drilling lease, be calculated on the basis of smaller gross oil or gas royalties than **one-eighth (1/8)** of the oil produced and saved, **one-eighth (1/8)** of the market value at the well for gas from a well where gas only is found and used by the permittee off the premises, **one-eighth (1/8)** of the net proceeds derived from the sale of gas at the well for gas from a well where gas only is found and sold by the permittee; **one eighth (1/8)** of the market value of gas, as such, at the mouth of the well for gas produced from an oil well and utilized by the permittee for the manufacture of gasoline or any other product; and **one-eighth (1/8)** of the net proceeds of such gas if the same shall be sold; and in the event the drilling lease shall provide for lesser oil and gas royalties to be paid to the lessor or lessors therein than the royalties last above described, the additional quantity of oil to be delivered to the credit of, and the additional sums of money to be paid to, such other owner or owners whose land shall not be under the drilling lease shall be delivered and paid by the permittee from the oil or proceeds to which the permittee would otherwise be entitled under the terms of the drilling lease; provided, further, that if any of such owners contract with any other person, partnership, association of persons, trust, or corporation, for the division of the royalty interest in the oil or gas produced and saved from such owner's land with such other person, partnership, association of persons, trust or corporation, the benefits herein stipulated to be delivered to the credit of or paid to such owner shall be likewise distributed to the owner and to such other person, partnership, association of persons, trust or corporation and in the proportions stipulated in said contract; and provided, further, that upon the failure, neglect or refusal of the owner or owners of any portion of the land in the drilling block, which land is not covered by the drilling lease, to provide separate storage for his or their proportionate share of the oil, the permittee, and his, their, or its successors and assigns, shall have the right to purchase the share of the oil until such storage shall have been so provided, and in the event of such purchase, the permittee, or his, their, or its successors or assigns, shall pay to such owner or owners for the share the market price of oil of like grade and gravity prevailing in that field on the day such share is run into the pipe line or into storage.

**28-1-6      ROYALTY ALLOCATIONS.** In case the permit for the drilling of a well be issued to a person, partnership, association of persons, trust or corporation that is the fee owner of a portion of a drilling block, but that is not the fee owner of all of the land in the drilling block, it shall be a condition of the permit that the permittee, and his, their, or its heirs, executors, administrators, successors and assigns shall deliver, as royalty, to the credit of each of the other owners in said drilling block, free of cost, in the pipe line to which the well may be connected, a share of all oil produced and saved from such well equal to **one-eighth (1/8)** of the proportion of the gross production that the area of land owned by such other owner or owners bears to the total area of land in said drilling block, exclusive of streets and alleys, a like share of the market value at the well for gas from a well where gas only is found and used by the permittee off the premises, a like share of the net proceeds derived from the sale of gas at the well for gas from a well where gas only is found and sold by the permittee, a like share of the market value of gas, as such, at the mouth of the well for gas produced from an oil well and utilized by the permittee for the manufacture of gasoline or any other product, and a like share of the net proceeds of such gas if the same shall be sold; provided, that if any of such other owners contract with any person, partnership, association of persons, trust or corporation, the benefits herein stipulated to be delivered to the credit of, or paid to, such owner, shall be likewise distributed to said owner and to such

other person, partnership, association of persons, trust or corporation in the proportions stipulated in said

contract; and provided further, that upon the failure, neglect or refusal of any such other owner or owners to provide separate storage for his or their said proportionate share of the oil, the permittee and his, their, or its successors and assigns shall have the right to purchase said share of the oil until such storage shall have been so provided, and in the event of such purchase, the permittee, or his, their or its successors, and assigns, shall pay to such other owner or owners for said share the market price of oil of like grade and gravity prevailing in that field on the day such share is run into the pipe lines or into storage.

**28-1-7            PERMITS; ISSUANCE OF.** In the event there are applications filed by more than **one (1) applicant** with the City Clerk and pending at the same time for permits to drill in the same drilling block, that application shall be first granted to the applicant holding the greatest area of land in the drilling block, by fee ownership, by lease or contract with the owner or owners permitting the drilling thereon for oil or gas, or by both fee ownership and lease or contract with other owners; that application shall be next granted to the applicant so holding the next greatest area of land in said drilling block; and in like manner applications shall be granted successively to applicants on the basis of the area of land so held by them; provided, however, that nothing contained in this Section shall be construed as authorizing or permitting the issuance of any permit when the applicant therefor shall have failed to comply with any other sections of this Chapter concerning the application for or the issuance of permits, and nothing contained in this Section shall be construed as authorizing or permitting the drilling of more wells per drilling block than the maximum number of wells for said drilling block as provided in **Section 28-1-3** of this Chapter. In case a permit for the drilling of a well be issued to a person, partnership, association of persons, trust or corporation that does not own all of the drilling block with respect to which the permit is issued, or that does not hold a lease or other similar drilling contract in writing, from the owner or owners of all the land within said drilling block, other than streets and alleys, any owner of unleased land in the drilling block, and any person, partnership, association of persons, trust or corporation, other than the permittee, holding a valid oil and gas lease on land in the drilling block, shall have the right to share in the ownership and benefits of the well in the proportion that the area his or its land or lease in the drilling block bears to the area of said drilling block, exclusive of streets and alleys, provided, that within **ten (10) days** from the date of the issuance of such permit, he or it shall file with the City Clerk his or its election in writing to pay to the permittee, or his or its assigns, a like proportion of the total cost and expense of drilling, completing, equipping and operating the well, and within that time, as principal, shall make and file with the City Clerk a bond with a surety company authorized to do business in the State of Illinois, in an amount equal to that proportion of the estimated maximum cost of drilling, completing and equipping the well as set out in the application, that the area of land owned or held under lease by such principal bears to the whole area of the drilling block, exclusive of streets and alleys, conditioned that the principal will pay to the permittee, his or its assigns, such proportion of the total cost and expense of drilling, completing, equipping, and operating said well, from time to time, as required in the operations, such bond to be approved by the Mayor and held by the City Clerk for the benefit of all persons interested; provided, further, that if such election be made by the holder of a lease or similar contract, such holder's interest in said well shall be only a pro rata part of a leasehold interest, but if the election is made by the owner of unleased land in said drilling block, such owner shall have not only a pro rata part of the leasehold interest in the well, but shall also be entitled to receive the royalty benefits as provided for such owner in **Sections 28-1-5** and **28-1-6** of this Chapter.

**28-1-8            PERMIT - STREETS AND ALLEYS.** It shall be unlawful to drill any oil or gas well within any of the streets or alleys within the area mentioned in **Section 28-1-1** of this Chapter; and that it shall further be unlawful to block or encumber or close any of the streets or alleys in any drilling or production operations, except by a temporary special permit by permission of the City Council.

**28-1-9            OIL WELL DRILLING - APPLICATION DEPOSIT.** Every application for a permit to drill an oil or gas well shall be in writing, signed by the applicant or some person duly authorized to sign the same in behalf of the applicant, and shall be filed with the City Clerk and be

accompanied by a deposit of **Three Thousand Dollars (\$3,000.00)**, in cash and a duly executed

instrument in writing effective to assign to the City a 1/32 of 7/8 working interest as an overriding royalty, free and clear of all costs, in and to any oil or gas which might be produced from such well. The application shall state the drilling block where each proposed well is to be drilled, the depth of the proposed well, and shall contain a verified lump sum estimate of the approximate cost and expense incident to drilling, completing and equipping each such well. There shall be attached to the application a certified copy of each oil and gas lease or other drilling contract which the applicant may have with the owner or owners of land located in said drilling block, together with abstracts of title or certificates of title satisfactory to the City Council, to the end that the application will show what proportions and what part of the drilling block the applicant owns or holds under lease or similar contract from the owner or owners. The application shall be accompanied by a plat or map of the drilling block showing the exact location of each proposed well. The application shall also be accompanied by a bond duly executed by the applicant, as principal, and a surety company authorized to do business in the State of Illinois, for the benefit of the City and all persons, firms and corporations concerned, conditioned that if the permit be granted, the applicant, and his heirs, executors, administrators, successors and assigns, or its successors and assigns, will comply with the terms and conditions of this Chapter in the drilling and operations of each well, will pay to any owner or owners of land in the drilling block, on which the applicant shall not hold an oil and gas lease or drilling contract, or to the assignees of such owner or owners, the oil and gas royalties as provided in this Chapter, that the applicant will restore the streets and sidewalks and other public places of the City which may be disturbed in the operations to their former condition, and clear the drilling block of all derricks, buildings, machinery or litter, erected, used or accumulated in the applicant's drilling or producing operations, whenever such operations shall be discontinued, and that he, or it, will pay to the owners of any buildings, improvements, goods or chattels located in the drilling block any extra cost of insurance on such property actually incurred by such owners, by reason of the granting of the permit, or the operations carried on thereunder, and shall pay any and all damages suffered by any person, partnership, association of persons, trust or corporation as to property in the City from fire, over and above insurance collected thereon, or from oil, gas or water, when and only when such damages shall have been caused by or shall originate from the operations connected with the applicant's drilling, completion and operation of such well or wells, and will hold the City harmless from any and all liability growing out of the granting of such permit. Such bond shall be in the sum of **Five Thousand Dollars (\$5,000.00)**, and the bond shall be approved by the Mayor and filed with the City Clerk.

The application shall also be accompanied by a policy, certificate, or other evidence of public liability insurance protecting applicant for a minimum of **Twenty-Five Thousand/Fifty Thousand Dollars (\$25,000.00/\$50,000.00)** for bodily injury and **Twenty-Five Thousand/Fifty Thousand Dollars (\$25,000.00/\$50,000.00)** for property damage caused by the drilling and operation of said well. (Ord. No. 640; 09-10-56)

**28-1-10      TERMS OF PERMIT.** The City Council shall have the power, and reserves the authority, to refuse any application for a permit where, by reason of the location of any proposed well and the character and value of the permanent improvements already erected on the drilling block in question, or adjacent thereto, and the use to which the land and surroundings are adapted for civic purposes, or for sanitary reasons, the drilling of an oil or gas well will be a serious disadvantage to the City and its inhabitants as a whole; provided, that when a permit shall be refused for any of these reasons, but not otherwise, the deposit of cash made with the application, as required by **Section 28-1-9**, shall be returned to the applicant. Except as hereinbefore provided, if an application be found by the City Council to comply in all respects with the terms of this Chapter, the City Clerk shall be directed to issue a permit for the drilling of the well or wells described in the application, but no single application shall be made for a permit covering more than **one (1) drilling block**. The permits, when so issued, shall specify the particular location of each well to be drilled, and it shall be unlawful for the permittee to drill elsewhere in the drilling block.

**28-1-11      DISTANCE FROM RESIDENCE, BUSINESS, HOSPITAL, NURSING HOME, ASSISTED LIVING FACILITY, AND/OR OTHER PUBLIC BUILDINGS.** It shall be unlawful to extract minerals or erect or use any oil or gas well, within the area mentioned in **Section 28-1-1** of this

Chapter, within **three hundred (300) feet** of a residence, business, hospital, nursing home, assisting living facility and/or other public building in the drilling or operations of any oil or gas well or any mine. **(Ord. No. 00-25; 09-11-00)**

**28-1-12      LEASE REQUIRED FOR PERMIT.** No permit shall be granted or issued for the drilling of a well, except upon land owned in fee by the applicant or held by the applicant under an oil and gas lease, or similar drilling contract, from the owner giving the owner's permission to drill said well; and when a permit shall have been issued, the same may be revoked by the City Council in so far as such permit applies to and concerns any well with respect to which drilling operations shall not have been commenced within **one hundred twenty (120) days** from the date of the issuance thereof, or in so far as the permit applies to and concerns any well the drilling operations of which, if commenced, shall have ceased for a period of **one hundred twenty (120) days**, provided, however, that such permit may not be so revoked due to such failure in commencing operations or due to such cessation when the same is occasioned by unavoidable accidents, casualties or delays over which the permittee has no control. Any permit may be revoked by the City Council in so far as the permit applies to or concerns any well from which production, if obtained, shall have ceased for a period of **one hundred twenty (120) consecutive days**; provided, however, that such permit may not be so revoked if such cessation of production is caused by any law, rule, regulation or order of any governmental body having jurisdiction in the premises, or if, during the said period of **one hundred twenty (120) days**, operations calculated to cause a renewal of such production are commenced and prosecuted with due diligence; and if such operations should result in the production of oil or gas, no cessation in production shall be deemed to have occurred within the meaning of this Section. In the event of the revocation of any permit with respect to any well or wells, it shall be unlawful thereafter to continue the drilling or operation of such well or wells without the issuance of another permit.

**28-1-13      OWNER'S PERMISSION REQUIRED FOR DRILLING.** Neither this Chapter nor any permit issued hereunder, shall be interpreted to grant any right or license to the permittee to enter upon or occupy in any respect in the drilling or production operations, any land except by the written consent of the owner, nor shall it limit or prevent the right of any landowner to contract for any amount or percentage of royalty out of which the portion thereof applicable to his land shall be paid, or for damages, rights or privileges with respect to the land.

**28-1-14      REMOVAL OF OIL, GAS AND WATER.** In operating under any permit issued under this Chapter, or any amendment thereto, all oil, gas, and water produced in or arising from the operations shall, subject to the provisions of **Section 28-1-11** of this Chapter, be piped or otherwise conveyed or removed from the area mentioned in **Section 28-1-1** of this Chapter, except such as may be disposed of by the ordinary use of slush ponds, and all excavations in, or use of, the streets and alleys in such operations shall be under the reasonable direction of the Street Commissioner of the City, and shall be conducted without unreasonable obstruction of the streets, and without expense or cost to the City.

**28-1-15      PERMIT; TIME CONSTRAINTS.** No permit which shall be issued under this Chapter or under any amendment thereto, or any rights, privileges or franchise granted hereby or hereunder, shall exist longer than for a period of **twenty (20) years** from the date of the issuance of the permit; provided, however, that if, at the expiration of such period of time, any oil or gas well is then producing oil or gas in paying quantities, the permit issued with respect to such well shall continue in force during the period of such production.

**28-1-16      PIPING FOR PRODUCTION.** Upon the completion of any oil or gas well by any permittee, and which well, when completed, produces oil or gas, such permittee is hereby granted authority to lay and maintain all necessary pipes and pipe lines over, upon, or under the streets, alleys and public ways of the City, for the purpose of removing and transporting such oil or gas from such well, as herein provided; provided, however, that such pipes and pipe lines shall be laid in such a manner as not to obstruct travel upon the streets, alleys or public ways, and shall be covered or enclosed at all street intersections, and when the use thereof for such purposes has terminated, shall be removed by the permittee, his representatives, successors or assigns, and such streets, alleys or public ways shall be restored by the permittee to their former condition.

**[Unless Otherwise Noted, This Article Ord. No. 450; 11-25-40)**

## **ARTICLE II - LAKE BENTON**

**28-2-1      DRILLING PERMIT REQUIRED.** It shall be unlawful and an offense for any person, partnership, association of persons, trust, or corporation to drill or to commence to drill a well for oil or gas within the area of Lake Benton or the land owned or controlled by the City, adjacent to the shore line of Lake Benton described in words and figures in a schedule attached hereto; the schedule being hereby expressly incorporated herein and made a part of this Article, or to work upon or assist in any way in the prosecution of the work upon any such well, without a permit for such well and for the prosecution of such work having first been issued by the authority of the City Council, in accordance with the terms and provisions of this Article.

**28-2-2      PERMITS RESTRICTED.** Within the area described in Schedule "B", the issuance of permits shall be restricted and limited as provided in this Article, and, for the purpose of restricting and limiting the number of permits to be issued under the provisions of this Article, the area mentioned in Schedule "B" shall be and is hereby subdivided into **thirty-two (32)** separate tracts, each of the tracts shall be referred to in this Article as a "drilling block," and all of which drilling blocks are designated by a number and the boundaries thereof described in Schedule "B" attached hereto; the schedule being expressly incorporated herein and made a part of this Article, and all provisions in this Article, with respect to a drilling block of any particular number shall apply to the drilling block so numbered as described in Schedule "B".

**28-2-3      WELL LIMIT TO PARTICULAR STRATUM.** Not more than **one (1) well** for oil or gas shall be drilled to or completed in any sand, stratum, or horizon productive of oil or gas or oil and gas in any one of the drilling blocks mentioned as defined in **Section 28-2-2** of this Article and comprising the area mentioned in **Section 28-2-1** of this Article, provided, however, that if more than **one (1) well** shall be drilled outside the area mentioned in **Section 28-2-1** and within **four hundred (400) feet** of the boundary of any drilling block, **one (1)** additional well may be drilled in such drilling block to the sand, stratum, or horizon to which such well outside the area is drilled, which additional well shall be drilled at a location not more than **three hundred (300) feet** from the limit line of the area to offset the additional well or wells that shall be so drilled on the land situated outside the area.

**28-2-4      MAXIMUM NUMBER PER DRILLING BLOCK.** The issuance of permits for the drilling of wells in the various drilling blocks comprising the area mentioned in **Section 28-2-1** of this Article shall be restricted and limited in such manner and to the extent that not more than the maximum number of wells per drilling block as provided in **Section 28-2-3** of this Article shall be commenced or drilled in such drilling block.

**28-2-5      DRILLING PROHIBITED IN STREETS.** It shall be unlawful to drill any oil or gas well within any of the roadways, streets or alleys within the area mentioned in **Section 28-2-1** of this Article; and that it shall further be unlawful to block or encumber or close any of the roadways, streets or alleys in any drilling operations, except by temporary special permit by order of the City Council.

**28-2-6      APPLICATION - DEPOSIT.** Every application for a permit to drill a well shall be in writing, signed by the applicant or some person duly authorized to sign the same in behalf of the applicant, and shall be filed with the City Clerk and be accompanied by a deposit of **Three Thousand Dollars (\$3,000.00)**, in cash and a duly executed instrument in writing effective to assign to the City of Benton a 1/32 overriding royalty, free of all costs, in and to any oil or gas which might be produced from such well. The application shall state the drilling block and the location in the drilling block where such



proposed well is to be drilled, and shall contain a verified lump sum estimate of the approximate cost and

expense incident to drilling, completing and equipping each such well. There shall be attached to the application a certified copy of each oil and gas lease or other drilling contract which the applicant may have with the owner or owners of land located in said drilling block, together with abstracts of title or certificates of title satisfactory to the City Council, to the end that the application will show what proportions and what part of the drilling block the applicant owns or holds under lease or similar contract from the owner or owners.

The application shall be accompanied by a plat or map of the drilling block showing the exact location of each proposed well. The application shall also be accompanied by a bond duly executed by the applicant, as principal, and a surety company authorized to do business in the State of Illinois, as surety, running to the City, for the benefit of the City and all persons, firms, and corporations concerned, conditioned that if the permit be granted, the applicant, and his heirs, executors, administrators, successors and assigns, or its successors and assigns, will comply with the terms and conditions of this Article in the drilling and operation of each well; that the applicant will restore the roadways, streets and sidewalks and other public places within the area mentioned in **Section 28-2-1** of this Article, which may be disturbed in the operations to their former condition, and clear the drilling block of all derricks, buildings, machinery, or litter, erected, used, or accumulated in the applicant's drilling or producing operations, whenever such operations shall be discontinued, and that he, or it will pay to the owners of any buildings, improvements, goods or chattels located in the drilling block, any extra cost of insurance on such property, actually incurred by such owners, by reason of the granting of the permit, or the operations carried on thereunder, and shall pay any and all damages suffered by any person, partnership, association of persons, trust or corporation as to property in the area from fire, over and above insurance collected thereon, or from oil, gas, or water, when and only when such damages shall have been caused by or shall originate from the operations connected with the applicant's drilling, completion and operation of such well or wells, and will hold the City harmless from any and all liability growing out of the granting of such permit. Such bond shall be in the sum of **Ten Thousand Dollars (\$10,000.00)** and the bond shall be approved by the Mayor and filed with the City Clerk; and shall be maintained in full force and effect as long as drilling operations are being conducted or oil or gas, or either of them, is being produced by the applicant from the well.

**28-2-7      LOCATIONS PROHIBITED.** The City Council shall have the power, and reserves the authority, to refuse any application for a permit where, by reason of the location of any proposed well and the character and value of the permanent improvements already erected on the drilling block in question, or adjacent thereto, and the use to which the land and surroundings are adapted for civic purposes, or for sanitary reasons, the drilling of an oil or gas well will be a serious disadvantage to the City and the inhabitants of said area as a whole; provided, that when a permit shall be refused for any of these reasons, but not otherwise, the deposit of cash made with the application, as required by **Section 28-2-6** of this Article, shall be returned to the applicant.

**28-2-8      ISSUANCE OF PERMIT BY COUNCIL.** Except as hereinbefore provided, if an application be found by the City Council to comply in all respects with the terms of this Article, the City Clerk shall be directed to issue a permit for the drilling of the well or wells described in the application, but no single application shall be made for a permit covering more than **one (1) drilling block**. The permits, when so issued, shall specify the particular location of each well to be drilled, and it shall be unlawful for the permittee to drill elsewhere in the drilling block.

**28-2-9      FIRE EXTINGUISHERS.** It shall be unlawful to erect or use within the area mentioned in **Section 28-2-1** of this Article any drilling plant or rig unless the same shall be equipped with fire extinguishers which shall be maintained at all times in good order.

**28-2-10      STORAGE FACILITIES.** No storage of oil or facilities therefor shall be kept, erected, or maintained within the area mentioned in **Section 28-2-1** of this Article, except to an extent

not in excess of **five hundred (500) barrels** for each well and with a further exception of such

necessary flow tanks for each well not exceeding **seven hundred fifty (750) barrel** capacity, as are customarily used in drilling operations; provided, however, that no wooden tank shall be kept, erected, or maintained within said area.

**28-2-11      OWNERSHIP OF LAND FOR PERMIT.** No permit shall be granted or issued for the drilling of a well, except upon land owned in fee by the applicant or held by the applicant under an oil and gas lease, or similar drilling contract, from the owner giving the owner's permission to drill said well; and when a permit shall have been issued, the same shall terminate and become inoperative without any action on the part of the governing body of the City unless within **sixty (60) days** from the date of issue, actual drilling of the well shall have commenced and drilling shall be continued with due diligence in a good and workmanlike manner until said well shall have been completed; and the cessation of production of oil or gas from the well after production shall have commenced, shall operate to terminate and cancel the permit and the well shall be considered as abandoned for all purposes of this Article, and it shall be unlawful thereafter to continue the operation or drilling of such well without the issuance of another permit; provided, however, that such permit shall not terminate if such cessation of production is caused by any law, rule, regulation or order of any governmental body having jurisdiction in the premises, or if, during the said period of **sixty (60) days**, operations calculated to cause a renewal of such production are commenced and prosecuted with due diligence; and if such operations should result in the production of oil or gas, no cessation in production shall be deemed to have occurred within the meaning of this Section. In the event of the termination of any permit with respect to any well or wells, it shall be unlawful thereafter to continue the drilling or operation of such well or wells without the issuance of another permit.

**28-2-12      PERMIT: PERSONAL PRIVILEGE.** A permit shall be purely a personal privilege and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable, or transferable, voluntarily or involuntarily, or subject to being encumbered and hypothecated. Such permit shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the permittee.

**28-2-13      CONSENT OF OWNER REQUIRED.** Neither this Article, nor any permit issued hereunder, shall be interpreted to grant any right or license to the permittee to enter upon or occupy in any respect in the drilling or production operations, any land except by the written consent of the owner, nor shall it limit or prevent the free right of any land owner to contract for any amount or percentage of royalty out of which the portion thereof applicable to his land shall be paid, or for damages, rights or privileges with respect to said land.

**28-2-14      TANKS FOR STORAGE.** In operating under any permit issued under this Article, or any amendment thereto, the permittee shall provide proper metal tanks for the circulation of mud and storage of salt water and oil, and no permittee shall use any earthen slush pit except upon express permission of the City Council.

**28-2-15      SANITARY SEWER USE PROHIBITED.** In operating under any permit issued under this Article, or any amendment thereto, all oil, gas, and water produced in or arising from the operations shall be piped or otherwise conveyed or removed from the area mentioned in **Section 28-2-1** of this Article, except such as may be disposed of by ordinary use of slush pits, and no waste or sludge water shall be disposed of in any sanitary sewer. All slush pits constructed by the permittee shall be filled with dirt and the ground restored to its former level within **thirty (30) days** after the completion, as a dry hole or a producer, of the well in connection with which any such slush pit was constructed. All excavations in, or use of, the roadways, streets and alleys in such operations shall be

under the reasonable direction of the Commissioner of Public Affairs of the City and shall be conducted without unreasonable obstruction of the roadways, streets and alleys and without expense or cost to the City.

**28-2-16      ACIDIZATION OF WELL.** Upon the acidization of any such well, notice of the time when such acidization will be done shall be given by the permittee to the Superintendent of the Water Department of the City, so that he may be present to direct the manner of disposition of the waste occasioned by such acidization.

**28-2-17      TIME LIMIT ON WELL PERMIT.** No permit which shall be issued under this Article or under any amendment thereto, or any rights, privileges or franchise granted hereby or hereunder, shall exist longer than for a period of **twenty (20) years** from the date of issuance of the permit; provided, however, that if, at the expiration of such period of time, any oil or gas well is then producing oil or gas in paying quantities, the permit issued with respect to such well shall continue in force during the period of such production.

**28-2-18      INSPECTION OF WELL SITE.** Any officer or employee of the City, designated for that purpose by the City Council, shall have the right and privilege at any time to enter upon the premises covered by any permit issued under this Article, for the purpose of making inspection to determine if the requirements of this Article or any other code of the City relating to the health and safety of persons and property within the area mentioned in **Section 28-2-1** of this Article are being complied with.

**28-2-19      PIPE LINES.** Upon the completion of any oil or gas well of any permittee and which well, when completed, produces such oil or gas, such permittee is hereby granted authority to lay and maintain all necessary pipes and pipe lines in or under the roadways, streets, and alleys, within the area mentioned in **Section 28-1-1** of this Chapter, for the purpose of removing and transporting such oil or gas from such well as herein provided; provided, however, that any such pipe shall be encased in reinforced concrete or in some other substantial and durable pipe large enough to permit the removal of such pipe without disturbing the surface of any such roadways, streets or alleys; and provided, further, that such pipes and pipe lines shall be buried below plow depth and shall be laid in such a manner as not to interfere with the water system of the City or obstruct travel upon said roadways, streets, and alleys, and shall be covered or enclosed at all street intersections, and, when the use thereof for such purpose has terminated, shall be removed by the permittee, his representatives, successors, or assigns, and such roadways, streets, and alleys shall be restored by the permittee to their former condition.

**28-2-20      PUMPING EQUIPMENT.** Upon the completion of any oil or gas well by any permittee, and which well, when completed, produces oil or gas and is placed upon pump, every such pump shall be enclosed on all sides with a good and sufficient fence of sufficient height to prevent animals, children, or any persons from coming into contact with such pump, and such fence shall be maintained in good repair as long as said pump remains upon the location of such well.

**28-2-21      ELECTRIC PUMP REQUIRED.** Upon the completion of any oil or gas well by any permittee, and which well, when completed, produces oil or gas and is placed on pump, such pump or pumps shall be operated by electricity and it shall be unlawful to operate any such pump or pumps with oil or other fuel.

**28-2-22      POSTING OF PERMITS.** It shall be unlawful for any person to commence any well for oil or gas within any of the drilling blocks until the permits issued by the City and by the Department of Mines and Minerals of the State of Illinois, or legible photostatic copies of the same, are posted at the well site; and the permits or photostatic copies thereof shall be kept so posted until the completion of such well or abandonment and plugging thereof.

**28-2-23      IDENTIFICATION SIGN.** Every producing well shall be identified by a sign in a conspicuous place near such well and such sign shall be of durable construction and the lettering thereon shall be kept in a legible condition and shall be large enough to be read under normal conditions at a distance of **fifty (50) feet**. Each sign shall show the number of the well, the name of the lease, the name of the lessee, owner and operator and their legal addresses under the jurisdiction of the Courts of the State of Illinois, and the location by quarter-quarter section, Township, and range.

**28-2-24      DIKES REQUIRED.** All drilling sites, pits, reserve pits, pumps and derricks shall be enclosed with earthen dikes of sufficient height and strength to divert surface drainage and to prevent, the escape of any spills of oil, salt water or other liquids.

**28-2-25      CAPACITY OF RESERVOIR.** All lease tanks, stock tanks, pumps and oil storage tanks shall be protected by a firewall or dike, approved by the City Council, which wall shall form a reservoir having a capacity of **one and one-half (1-1/2) times** the capacity of the enclosed tank or tank battery. All emulsion containers shall be impounded in said reservoir. The dike shall be maintained and the reservoir surface kept free of oil, emulsions, tank bottoms, brine, fresh water, vegetation, or any inflammable material. Tank batteries shall be so located as not to be subject to surface drainage.

**28-2-26      STORAGE OF OIL IN RESERVOIR UNLAWFUL.** It shall be unlawful to store or retain oil in earthen reservoirs or in open receptacles; provided, however, that in cases of emergency, the City Council may grant permission for temporary storage of oil in earthen reservoirs or in open receptacles.

**28-2-27      BURN-OUT PITS PROHIBITED.** The construction or operation of any salt water pit or oil field refuse pit, commonly called a "burn-out pit," so that salt water, brine or oil field refuse or other waste liquids may escape therefrom in any manner, except by the evaporation of such salt water or brine or by the burning of such oil field waste or refuse, is hereby prohibited.

**28-2-28      WELL DEBRIS PROHIBITED.** It shall be unlawful for any person, upon abandonment of any oil or gas well, to permit concrete bases, discarded machinery and materials, or debris to remain around such oil or gas well; to fail to fill any holes, cellars, slush pits or other excavations made in connection with any such well; or to fail to restore the surface of the lands surrounding any such well to their former condition as existed before the drilling of any such well.

**28-2-29      UNPLUGGED WELL.** It shall be unlawful to permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged, exceeding **thirty (30) days** after such well is no longer used for the purpose for which it was drilled, except with permission of the City Council for such reasonable extensions of time as may be necessary for the further development of the property.

**28-2-30      DAMAGE BY RESERVOIR CONTENTS.** It shall be unlawful to run oil, brine or salt water produced in the drilling for or the production of oil or gas into earthen reservoirs or ponds, except for such reasonable time and under such conditions as may be approved by the City Council; after which such brine, salt water, or oil must be returned to some underground formation or disposed of in such manner as may be approved by the City Council so that it cannot cause damage, imminent damage or surface waste; provided, that where earthen reservoirs are permitted, they shall be of a type so that the evaporation will care for the input, they shall be dug into the earth, shall be of sufficient depth to contain all such brine, salt water or oil so that the liquid level in the pit shall not be higher than the natural surrounding ground surface, and such earthen reservoirs shall be surrounded by an earthen dike of sufficient height and strength to divert surface drainage and to prevent the escape of any such impounded brine, salt water or oil.

**28-2-31      POLLUTING WELL AREA.** It shall be unlawful to permit any brine, salt water, oil or other liquid substance within such earthen reservoirs to reach a level higher than the natural surrounding ground surface, to place pipes below the top of the walls of such reservoirs, to willfully cut any such wall, to permit any break in any such wall, to release any such impounded liquids, or to permit any of such liquids to escape from any such reservoirs.

**28-2-32      STORAGE OF WASTES.** For impounding salt water and oil field wastes in conjunction with a subsurface disposal system, the installation of the following type of receptacle is permissible with the approval of the City Council:

(A)              Concrete pit, properly located and not subject to surface drainage, of adequate dimensions with floors and walls of minimum thickness of **six (6) inches** reinforced concrete pit to be water-proofed on the inside.

(B)              Steel tank in good condition buried in the ground surrounded by floor and walls of cement with a minimum thickness of **six (6) inches**, of adequate capacity, not subject to surface drainage, and the inside of steel tank to be corrosion-proofed.

(C)              Steel tank in good condition, of adequate capacity, resting on a concrete foundation of minimum thickness of **six (6) inches** on the ground surface, and the inside of steel tank to be corrosion-proofed.

**28-2-33      NUISANCE DECLARED.** The violation of any provision of this Article, whereby any unsanitary condition is created is hereby declared to be a public nuisance.

**[Unless Otherwise Noted, This Article, Ord. No. 528; 02-07-49]**

## ARTICLE III

### FEES - LAKE BENTON: DRAINAGE

**28-3-1      PERMIT TO DRILL.** It shall be unlawful for any person to drill or to commence to drill any well for oil or gas within any portion of Sections 19, 20, 21, 22, 27, 28, 29, 30, 32, and 33 of Township 5 South, Range 3 East of the Third Principal Meridian, in Franklin County, Illinois, without a permit for such well and for the prosecution of such work having first been issued by the authority of the City Council in accordance with the terms and provisions of this Article.

**28-3-2      APPLICATION FOR PERMIT; FEE.** Every application for a permit to drill any oil or gas well shall be in writing, signed by the applicant or some person duly authorized to sign the same in behalf of the applicant, and shall be filed with the City Clerk, and shall state the proposed location where each proposed well is to be drilled.

A fee of **One Hundred Dollars (\$100.00)** shall be charged for such permit unless the location is upon lands owned by the City.

In addition to the other fees, all producers and operators of oil and gas leases within the area herein described, shall pay a monthly inspection fee, which fee shall be determined as follows, to-wit:

(A)      **Twenty-Five Dollars (\$25.00)** per month per well producing **one hundred (100) barrels** of oil per well per day or more;

(B)      **Twenty Dollars (\$20.00)** per month per well producing less than **one hundred (100) barrels** of oil per month per well per day.

This provision shall be applicable to all oil wells under the terms and provisions of this Article according to the stage in which each of said wells shall be at the time of the enactment of this provision.

(C)      To provide for inspection of all salt injection wells at the rate of **Twenty Dollars (\$20.00)** per month per well. **(See Ord. No. 1122; 07-11-83)**

**28-3-3      POSTING OF PERMITS.** It shall be unlawful for any person to commence any well for oil or gas within any portion of the sections until the permits issued by the City and by the Department of Mines and Minerals of the State of Illinois, or legible photostatic copies of the same, are posted at the well site; and said permits or photostatic copies thereof shall be kept so posted until the completion of such well or abandonment and plugging thereof.

**28-3-4      SIGN POSTING.** Every producing well shall be identified by a sign in a conspicuous place near such well and such sign shall be of durable construction and the lettering thereon shall be kept in a legible condition and shall be large enough to be read under normal conditions at a distance of **fifty (50) feet**. Each sign shall show the number of the well, the name of the lease, the name of the lessee, owner, or operator and their legal addresses under the jurisdiction of the Courts of the State of Illinois, and the location by quarter-quarter section, Township, and range.

**28-3-5      DIKES TO PROTECT.** All drilling sites, pits, reserve pits and derricks shall be enclosed with earthen dikes of sufficient height and strength to divert surface drainage and to prevent the escape of any spills of oil, salt water or other liquids.

**28-3-6      DIKE CAPACITY.** All lease tanks, stock tanks, and oil storage tanks shall be protected by a firewall or dike, approved by the Department of Public Affairs of the City, which wall shall form a reservoir having a capacity **one and one-half (1-1/2) times** the capacity of the enclosed tank or tank battery. All emulsion containers shall be impounded in said reservoir. The dike shall be maintained and the reservoir surface kept free of oil, emulsions, tank bottoms, brine, fresh water,



vegetation, or any inflammable material. Tank batteries shall be so located as not to be subject to surface drainage.

**28-3-7            STORAGE OF OIL PROHIBITED.** It shall be unlawful to store or retain oil in earthen reservoirs or in open receptacles; provided, however, that in cases of emergency, the Department of Public Affairs may grant permission for temporary storage of oil in earthen reservoirs or in open receptacles.

**28-3-8            BURN-OUT PITS.** The construction or operation of any salt water pit or oil field refuse pit, commonly called a "burn-out pit," so that salt water, brine or oil field refuse or other waste liquids may escape therefrom in any manner, except by the evaporation of such salt water or brine or by the burning of such oil field waste or refuse, is hereby prohibited.

**28-3-9            WELL DEBRIS PROHIBITED.** It shall be unlawful for any person, upon abandonment of any oil or gas well, to permit concrete bases, discarded machinery and materials, or debris to remain around such oil or gas well; to fail to fill any holes, cellars, slush pits or other excavations made in connection with any such well, or to fail to restore the surface of the lands surrounding any such well to their former condition as existed before the drilling of any such well.

**28-3-10          UNPLUGGED WELL PROHIBITED.** It shall be unlawful to permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged, exceeding **thirty (30) days** after such well is no longer used for the purpose for which it was drilled, except with permission of the Department of Public Affairs for such reasonable extensions of time as may be necessary for the further development of the property.

**28-3-11          APPROVAL OF STORAGE.** It shall be unlawful to run oil, brine or salt water produced in the drilling for or the production of oil or gas into earthen reservoirs or ponds, except for such reasonable time and under such conditions as may be approved by the Department of Public Affairs, after which such brine, salt water or oil must be returned to some underground formation or disposed of in such manner as may be approved by the Department of Public Affairs so that it cannot cause damage, imminent damage or surface waste; provided that where earthen reservoirs are permitted, they shall be of a type so that the evaporation will care for the input, they shall be dug into the earth, shall be of sufficient depth to contain all such brine, salt water, or oil so that the liquid level in the pit shall not be higher than the natural surrounding ground surface, and such earthen reservoirs shall be surrounded by an earthen dike of sufficient height and strength to divert surface drainage and to prevent the escape of any such impounded brine, salt water or oil.

**28-3-12          POLLUTING WELL AREA.** It shall be unlawful to permit any brine, salt water, oil or other liquid substance within such earthen reservoirs to reach a level higher than the natural surrounding ground surface, to place pipes below the top of the walls of such reservoirs, to willfully cut any such wall, to permit any break in any such wall, to release any such impounded liquids, or to permit any of such liquids to escape from any such reservoirs.

**28-3-13          STORAGE OF WASTES.** For impounding salt water and oil field wastes in conjunction with a subsurface disposal system, the installation of the following type of receptacle is permissible with the approval of the Department of Public Affairs:

(A)                Concrete pit, properly located and not subject to surface drainage, of adequate dimensions with floors and walls of minimum thickness of **six (6) inches** reinforced, concrete pit to be water-proofed on the inside.

(B)                Steel tank in good condition buried in the ground surrounded by floor and walls of cement with a minimum thickness of **six (6) inches**, of adequate capacity, not subject to surface drainage, and the inside of steel tank to be corrosion-proofed.

(C) Steel tank in good condition, of adequate capacity, resting on a concrete foundation of minimum thickness of **six (6) inches** on the ground surface, and the inside of steel tank to be corrosion-proofed.

**28-3-14      INSPECTION BY OFFICIALS.** The Department of Public Affairs, the Superintendent of the Water Department, or any police official, or other representative of the corporate authorities shall have the right of ingress and egress to and from all well locations at all times for inspection purposes.

**28-3-15      NUISANCE DECLARED.** The violation of any provision of this Article, whereby any unsanitary condition is created, is hereby declared to be a public nuisance.

**[Unless Otherwise Noted, This Article, Ord. No. 527; 01-15-49]**

## **SCHEDULE "A"**

Schedule of description of drilling blocks in the City of Benton, Illinois, referred to in the Chapter to which this Schedule is attached.

- BLOCK 1:** All that part of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Eight (8), Six (6) South, Three (3) East, within the City limits.
- BLOCK 2:** All that part of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Eight (8), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 3:** All that part of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 4:** All that part of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 5:** All that part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 6:** All that part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 7:** All that part of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits lying East of the East line of Iowa Street in the City of Benton.
- BLOCK 8:** All that part of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits
- BLOCK 9:** All that part of the Northeast Quarter (NE 1/4) of Southwest Quarter (SW 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 10:** All that part of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 11:** All that part of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 12:** All that part of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 13:** All that part of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 14:** All that part of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 15:** All that part of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 16:** All that part of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 17:** All that part of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 18:** All that part of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section Seven (7), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 19:** All that part of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Six (6), Six (6) South, Three (3) East, within the City Limits.

- BLOCK 20: All that part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Six (6), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 21: All that part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section Six (6), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 22: All that part of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section Seventeen (17), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 23: All that part of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Seventeen (17), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 24: All that part of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section Seventeen (17), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 25: All that part of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section Seventeen (17), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 26: All that part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section Seventeen (17), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 27: All that part of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section Seventeen (17), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 28: All that part of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Seventeen (17), Six (6) South, Three (3) East, within the City Limits.
- BLOCK 29: All that part of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Seventeen (17), Six (6) South, Three (3) East within the City Limits.
- BLOCK 30: The Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East.
- BLOCK 31: A tract described as: Beginning at the Northwest (NW) corner of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence South to the Southwest (SW) corner of said Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), thence East along the South line of said Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18) to the West line of Lot 16 of D. M. Parkhill's Addition; thence North along the West line of Lot No. 16 to the South line of Grayson Street; thence East along the South line of Grayson Street to the West line of North Main Street; thence South along the West line of Main Street to South line of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of said Section Eighteen (18), thence East to the Southeast (SE) corner of said Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18); thence North to the South line of Hutson Place Addition; thence West to the Southwest (SW) corner of Lot No. 92 of Hutson Place Addition; thence North with the West line of Lots 92, 49 and 32 of said addition to the North line of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence West to the place of beginning.
- BLOCK 32: Beginning at the Southwest (SW) corner of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence North to the South line of Hutson Place Addition, thence West to the Southwest corner of Lot No. 92 of Hutson Place Addition, thence North with the West line of Lots 92, 49 and 32 of said addition to the North line of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence East to the Northeast (NE) corner of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of said Section Eighteen (18), thence South to the Southeast (SE) corner of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of said Section Eighteen (18), thence West to the place of beginning.

BLOCK 33: The Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East.

- BLOCK 34: The Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East.
- BLOCK 35: Beginning at the Northwest corner of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence East to the West line of the East Half (E 1/2) of the Northeast Quarter (NE 1/4) of said Section Eighteen (18), thence South to a point due East of Southeast corner of Lot 3, Block 6, J. M. Joplin's Fourth Addition; thence West along the South line of Lot 3, Block 6 and Lots 10 and 3 of Block of J. M. Joplin's Fourth Addition and continuing West along the South line of Lots 6 and 3 of Block "C" of J. M. Joplin's Third Addition and Lots 4, 5 and 6 of Block "C" of J. M. Joplin's Second Addition to the West line of Commercial Street, thence North to the Northeast corner of Lot No. 6 of Mattie Joplin's First Addition, thence West to the West line of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of said Section Eighteen (18), Six (6) South, Three (3) East, thence North to the point of beginning.
- BLOCK 36: Beginning at the Northeast (NE) corner of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence South to the North Line of Lot No. 6, Mattie Joplin's First Addition, thence East to the West line of Commercial Street, thence South to the Southeast (SE) corner of Lot No. 9 of Mattie Joplin's First Addition, thence West to the Southwest (SW) corner of Lot No. 9, Block No. 5, Fairview Addition, thence North along the East line of Jesse Street to the South Line of E. M. Reed's Second Addition, thence East to the Southeast (SE) corner of Lot No. 4, Block No. 2, of E. M. Reed's Second Addition, thence North to the North line of Carlton Street, thence West to the Southeast (SE) corner of Lot No. 6, Block No. 7, of Stotlar's Addition, thence North to the North line of the South Half (S 1/2) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence East along the North line of the South Half (S 1/2) of the Northwest Quarter (NW 1/4) of Section Eighteen (18) to the West line of lot No. 16, D. M. Parkhill's Addition, thence North to the South line of Grayson Street, thence East to the West line of North Main Street, thence South to the North line of the South Half (S 1/2) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence East to the place of beginning.
- BLOCK 37: Beginning at the Southwest (SW) corner of Lot No. 9, Block No. 5, Fairview Addition, thence North along the East line of Jesse Street to the South line of E. M. Reed's Second Addition, thence East to the Southeast (SE) corner of Lot No. 4, Block No. 2, E. M. Reed's Second Addition, thence North along the East line of said Lot No. 4 to the North line of Carlton Street, thence West to the Southeast (SE) corner of Lot No. 6, Block No. 7, Stotlar's Addition, thence North along the East line of Lot No. 6 to the North line of the South Half (S 1/2) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence West to the Northwest (NW) corner of said Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), thence South to the Southwest (SW) corner of said Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section Eighteen (18), thence East to the place of beginning.
- BLOCK 38: Beginning at the Northwest (NW) corner of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence to the Northeast (NE) corner of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence South along the East side of Jesse Street to the North line of Lot No. 3, Block "B", McFall's Fifth Addition, thence West to the Northwest (NW) corner of said Lot No. 3, thence South along the West side of McFall's Fifth Addition and the West side of McFall's Second Addition to the Southwest (SW) corner of Lot No. 10, Block "F", McFall's Second Addition, thence West along the North line of West Washington Street to the City Limits of Benton, thence North to a point due West of the point of beginning, thence East to the place of beginning.
- BLOCK 39: Beginning at the Northeast (NE) corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, running thence South along the West line of J. M. Joplin's First Addition to the Southwest (SW) corner of Lot No. 10, said J. M. Joplin's First Addition, thence East along the South line of said Lot No. 10, to the Southeast (SE) corner thereof, thence South along the West line of Commercial Street to the North line of East Washington Street, thence West along the North line of East Washington Street, thence West along the North line of East Washington and the North line of West Washington Street to the Southwest (SW) corner of Lot No. 10, Block "F" of McFall's Second Addition, thence North along the West line of McFall's Second Addition and the West line of McFall's Fifth Addition to the

Northwest

(NW)



corner of Lot 3, Block "B" McFall's Fifth Addition, thence East to a point due South of the Southwest (SW) corner of W. W. McFall's Sixth Addition, thence North along the East line of Jesse Street to the Southwest (SW) corner of Lot No. 9, Block No. 5 of Fairview Addition, thence East to the place of beginning.

BLOCK 40: Beginning at the Northwest (NW) corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence East along the South line of Lot No. 9 of Mattie Joplin's First Addition to the Southeast (SE) corner of said Lot No. 9, thence North to the Northeast (NE) corner of said Lot No. 9, thence East along the South line of Lots 6, 5 and 4, Block "C", J. M. Joplin's Second Addition and along the South line of Lots 3 and 6, J. M. Joplin's Third Addition and along the South line of Lots 3 and 10 of Block No. 1 and along the South line of Lots 3, Block 6, J. M. Joplin's Fourth Addition to the East line of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence South along the East line of the West Half (W 1/2) of the East Half (E 1/2) of Section Eighteen (18), Six (6) South, Three (3) East to a point due East of the North line of East Washington Street, thence West along the North side of said East Washington Street to the West line of Commercial Street, thence in a northerly direction along the West line of Commercial Street to the Southeast corner of Lot No. 10 of J. M. Joplin's First Addition, thence West along the South line of said Lot No. 10 of J. M. Joplin's First Addition to the Southwest (SW) corner of said Lot No. 10, thence North along the West line of J. M. Joplin's First Addition to the place of beginning.

BLOCK 41: Beginning at the Northeast (NE) corner of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence West along the North line of McCreery and Ward's Addition to the West line of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence South to the Southwest (SW) corner of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of said Section Eighteen (18), thence East to the Southeast (SE) corner of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence North to the place of beginning.

BLOCK 42: Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East.

BLOCK 43: Beginning at the Southwest (SW) corner of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence North along the West line of said Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Eighteen (18) to the North line of Church Street thence West along the North line of said Church Street to the Southeast (SE) corner of Lot No. 65 of the original town of Benton, thence North to the Southeast (SE) corner of Lot No. 1 of the original town of Benton, thence West along the North line of East Washington Street to the East line of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence South along said East line to the South line of the Southeast Quarter (SE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence West along said South line of said Southeast Quarter (SE 1/4) of Section Eighteen (18), Six (6) South, Three (3) East to the point of beginning.

BLOCK 44: Beginning at the Southeast (SE) corner of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, running thence North along the East line of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Eighteen (18), to the North line of Church Street, thence West along the North line of said Church Street to the Southeast (SE) corner of Lot No. 65 of the original town of Benton, thence North to the Southeast (SE) corner of Lot No. 1 of the original town of Benton, thence West along the North line of Washington Street to the West line of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, thence South along said line to the Southwest (SW) corner of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Eighteen (18), thence East along the South line of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Eighteen (18) to the point of beginning.

BLOCK 45: Beginning at the Southeast corner of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, running thence North to the

North line of West Washington Street, thence West along said North line of West Washington Street to the City Limits, thence South along the City Limits line to a point due West of the South-west

(SW) corner of said Section Eighteen (18), thence East along the South line of the Southwest Quarter (SW 1/4) of Section Eighteen (18), Six (6) South, Three (3) East, to the point of beginning.

BLOCK 46: All that part of the North Half (N 1/2) of Section Thirteen (13), Six (6) South, Three (3) East, lying within the City Limits.

BLOCK 47: All of Section Twelve (12), Six (6) South, Three (3) East, lying within the City Limits.

BLOCK 48: All of the Southwest Quarter (SW 1/4) of Section Nineteen (19), Six (6) South, Three (3) East.

BLOCK 49: All that tract bounded on the North by the North line of Section Nineteen (19), Six (6) South, Three (3) East and by an extension of said line to the West City Limits of Benton, on the East by the East line of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of said Section Nineteen (19), on the South by the South line of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of said Section Nineteen (19) and by an extension of said line to the West City Limits of Benton and on the West by the City Limits of Benton.

BLOCK 50: Beginning at the Northwest (NW) corner of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Nineteen (19), Six (6) South, Three (3) East, running thence South to the North line of Center Street, thence East to the East line of South Main Street, thence North to the Northwest corner of Block No. 6 of Joseph Huddleson's First Addition, thence East to the Southeast (SE) corner of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Nineteen (19), Six (6) South, Three (3) East, thence North to the Northeast (NE) corner of the said Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Nineteen (19), Six (6) South, Three (3) East, thence West to the place of beginning.

BLOCK 51: The Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section Nineteen (19), Six (6) South, Three (3) East.

BLOCK 52: The Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section Nineteen (19), Six (6) South, Three (3) East.

BLOCK 53: The Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of Section Nineteen (19), Six (6) South, Three (3) East.

BLOCK 54: The Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section Nineteen (19), Six (6) South, Three (3) East.

BLOCK 55: Beginning at the center of Section Nineteen (19), thence West to the West line of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section Nineteen (19), thence North to the North line of Center Street, thence East to the East line of South Main Street, thence North to the Northwest corner, Block No. 6, Joseph Huddleson's Addition, thence East to the half section line in Section Nineteen (19), thence South to beginning.

BLOCK 56: Beginning at the Northeast (NE) corner of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section Nineteen (19), Six (6) South, Three (3) East, thence West to the City Limits, thence South to the corner in City Limits, thence East to the corner in City Limits, thence South to East and West half section line in Section Nineteen (19), Six (6) South, Three (3) East, thence East to the East line of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of said Section Nineteen (19), thence North to beginning.

BLOCK 57: All that part of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Nineteen (19), Six (6) South, Three (3) East, lying within the City Limits.

BLOCK 58: All that part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Nineteen (19), Six (6) South, Three (3) East, lying within the City Limits.

BLOCK 59: All that part of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Nineteen (19), Six (6) South, Three (3) East, lying within the City Limits.

BLOCK 60: All that part of the Southeast Quarter (SE 1/4) of Southeast Quarter (SE 1/4) of Section Nineteen (19), Six (6) South, Three (3) East, lying within the City Limits.

- BLOCK 61: The Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section Twenty (20), Six (6) South, Three (3) East.
- BLOCK 62: All that tract bounded on the West by the West line of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Twenty (20) and the West line of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Seventeen (17), Six (6) South, Three (3) East, on the South by the South line of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section Twenty (20), on the East by the City Limits of Benton and on the North by the North line of the South Half (S 1/2) of Blocks 1, 2, and 3 of Park Ridge Addition.
- BLOCK 63: All that part of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section Twenty (20), Six (6) South, Three (3) East, lying within the City Limits.
- BLOCK 64: The Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section Twenty (20), Six (6) South, Three (3) East.
- BLOCK 65: All that part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty (20) Six (6) South, Three (3) East, lying within the City Limits.
- BLOCK 66: All that part of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty (20), Six (6) South, Three (3) East, lying within the City Limits.
- BLOCK 67: All that part of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty (20), Six (6) South, Three (3) East, lying within the City Limits.
- BLOCK 68: All that part of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty (20), Six (6) South, Three (3) East, lying within the City Limits.
- BLOCK 69: All that part of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of Section Twenty-four (24), Six (6) South, Three (3) East, lying within the City Limits.
- BLOCK 70: All that part of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section Twenty-four (24), Six (6) South, Three (3) East, lying within the City Limits.
- BLOCK 71: All that part of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-four (24), Six (6) South, Three (3) East, lying within the City Limits.
- BLOCK 72: All that part of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-four (24), Six (6) South, Three (3) East, lying within the City Limits.

## **SCHEDULE "B"**

Schedule of Description of Drilling Blocks within the limits of Lake Benton and the marginal land owned or controlled by the City, adjacent to the Shore Line of the Lake, all of said drilling blocks being situated in Franklin County, Illinois.

- BLOCK 1: The Southeast Quarter (SE 1/4) of the Northwest (NW 1/4) of the Northwest Quarter (NW 1/4) of Section 32, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 2: The Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section 32, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 3: All that part of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section 31, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.
- BLOCK 4: The Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section 32, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 5: The Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section 32, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 6: The Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section 29, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 7: The Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section 29, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 8: The Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 9: The Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 10: The Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 11: The Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 12: All that part of the Northeast Half (NE 1/2) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.
- BLOCK 13: The Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 14: The Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 15: The Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 16: The Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 17: The Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section 29, in Township 5 South, Range 3 East of the 3rd P.M.

BLOCK 18:

The Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section 29, in Township 5 South, Range 3 East of the 3rd P.M.

- BLOCK 19: All that part of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.
- BLOCK 20: All that part of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.
- BLOCK 21: The Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 22: The Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 23: All that part of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.
- BLOCK 24: All that part of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.
- BLOCK 25: The Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 26: The Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 27: All that part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.
- BLOCK 28: All that part of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.
- BLOCK 29: The Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 30: The Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M.
- BLOCK 31: All that part of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.
- BLOCK 32: All that part of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 30, in Township 5 South, Range 3 East of the 3rd P.M. owned by the City of Benton, Illinois.

## **CHAPTER 29**

### **PROPERTY MAINTENANCE CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>ADMINISTRATION</i></b>	
	<i>Division I – General</i>	
	Section 29-1-1 - Title	29-1
	Section 29-1-2 - Scope	29-1
	Section 29-1-3 - Intent	29-1
	Section 29-1-4 - Severability	29-1
	<i>Division II – Applicability</i>	
	Section 29-1-5 - General	29-2
	Section 29-1-6 - Maintenance	29-2
	Section 29-1-7 - Application of Other Codes	29-2
	Section 29-1-8 - Existing Remedies	29-2
	Section 29-1-9 - Workmanship	29-2
	Section 29-1-10 - Historic Buildings	29-2
	Section 29-1-11 - Referenced Codes and Standards	29-2
	Section 29-1-12 - Requirements Not Covered by Code	29-3
	Section 29-1-13 - Application of References	29-3
	Section 29-1-14 - Other Laws	29-3
	<i>Division III – Property Maintenance Inspection</i>	
	Section 29-1-15 - General	29-3
	Section 29-1-16 - Appointment	29-3
	Section 29-1-17 - Deputies	29-3
	Section 29-1-18 - Liability	29-3
	Section 29-1-19 - Permit to Occupy	29-4
	Section 29-1-20 - Fees	29-4
	<i>Division IV – Duties and Powers of the Code Official</i>	
	Section 29-1-21 - General	29-5
	Section 29-1-22 - Inspections	29-5
	Section 29-1-23 - Right of Entry	29-5
	Section 29-1-24 - Notices and Orders	29-6
	Section 29-1-25 - Department Records	29-6
	Section 29-1-26 - Coordination of Inspections	29-6
	Section 29-1-27 - 29-1-29 Reserved	
	<i>Division V – Approval</i>	
	Section 29-1-30 - Modifications	29-6
	Section 29-1-31 - Alternative Materials, Methods and Equipment	29-6
	Section 29-1-32 - Required Testing	29-6
	Section 29-1-33 - Material and Equipment Reuse	29-7
	Section 29-1-34 - Research Reports	29-7
	<i>Division VI – Violations</i>	
	Section 29-1-35 - Unlawful Acts	29-7
	Section 29-1-36 - Notice of Violation	29-7



<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>ADMINISTRATION (CONTINUED)</i></b>	
	<i>Division VI – Violations (Continued)</i>	
	Section 29-1-37 - Prosecution of Violation	29-7
	Section 29-1-38 - Violation Penalties	29-7
	Section 29-1-39 - Abatement of Violation	29-7
	Section 29-1-40 - Reserved	
	<i>Division VII – Notices and Orders</i>	
	Section 29-1-41 - Notice to Person Responsible	29-7
	Section 29-1-42 - Form	29-8
	Section 29-1-43 - Method of Service	29-8
	Section 29-1-44 - Penalties	29-8
	Section 29-1-45 - Transfer of Ownership	29-8
	Section 29-1-46 - Reserved	
	<i>Division VIII – Unsafe Structures and Equipment</i>	
	Section 29-1-47 - General	29-9
	Section 29-1-48 - Closing of Vacant Structures	29-10
	Section 29-1-49 - Notice	29-11
	Section 29-1-50 - Placarding	29-11
	Section 29-1-51 - Prohibited Occupancy	29-11
	Section 29-1-52 - Abatement Methods	29-11
	Section 29-1-53 - Record	29-11
	Section 29-1-54 - 29-1-59 Reserved	
	<i>Division IX – Emergency Measures</i>	
	Section 29-1-60 - Imminent Danger	29-11
	Section 29-1-61 - Temporary Safeguards	29-12
	Section 29-1-62 - Closing Streets	29-12
	Section 29-1-63 - Emergency Repairs	29-12
	Section 29-1-64 - Cost of Emergency Repairs	29-12
	Section 29-1-65 - Hearing	29-12
	Section 29-1-66 - Reserved	
	<i>Division X - Demolition</i>	
	Section 29-1-67 - General	29-12
	Section 29-1-68 - Notices and Orders	29-12
	Section 29-1-69 - Failure to Comply	29-12
	Section 29-1-70 - Salvage Materials	29-13
	Section 29-1-71 - Reserved	
	<i>Division XI - Means of Appeal</i>	
	Section 29-1-72 - Application for Appeal	29-13
	Section 29-1-73 - Membership of the Board	29-13
	Section 29-1-74 - Notice of Meeting	29-14
	Section 29-1-75 - Open Hearing	29-14
	Section 29-1-76 - Postponed Hearing	29-14
	Section 29-1-77 - Board Decision	29-14
	Section 29-1-78 - Court Review	29-14
	Section 29-1-79 - Stays of Enforcement	29-14
	Section 29-1-80 - Reserved	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>I</b>	<b>ADMINISTRATION (CONTINUED)</b>	
	<i>Division XII – Stop Work Order</i>	
	Section 29-1-81 - Authority	29-14
	Section 29-1-82 - Issuance	29-14
	Section 29-1-83 - Emergencies	29-15
	Section 29-1-84 - Failure to Comply	29-15
<b>II</b>	<b>DEFINITIONS</b>	
	<i>Division I - General</i>	
	Section 29-2-1 - Scope	29-16
	Section 29-2-2 - Interchangeability	29-16
	Section 29-2-3 - Terms Defined in Other Codes	29-16
	Section 29-2-4 - Parts	29-16
	<i>Division II - Definitions</i>	
	Section 29-2-5 - Definitions	29-16
<b>III</b>	<b>GENERAL REQUIREMENTS</b>	
	<i>Division I - General</i>	
	Section 29-3-1 - Scope	29-20
	Section 29-3-2 - Responsibility	29-20
	Section 29-3-3 - Vacant Structures and Land	29-20
	Section 29-3-4 - Reserved	
	<i>Division II - Exterior Property Areas</i>	
	Section 29-3-5 - Sanitation	29-20
	Section 29-3-6 - Grading and Drainage	29-20
	Section 29-3-7 - Sidewalks and Driveways	29-20
	Section 29-3-8 - Weeds	29-20
	Section 29-3-9 - Rodent Harborage	29-20
	Section 29-3-10 - Exhaust Vents	29-21
	Section 29-3-11 - Accessory Structures	29-21
	Section 29-3-12 - Motor Vehicles	29-21
	Section 29-3-13 - Parking Motor Vehicles	29-21
	Section 29-3-14 - Graffiti	29-21
	<i>Division III – Swimming Pools, Spas and Hot Tubs</i>	
	Section 29-3-15 - Swimming Pools	29-21
	Section 29-3-16 - Enclosures	29-21
	Section 29-3-17 - Reserved	
	<i>Division IV - Exterior Structure</i>	
	Section 29-3-18 - General	29-22
	Section 29-3-19 - Unsafe Conditions	29-22
	Section 29-3-20 - Protective Treatment	29-22
	Section 29-3-21 - Premises Identification	29-23
	Section 29-3-22 - Structural Members	29-23
	Section 29-3-23 - Foundation Walls	29-23
	Section 29-3-24 - Exterior Walls	29-23

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>GENERAL REQUIREMENTS (CONTINUED)</b>	
	<i>Division IV - Exterior Structure (Continued)</i>	
	Section 29-3-25 - Roofs and Drainage	29-23
	Section 29-3-26 - Decorative Features	29-23
	Section 29-3-27 - Overhang Extensions	29-23
	Section 29-3-28 - Stairways, Decks, Porches and Balconies	29-23
	Section 29-3-29 - Handrails and Guards	29-23
	Section 29-3-30 - Window, Skylight and Door Frames	29-24
	Section 29-3-31 - Insect Screens	29-24
	Section 29-3-32 - Doors	29-24
	Section 29-3-33 - Basement Hatchways	29-24
	Section 29-3-34 - Guards for Basement Windows	29-24
	Section 29-3-35 - Building Security	29-24
	Section 29-3-36 - Gates	29-24
	<i>Division V - Interior Structure</i>	
	Section 29-3-37 - General	29-25
	Section 29-3-38 - Structural Members	29-25
	Section 29-3-39 - Interior Surfaces	29-25
	Section 29-3-40 - Stairs and Walking Surfaces	29-25
	Section 29-3-41 - Handrails and Guards	29-25
	Section 29-3-42 - Interior Doors	29-25
	<i>Division VI – Component Serviceability</i>	
	Section 29-3-43 - General	29-26
	<i>Division VII – Handrails and Guardrails</i>	
	Section 29-3-44 - General	29-27
	Section 29-3-45 - Reserved	
	<i>Division VIII - Rubbish and Garbage</i>	
	Section 29-3-46 - Accumulation of Rubbish and Garbage	29-27
	Section 29-3-47 - Disposal of Rubbish	29-27
	Section 29-3-48 - Disposal of Garbage	29-27
	Section 29-3-49 - Reserved	
	<i>Division IX – Pest Elimination</i>	
	Section 29-3-50 - Infestation	29-28
	Section 29-3-51 - Owner	29-28
	Section 29-3-52 - Single Occupant	29-28
	Section 29-3-53 - Multiple Occupancy	29-28
	Section 29-3-54 - Occupant	29-28
<b>IV</b>	<b>LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS</b>	
	<i>Division I – General</i>	
	Section 29-4-1 - Scope	29-29
	Section 29-4-2 - Responsibility	29-29
	Section 29-4-3 - Alternative Devices	29-29
	Section 29-4-4 - Reserved	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IV</b>	<b>LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS (CONTINUED)</b>	
	<i>Division II - Light</i>	
	Section 29-4-5 - Habitable Spaces	29-29
	Section 29-4-6 - Common Halls and Stairways	29-29
	Section 29-4-7 - Other Spaces	29-29
	Section 29-4-8 - Reserved	
	<i>Division III - Ventilation</i>	
	Section 29-4-9 - Habitable Spaces	29-30
	Section 29-4-10 - Bathrooms and Toilet Rooms	29-30
	Section 29-4-11 - Cooking Facilities	29-30
	Section 29-4-12 - Process Ventilation	29-30
	Section 29-4-13 - Clothes Dryer Exhaust	29-30
	Section 29-4-14 - Reserved	
	<i>Division IV - Occupancy Limitations</i>	
	Section 29-4-15 - Privacy	29-30
	Section 29-4-16 - Minimum Room Widths	29-30
	Section 29-4-17 - Minimum Ceiling Heights	29-31
	Section 29-4-18 - Bedroom and Living Room Requirements	29-31
	Section 29-4-19 - Overcrowding	29-31
	Section 29-4-20 - Efficiency Unit	29-32
	Section 29-4-21 - Food Preparation	29-32
<b>V</b>	<b>PLUMBING FACILITIES AND FIXTURE REQUIREMENTS</b>	
	<i>Division I - General</i>	
	Section 29-5-1 - Scope	29-33
	Section 29-5-2 - Responsibility	29-33
	<i>Division II - Required Facilities</i>	
	Section 29-5-3 - Dwelling Units	29-33
	Section 29-5-4 - Rooming Houses	29-33
	<i>Division III - Toilet Rooms</i>	
	Section 29-5-5 - Privacy	29-33
	Section 29-5-6 - Floor Surface	29-33
	<i>Division IV - Plumbing Systems and Fixtures</i>	
	Section 29-5-7 - General	29-33
	Section 29-5-8 - Fixture Clearances	29-33
	Section 29-5-9 - Pressure-Relief Valve	29-34
	Section 29-5-10 - Plumbing System Hazards	29-34
	<i>Division V - Water System</i>	
	Section 29-5-11 - General	29-34
	Section 29-5-12 - Contamination	29-34
	Section 29-5-13 - Supply	29-34
	Section 29-5-14 - Water Heating Facilities	29-34
	Section 29-5-15 - Water Heaters Installed in Garages	29-34

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b>PLUMBING FACILITIES AND FIXTURE REQUIREMENTS (CONTINUED)</b>	
	<i>Division VI – Sanitary Drainage System</i>	
	Section 29-5-16 - General	29-34
	Section 29-5-17 - Maintenance	29-35
	Section 29-5-18 - Grease Interceptors	29-35
	<i>Division VII - Storm Drainage</i>	
	Section 29-5-19 - General	29-35
<b>VI</b>	<b>MECHANICAL AND ELECTRICAL REQUIREMENTS</b>	
	<i>Division I - General</i>	
	Section 29-6-1 - Scope	29-36
	Section 29-6-2 - Responsibility	29-36
	<i>Division II - Heating Facilities</i>	
	Section 29-6-3 - Facilities Required	29-36
	Section 29-6-4 - Residential Occupancies	29-36
	Section 29-6-5 - Heat Supply	29-36
	Section 29-6-6 - Room Temperature Measurement	29-36
	<i>Division III - Mechanical Equipment</i>	
	Section 29-6-7 - Mechanical Appliances	29-36
	Section 29-6-8 - Removal of Combustion Products	29-36
	Section 29-6-9 - Clearances	29-37
	Section 29-6-10 - Elevation of Ignition Source	29-37
	Section 29-6-11 - Safety Controls	29-37
	Section 29-6-12 - Combustion Air	29-37
	Section 29-6-13 - Energy Conservation Devices	29-37
	<i>Division IV - Electrical Facilities</i>	
	Section 29-6-14 - Facilities Required	29-37
	Section 29-6-15 - Service	29-37
	Section 29-6-16 - Electrical System Hazards	29-37
	<i>Division V - Electrical Equipment</i>	
	Section 29-6-17 - Installation	29-38
	Section 29-6-18 - Receptacles	29-38
	Section 29-6-19 - Luminaires	29-38
	Section 29-6-20 - Wiring	29-38
	<i>Division VI - Duct Systems</i>	
	Section 29-6-21 - General	29-38
<b>VII</b>	<b>FIRE SAFETY REQUIREMENTS</b>	
	<i>Division I - General</i>	
	Section 29-7-1 - Scope	29-39
	Section 29-7-2 - Responsibility	29-39

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VII</b>	<b>FIRE SAFETY REQUIREMENTS (CONTINUED)</b>	
	<i>Division II - Means of Egress</i>	
	Section 29-7-3 - General	29-39
	Section 29-7-4 - Aisles	29-39
	Section 29-7-5 - Locked Doors	29-39
	Section 29-7-6 - Emergency Escape Openings	29-39
	Section 29-7-7 - Fire Partitions	29-39
	<i>Division III - Fire-Resistance Ratings</i>	
	Section 29-7-8 - Fire-Resistance-Rated Assemblies	29-40
	Section 29-7-9 - Opening Protectives	29-40
	<i>Division V - Fire Protection Systems</i>	
	Section 29-7-10 - General	29-40
	Section 29-7-11 - Smoke Alarms	29-40
	Section 29-7-12 - Power Source	29-40
	Section 29-7-13 - Interconnection	29-41
	Section 29-7-14 - Carbon Monoxide Detectors	29-41
<b>VIII</b>	<b>CRIMINAL NUISANCE ABATEMENT</b>	
	<i>Division I – Nuisance Free Rental Housing</i>	
	Section 29-8-1 - Nuisance Free Rental Housing	29-42
	Section 29-8-2 - Nuisance Free Lease Addendum	29-42
	Section 29-8-3 - Violations	29-42
	Section 29-8-4 - Procedures	29-42
	Section 29-8-5 - Burden of Proof; Procedure; Fines and Remedies	29-43
	Section 29-8-6 - Charge for Nuisance Services	29-46
	Section 29-8-7 - Rental Housing Occupancy and Criminal Nuisance Abatement Permit	29-46
<b>IX</b>	<b>REFERENCED STANDARDS</b>	<b>29-47</b>

## CHAPTER 29

### PROPERTY MAINTENANCE CODE

#### ARTICLE I – ADMINISTRATION

##### DIVISION - GENERAL

**29-1-1**        **TITLE.** These regulations shall be known as the *Property Maintenance Code* of the City of Benton, hereinafter referred to as "this Code". **(101.1)**

**29-1-2**        **SCOPE.** The provisions of this Code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties. **(101.2)**

*[This Section establishes the broad purpose of the Code—to protect the public health, safety and welfare in both existing residential and nonresidential structures and on all existing premises.*

*Four specific areas are addressed in greater detail in subsequent sections:*

(1)                *Establishing minimum maintenance standards for such elements as basic equipment, light, ventilation, heating, sanitation and fire safety.*

(2)                *Fixing responsibility among owners, operators and occupants for following the Code.*

(3)                *Regulating the use of existing structures and premises.*

(4)                *Providing for administration, enforcement and penalties.*

*These four categories provide communities with the tools to reduce risks created by deteriorated or unsafe buildings and help communities upgrade and maintain other existing structures.]*

**29-1-3**        **INTENT.** This Code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the *International Existing Building Code*. **(101.3)**

*[This Code is intended to provide requirements addressing the public health, safety and welfare as they relate to the use and maintenance of existing structures and premises. The Code requires existing structures and premises that are not in compliance with the Code to be altered or repaired to meet the Code. The Code requirements are intended to represent the minimum acceptable level of public health and safety. The International Existing Building Code® (IEBC®) is listed as the required Code for all repairs, alterations, additions and change of occupancies to existing structures.]*

**29-1-4**        **SEVERABILITY.** If a section, subsection, sentence, clause or phrase of this Code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. **(101.4)**

*[Only invalid sections of the Code (as established by the court of jurisdiction) can be set aside. This is essential to safeguard the application of the Code text to situations whereby a provision of the Code is declared illegal or unconstitutional. This Section would preserve the legislative action that put the legal provisions in place.]*

## **DIVISION II - APPLICABILITY**

**29-1-5      GENERAL.** The provisions of this Code shall apply to all matters affecting or relating to structures and premises, as set forth in **Division I**. Where, in a specific case, different sections of this Code specify different requirements, the most restrictive shall govern. **(102.1)**

**29-1-6      MAINTENANCE.** Equipment, systems, devices and safeguards required by this Code or a previous regulation or Code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this Section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this Code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises. **(102.2)**

*[This Section contains general maintenance requirements. The Code specifically prohibits the disconnection of any required utilities for an occupied dwelling. This helps to safeguard persons who have a physical condition and are dependent on these systems. Some examples of this include: a person who has to have electricity to power a kidney dialysis machine; a patient who is on an oxygen system full time; or someone with particularly bad allergies who needs to have an air-conditioning system to help filter the air. Any safety system that exists in a building must be maintained. A fire protection or safety system is not to be removed from a building if it is required by the Code or a previous regulation or code that was in effect when the building was built. This Section also specifies that the owner or the owner's agent is responsible for maintenance, not the tenants of rental property.]*

**29-1-7      APPLICATION OF OTHER CODES.** Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the *International Existing Building Code, International Fuel Gas Code, International Mechanical Code, and International Electrical Code*. Nothing in this Code shall be construed to cancel, modify or set aside any provision of the *Municipal Zoning Code*. **(102.3)**

**29-1-8      EXISTING REMEDIES.** The provision in this Code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary. **(102.4)**

**29-1-9      WORKMANSHIP.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this Code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions. **(102.5)**

**29-1-10      HISTORIC BUILDINGS.** The provisions of this Code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the Code Official to be safe and in the public interest of health, safety and welfare. **(102.6)**

**29-1-11      REFERENCED CODES AND STANDARDS.** The codes and standards referenced in this Code shall be those that are listed in **Article VIII** and considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and the referenced standards, the provisions of this Code shall apply.



**Exception:** Where enforcement of a code provision would violate the conditions of the listing of the equipment or *appliance*, the conditions of the listing shall apply.

(A) **Conflicts.** Where conflicts occur between provisions of this Code and the referenced standards, the provisions of this Code shall apply. (IPMC 102.7.1)

(B) **Provisions in Reference Codes and Standards.** Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this Code, the provisions of this Code, as applicable, shall take precedence over the provisions in the referenced code or standard. **(102.7.2)**

**29-1-12      REQUIREMENTS NOT COVERED BY CODE.** Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare not specifically covered by this Code shall be determined by the Code Official. **(102.8)**

**29-1-13      APPLICATION OF REFERENCES.** References to chapter, article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, article, section or provision of this Code. **(102.9)**

**29-1-14      OTHER LAWS.** The provisions of this Code shall not be deemed to nullify any provisions of local, state or federal law. **(102.10)**

### **DIVISION III – PROPERTY MAINTENANCE INSPECTION**

**29-1-15      GENERAL.** The Department of Property Maintenance Inspection is hereby created and the executive official in charge thereof shall be known as the Code Official. **(103.1)**

**29-1-16      APPOINTMENT.** The Code Official shall be appointed by the Mayor with the advice and consent of the City Council; and the Code Official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority. **(103.2)**

**29-1-17      DEPUTIES.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the Code Official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees. **(103.3)**

**29-1-18      LIABILITY.** The Code Official, member of the board of appeals or employee charged with the enforcement of this Code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this Code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this Code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Code Official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this Code. **(103.4)**

**29-1-19 PERMIT TO OCCUPY.**

(A) **Permit Required.** It shall be unlawful for any person, owner or agent thereof to occupy or sue, or to permit any person to occupy or use any premises for any purpose including the movement of furniture, equipment or other personal property into said premises until a permit to occupy has been issued by the Code Official. The permit so issued shall state that the condition of the premises and its proposed occupation complies with all of the provisions of this Code as far as can be determined by a visual inspections of the premises and a review of the records.

(B) **Application for occupancy.** It shall be unlawful for any person to knowingly make any false statements on an application for permit to occupy a dwelling unit as to the names, relationships, ages, or number of occupants who will occupy the dwelling unit. One of the following documents shall be submitted with application; copy of lease, rent receipt with photo identification, sales contract or closing papers.

(C) **Action on an application.** The Code Official shall examine or cause to be examined all applications for permits within a reasonable time after filing. No certificate of occupancy will be issued until an inspection of the premises has been completed and approved. No inspection shall be required for a dwelling unit that is less than **five (5) years** of age.

(D) **Suspension of permit.** Any permit issued shall become invalid if the occupancy is not commenced within **six (6) months** after issuance of the permit.

(E) **Revocation of permit.** The Code Official may revoke a permit in case of any false statement or misrepresentation of facts in the application on which a permit was based, or in the event a structure or part thereof is condemned pursuant to this Code.

**29-1-20 FEES.** The fees for activities and services performed by the department in carrying out its responsibilities under this Code shall be indicated in the following schedule. **(103.5)**

(A) Inspection Permit Fee of **Fifty Dollars (\$50.00)** shall be paid prior to the City conducting an inspection of a multi-family rental structure (apartments). It shall be the responsibility of the property owner/agent to make advance payment of the fee and schedule the required inspection with the City. An inspection shall be valid for a period of **one (1) year**. The dwelling unit does not have to be reinspected during that period, even if the occupancy changes.

(B) Inspection Permit Fee of **One Hundred Dollars (\$100.00)** shall be paid prior to the City conducting an inspection of a single family residence. It shall be the responsibility of the property owner/agent to make advance payment of the fee and schedule the required inspection with the City. An inspection shall be valid for a period of **one (1) year**. The dwelling unit does not have to be reinspected during that period, even if the occupancy changes.

(C) Inspection Permit Fee of **Seventy Five Dollars (\$75.00)** shall be paid prior to the City conducting an inspection of a manufactured/mobile home. It shall be the responsibility of the property owner/agent to make advance payment of the fee and schedule the required inspection with the City. An inspection shall be valid for a period of **one (1) year**. The dwelling unit does not have to be reinspected during that period, even if the occupancy changes.

(D) Inspection Permit Fee of **One hundred Dollars (\$100.00)** shall be paid prior to the City conducting an inspection of a duplex/condominium. It shall be the responsibility of the property owner/agent to make advance payment of the fee and schedule the required inspection with the City. An inspection shall be valid for a period of **one (1) year**. The dwelling unit does not have to be reinspected during that period, even if the occupancy changes.

(E) A copy of an existing Certificate of Occupancy shall be a fee of **Twenty Dollars (\$20.00)**.

(F) The Certificate of Occupancy fee of **Thirty Dollars (\$30.00)** shall be paid at the time certificate is issued. It shall be the responsibility of the tenant/occupant to apply for certificate of occupancy after application for occupancy has been approved.

(G) A re-inspection fee of **Fifty Dollars (\$50.00)** shall be paid when initial inspections fail or no access to structure. It shall be the responsibility of the property owner/agent to make the advance payment prior to scheduling a re-inspection.

## DIVISION IV – DUTIES AND POWERS OF THE CODE OFFICIAL

**29-1-21      GENERAL.** The code official is hereby authorized and directed to enforce the provisions of this Code. The code official shall have the authority to render interpretations of this Code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Code. **(104.1)**

**29-1-22      Inspections.** The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. (IPMC 104.2)

**29-1-22      INSPECTIONS.** ~~The Code Official~~ shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. **(104.2)**

**29-1-23      RIGHT OF ENTRY.** Where it is necessary to make an inspection to enforce the provisions of this Code, or whenever the Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this Code, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform duties imposed by this Code, provided that if such structure or premises is occupied the Code Official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Code Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry. **(104.3)**

*[This Section establishes the right of the Code Official to enter the premises in order to make the inspections required by Section 29-1-22. The right to enter structures or premises is limited. First, to protect the right of privacy, the owner or occupant must grant the Code Official permission before an interior inspection of the property can be conducted. Permission is not required for inspections that can be accomplished from within the public right-of-way. Second, such access may be denied by the owner or occupant. Unless the inspector has reasonable cause to believe that a violation of the Code exists, access may be unattainable. Third, Code Officials must present proper identification and request admittance during reasonable hours—usually the normal business hours of the establishment—to be admitted. Fourth, inspections must be aimed at securing or determining compliance with the provisions and intent of the regulations that are specifically within the established scope of the Code Official's authority.]*

*Searches of a private residence to gather information for the purpose of enforcing codes, ordinances or regulations are considered unreasonable and are prohibited by the Fourth Amendment to the U.S. Constitution. "Reasonable cause" in the context of this Section must be distinguished from "probable cause", which is required to gain access to property in criminal cases. The burden of proof establishing reasonable cause may vary among jurisdictions. Usually, an inspector must show that the property is subject to inspection under the provisions of the Code; that the interests of the public health, safety and welfare outweigh the individual's right to maintain privacy; and that such an inspection is required solely to determine compliance with the provisions of the Code.*

*Many jurisdictions do not recognize the concept of an administrative warrant and may require the Code Official to prove probable or reasonable cause in order to gain access upon refusal. This burden of proof is usually more substantial, often requiring the Code Official to stipulate in advance why access is needed (usually access is restricted to gathering evidence for seeking an indictment or making an arrest), what specific items or information is sought, its relevance to the case against the individual subject, how knowledge of the relevance of the information or items sought was obtained and how the evidence sought will be used. In all such cases, the right to privacy must always be weighed against the right of the Code Official to conduct an inspection to verify that the public health, safety and welfare are not in jeopardy. Such important and complex constitutional issues should be discussed with the jurisdiction's legal counsel. Jurisdictions should establish procedures for securing the necessary court orders when an inspection is deemed necessary following a refusal.]*

**29-1-24      NOTICES AND ORDERS.** The Code Official shall issue all necessary notices or orders to ensure compliance with this Code. **(104.6)**

**29-1-25      DEPARTMENT RECORDS.** The Code Official shall keep official records of all business and activities of the department specified in the provisions of this Code. Such records shall be retained in the official records for the period required for retention of public record. **(104.6)**

**29-1-26      COORDINATION OF INSPECTIONS.** Whenever in the enforcement of this Code or another code or ordinance, the responsibility of more than one code official of the jurisdiction is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the Code Official having jurisdiction.

**29-1-27 - 29-1-29      RESERVED.**

## **DIVISION V - APPROVAL**

**29-1-30      MODIFICATIONS.** Whenever there are practical difficulties involved in carrying out the provisions of this Code, the Code Official shall have the authority to grant modifications for individual cases, provided the Code Official shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files. **(105.1)**

**29-1-31      ALTERNATIVE MATERIALS, METHODS AND EQUIPMENT.** The provisions of this Code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this Code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability and safety. **(105.2)**

**29-1-32      REQUIRED TESTING.** Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Code Official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction. **(105.3)**

(A) **Test Methods.** Test methods shall be as specified in this Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Code Official shall be permitted to approve appropriate testing procedures performed by an approved agency. **(105.3.1)**

(B) **Test Reports.** Reports of tests shall be retained by the Code Official for the period required for retention of public records. **(105.3.2)**

**29-1-33      MATERIAL AND EQUIPMENT REUSE.** Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved. **(105.5)**

**29-1-34      RESEARCH REPORTS.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Code, shall consist of valid research reports from approved sources. **(105.6)**

## **DIVISION VI - VIOLATIONS**

**29-1-35      UNLAWFUL ACTS.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Code. **(106.1)**

**29-1-36      NOTICE OF VIOLATION.** The Code Official shall serve a notice of violation or order in accordance with **Division VII.** **(106.2)**

**29-1-37      PROSECUTION OF VIOLATION.** Any person failing to comply with a notice of violation or order served in accordance with **Division VII** shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. **(106.3)**

**29-1-38      VIOLATION PENALTIES.** Any person who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by **Section 1-1-20.** Each day that a violation continues after due notice has been served shall be deemed a separate offense. **(106.4)**

**29-1-39      ABATEMENT OF VIOLATION.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises. **(106.5)**

***[Despite the assessment of a penalty in the form of a fine against a violator, the violation itself must still be corrected. Failure to make the necessary corrections will result in the violator being subject to additional penalties as described in the proceeding section.]***

**29-1-40      RESERVED.**

## **DIVISION VII – NOTICES AND ORDERS**

**29-1-41      NOTICE TO PERSON RESPONSIBLE.** Whenever the Code Official determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in **Sections 29-1-42** and **29-1-43** to the person responsible for

the violation as specified in this Code. Notices for condemnation procedures shall also comply with **Section 29-1-49. (107.1)**

**29-1-42**      **FORM.** Such notice prescribed in **Section 29-1-41** shall be in accordance with all of the following:

- (A)              Be in writing.
- (B)              Include a description of the real estate sufficient for identification.
- (C)              Include a statement of the violation or violations and why the notice is being issued.
- (D)              Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code.
- (E)              Inform the property owner of the right to appeal.
- (F)              Include a statement of the right to file a lien in accordance with **Section 29-1-37.**

**(107.2)**

**29-1-43**      **METHOD OF SERVICE.** Such notice shall be deemed to be properly served if a copy thereof is:

- (A)              delivered personally;
- (B)              sent by certified or first-class mail addressed to the last known address; or
- (C)              if the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

All of the services noted above may be expensive and time consuming. In some communities, the courts may consider service to be valid if the notice was sent to the last known address of the owner or owner's agent by regular postage and the notice was not returned by the post office. This method of service is obviously much cheaper and usually faster than waiting for the return of a certified letter. It must, however, be acceptable to the court system. The jurisdiction's attorney should be consulted to determine that the type of service is legally acceptable, reasonably cost effective and timely. **(107.3)**

(D)              **Unauthorized Tampering.** Signs, tags or seals posted or affixed by the Code Official shall not be mutilated, destroyed or tampered with, or removed without authorization from the Code Official. **(107.4)**

**29-1-44**      **PENALTIES.** Penalties for noncompliance with orders and notices shall be as set forth in **Section 29-1-38. (107.4)**

**29-1-45**      **TRANSFER OF OWNERSHIP.** It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation. **(107.5)**

*[When a property has a pending violation order, it is unlawful for an owner to sell, transfer, mortgage, lease or otherwise dispose of the property without either following the order or advising the buyer, mortgagee, etc., of the pending violation. The owner must prove that the buyer has received notice of pending violations by providing the Code Official with a signed, notarized receipt from the new transferee.]*

*Determining who is the current owner of a building is a frustrating and difficult activity. To evade code enforcement action, owners will frequently transfer ownership of their property. This provision of the*

***Code permits the Code Official to cite the seller if he or she did not provide the Code***



***Official with the required notification when the property was transferred; thus, even though the seller may avoid complying with the outstanding violation orders, he or she can still be charged with a violation for failing to provide proof that the transferee was aware of the pending orders.]***

**29-1-46      RESERVED.**

## **DIVISION VIII - - UNSAFE STRUCTURES AND EQUIPMENT**

**29-1-47      GENERAL.** When a structure or equipment is found by the Code Official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this Code. **(108.1)**

***[This Section provides a brief description of conditions where the Code Official is given the authority to condemn an existing structure or equipment. Where a structure or equipment is "unlawful", as described in the text of this Section, that structure or equipment does not comply with the requirements of the Code. The deficiencies are such that an unsafe condition or a condition that is unfit for human occupancy exists.]***

(A)      **Unsafe Structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible. **(108.1.1)**

(B)      **Unsafe Equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure. **(108.1.2)**

(C)      **Structure Unfit for Human Occupancy.** A structure is unfit for human occupancy whenever the Code Official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this Code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public. **(108.1.3)**

(D)      **Unlawful Structure.** An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this Code, or was erected, altered or occupied contrary to law. **(108.1.4)**

***[An unlawful structure is one that has serious deficiencies such that an unsafe condition or a condition that is unfit for human occupancy exists. An unlawful structure does not mean one where there are criminal activities.]***

(E)      **Dangerous Structure or Premises.** For the purpose of this Code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous: **(108.1.5)**

- (1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
- (2) The walking surfaces of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
- (3) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- (4) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not

- so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
- (5) The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
  - (6) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
  - (7) The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, become a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
  - (8) Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
  - (9) A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the Code Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
  - (10) Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the Code Official to be a threat to life or health.
  - (11) Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

**29-1-48 CLOSING OF VACANT STRUCTURES.** If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Code Official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Code Official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource. **(108.2)**

(A) **Authority to Disconnect Service Utilities.** The Code Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this Code and the referenced codes and standards set forth in **Section 29-1-11** in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The Code Official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnect the owner or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter. **(108.2.1)**

**29-1-49      NOTICE.** Whenever the Code Official has condemned a structure or equipment under the provisions of this Section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with **Section 29-1-43**. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in **Section 29-1-42**.

**29-1-50      PLACARDING.** Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Code Official shall post on the premises or on defective equipment, a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard. **(108.4)**

(A) **Placard Removal.** The Code Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be subject to the penalties provided by this Code. **(108.4.1)**

***[Only the Code Official is authorized to remove a condemnation placard. The Code Official is to remove the placard only when the defect or defects have been corrected as required by the Code. Any other person who removes or defaces a placard is in violation of the Code and subject to its penalties.]***

**29-1-51      PROHIBITED OCCUPANCY.** Any occupied structure condemned and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this Code. **(108.5)**

**29-1-52      ABATEMENT METHODS.** The owner, operator or occupant of a building, premises or equipment deemed unsafe by the Code Official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action. **(108.6)**

**29-1-53      RECORD.** The Code Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

**29-1-54 - 29-1-59      RESERVED.**

## **DIVISION IX - EMERGENCY MEASURES**

**29-1-60      IMMINENT DANGER.** When, in the opinion of the Code Official, there is imminent damage of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building, occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: **"This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official."** It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same. **(109.1)**

**29-1-61      TEMPORARY SAFEGUARDS.** Notwithstanding other provisions of this Code, whenever, in the opinion of the Code Official, there is imminent danger due to an unsafe condition, the Code Official shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency. **(109.2)**

**29-1-62      CLOSING STREETS.** When necessary for public safety, the Code Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized. **(109.3)**

**29-1-63      EMERGENCY REPAIRS.** For the purposes of this Section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible. **(109.4)**

**29-1-64      COSTS OF EMERGENCY REPAIRS.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs. **(109.5)**

**29-1-65      HEARING.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals boards, be afforded a hearing as described in this Code. **(109.6)**

**29-1-66      RESERVED.**

## **DIVISION X - DEMOLITION**

**29-1-67      GENERAL.** The Code Official shall order the owner of any premises upon which is located any structure, which in the Code Official's judgement is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than **two (2) years**, to demolish and remove such structure. **(110.1)**

**29-1-68      NOTICES AND ORDERS.** All notices and orders shall comply with **Division VII. (110.2)**

*[Before the Code Official can pursue action to demolish a building in accordance with Section 29-1-67 or 29-1-69, it is imperative that all owners and any other persons with a recorded encumbrance on the property be given proper notice of the demolition plans (See Division VII for notice and order requirements).]*

**29-1-69      FAILURE TO COMPLY.** If the owner of a premises fails to comply with a demolition order within the time prescribed, the Code Official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and

the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. **(110.3)**

**29-1-70      SALVAGE MATERIALS.** When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state, with the approval of the City Council. **(110.4)**

**29-1-71      RESERVED.**

## **DIVISION XI - MEANS OF APPEAL**

**29-1-72      APPLICATION FOR APPEAL.** Any person directly affected by a decision of the Code Official or a notice or order issued under this Code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within **twenty (20) days** after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means. The fee for an application of appeal of **Fifty Dollars (\$50.00)** is to be paid at the time application is filed and shall be non-refundable. **(111.1)**

**29-1-73      MEMBERSHIP OF THE BOARD.** The Board of Appeals shall consist of a minimum of **five (5) members** who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees or elected officials of this municipality. The Code Official shall be an ex-officio member but shall have no vote on any matter before the Board. The Board shall be appointed by the Mayor with the advice and consent of the City Council, and shall serve staggered and overlapping terms. The term of office shall be **five (5) years.** **(111.2)**

(A) **Alternate Members.** The Mayor shall appoint **two (2) or more alternate members** who shall be called by the Board Chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for Board membership. Alternate members shall be appointed for **five (5) years** or until a successor has been appointed. **(111.2.1)**

*[This Section authorizes the Mayor to appoint two (2) alternate members who are to be available if the principal members of the Board are absent or disqualified. Alternate members must possess the same qualifications as the principal members.]*

(B) **Chairman.** The Board shall annually select one of its members to serve as Chairman. **(111.2.2)**

(C) **Disqualification of Member.** A member shall not hear an appeal in which that member has any personal, professional or financial interest. **(111.2.3)**

*[All members must disqualify themselves regarding any appeal in which they have a personal, professional or financial interest.]*

(D) **Secretary.** The Mayor shall designate a qualified person to serve as Secretary to the Board. The Secretary shall file a detailed record of all proceedings in the office of the Mayor. **(111.2.4)**

*[The Secretary is required to file a detailed record of all proceedings in the office of the Chief Administrative Officer.]*

(E) **Compensation of Members.** Compensation of members shall be determined by the City Council in the annual budget. **(111.2.5)**

**29-1-74**      **NOTICE OF MEETING.** The Board shall meet upon notice from the Chairman, within **ten (10) days** of the filing of an appeal, or at stated periodic meetings. **(111.3)**

**29-1-75**      **OPEN HEARING.** All hearings before the Board shall be open to the public. The appellant, that appellant's representative, the Code Official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than **two-thirds (2/3)** of the Board membership. **(111.4)**

(A)      **Procedure.** The Board shall adopt and make available to the public through the Secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received. **(111.4.1)**

**29-1-76**      **POSTPONED HEARING.** When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. **(111.5)**

**29-1-77**      **BOARD DECISION.** The Board shall modify or reverse the decision of the Code Official only by a concurring vote of **three (3) members.** **(111.6)**

(A)      **Resolution.** The decision of the Board shall be by resolution. Certified copies shall be furnished to the appellant and to the Code Official.

(B)      **Administration.** The Code Official shall take action with **five (5) working days** in accordance with the decision of the Board.

***[To avoid any undue hindrance in the progress of construction, the Code Official is required to act without delay based on the Board's decision. This action may be to enforce the decision or to seek judicial relief if the Board's action can be demonstrated to be inappropriate.]***

**29-1-78**      **COURT REVIEW.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the Mayor. **(111.7)**

**29-1-79**      **STAYS OF ENFORCEMENT.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board. **(111.8)**

**29-1-80**      **RESERVED.**

## **DIVISION XII – STOP WORK ORDER**

**29-1-81**      **AUTHORITY.** Whenever the Code Official finds any work regulated by this Code being performed in a manner contrary to the provisions of this Code or in a dangerous or unsafe manner, the Code Official is authorized to issue a stop work order. **(112.1)**

**29-1-82**      **ISSUANCE.** A stop work order shall be in writing and shall be given to the owner of the property, to the owners agent, or to person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume. **(112.2)**

**29-1-83      EMERGENCIES.** Where an emergency exists, the Code Official shall not be required to give a written notice prior to stopping the work. **(112.3)**

**29-1-84      FAILURE TO COMPLY.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than **One Hundred Dollars (\$100.00)** or more than **One Thousand Dollars (\$1,000.00)**. Each day that a violation continues shall be considered a separate offense.

## ARTICLE II - DEFINITIONS

### DIVISION I - GENERAL

**29-2-1**        **SCOPE.** Unless otherwise expressly stated, the following terms shall, for the purposes of this Code, have the meanings shown in this Article. **(201.1)**

**29-2-2**        **INTERCHANGEABILITY.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular. **(201.2)**

**29-2-3**        **TERMS DEFINED IN OTHER CODES.** Where terms are not defined in this Code and are defined in the *International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Residential Code, State of Illinois Plumbing Code, International Residential Code*, or NFPA 70, such terms shall have the meanings ascribed to them as in those codes. **(201.3)**

**29-2-4**        **PARTS.** Whenever the words "dwelling unit", "dwelling", "premises", "building", "rooming house", "rooming unit", "housekeeping unit", or "story" are stated in this Code, they shall be construed as though they were followed by the words "or any part thereof".

### DIVISION II - DEFINITIONS

**29-2-5**        **DEFINITIONS.**

**"ANCHORED":** Secured in a manner that provides positive connection.

**"APPLIANCE":** A device or apparatus that is manufactured and designed to utilize energy and for which this Code provides specific requirements.

**"APPROVED":** Approved by the Code Official.

**"BASEMENT":** That portion of a building which is partly or completely below grade.

**"BATHROOM":** A room containing plumbing fixtures including a bathtub or shower.

**"BEDROOM":** Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

**"CODE OFFICIAL":** The official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

**"COMBUSTION AIR":** The air provided to fuel-burning equipment including air for fuel combustion, draft hood dilution and ventilation of the equipment enclosure.

**"CONDEMN":** To adjudge unfit for occupancy.

**"DETACHED":** When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

**"DETERIORATION":** To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

**"DWELLING UNIT":** A single unit providing complete, independent living facilities for **one (1)** or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**"EASEMENT":** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

**"EQUIPMENT":** All piping, ducts, vents, control devices and other components of systems other than appliances that are permanently installed and integrated to provide control of environmental conditions for buildings. This definition shall also include other systems specifically regulated in this Code.



**"EQUIPMENT SUPPORT"**: Those structural members or assemblies of members or manufactured elements, including braces, frame, lugs.

**"EXTERIOR PROPERTY"**: The open space on the premises and on adjoining property under the control of owners or operators of such premises.

**"GARBAGE"**: The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**"GRAFFITI"**: Graffiti means and includes any unauthorized inscription, word, figure, or design or collections thereof, which marked, etched, scratched, painted, drawn or printed on any structural component of any building, structure, or other facility, regardless of the nature of the material of that structural component.

**"GROUP R"**: Residential occupancies containing sleeping units or more than **two (2)** dwelling units where the occupants are primarily permanent in nature.

**"GUARD"**: A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**"HABITABLE SPACE"**: Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

**"HAZARDOUS LOCATION"**: Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

**"HEARING OFFICER"**: Means a City employee or an officer or agent of the City, other than a police officer or sheriff, whose duty is to do the following:

(A) Preside at an administrative hearing called to determine whether or not a property is or was a nuisance property;

(B) Hear testimony and accept evidence from the Sheriff, the person in charge/owner/occupant, and all interested parties relevant to the existence of the nuisance activity;

(C) Preserve and authenticate the transcript and record of the hearing and all exhibits and evidence introduced at the hearing; and issue and sign a written finding, decision, order stating whether a violation of this Article exists.

**"HOUSEKEEPING UNIT"**: A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

**"IGNITION SOURCE"**: A flame, spark or hot surface capable of igniting flammable vapors or fumes. Such sources include appliance burners, burner ignitions and electrical switching devices.

**"IMMINENT DANGER"**: A condition which could cause serious or life-threatening injury or death at any time.

**"INFESTATION"**: The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

**"INOPERABLE MOTOR VEHICLE"**: A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**"LABELED"**: Equipment, materials or products to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

**"LET FOR OCCUPANCY OR LET"**: To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a recorded or unrecorded agreement of contract for the sale of land.

**"LIVING SPACE"**: Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

**"NEGLECT"**: The lack of proper maintenance for a building or structure.

**"NUISANCE ACTIVITY"**: Mean any act that would constitute a felony or Class A misdemeanor under the laws of the State of Illinois.

**"NUISANCE PROPERTY":** Means any property on which the Police Department has **one (1)** or more official police reports of nuisance activity which has occurred within a **one (1) year** period.

**"OCCUPANCY":** The purpose for which a building or portion thereof is utilized or occupied.

**"OCCUPANT":** Any individual living or sleeping in a building, or having possession of a space within a building.

**"OPENABLE AREA":** The part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**"OPERATOR":** Means any agent of the owner, manager, contract purchaser, executor, administrator, trustee or guardian of the estate of the owner, person who is in charge, care or control of such premises in which buildings or dwelling units are rented shall be bound to comply with this Code and the rules and regulations adopted pursuant thereto to the same extent as if he/she were the owner.

**"OWNER":** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**"PERSON":** Means any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying, or using property in the City.

**"PERSON IN CHARGE":** Means any person, in actual or constructive possession of a property, including, but not limited to, an owner or occupant of property under his ownership or control.

**"PEST ELIMINATION":** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serves as their food or water; by the approved pest elimination methods.

**"PREMISES":** Means the lot, plot or parcel of land, and includes the buildings, structures, and dwelling units thereon.

**"PROPERTY":** Means any property, including land and that which is affixed, incidental, or appurtenance to land, including, but not limited to, any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit, or portion thereof, or any business equipment, whether or not permit. For property consisting of more than one unit, property may be limited to the unit or portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all units of property, including, without limitation other structures erected on the property and areas used for parking, loading, and landscaping.

**"PUBLIC WAY":** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**"RENTAL HOUSING":** For purposes of this Code, "Rental Housing" shall constitute any dwelling unit, rooming house, rooming unit, or sleeping unit being made available to a tenant in exchange for compensation of any kind. Rental Housing shall also include:

- (A) lots or pads made available for placement of mobile homes thereon and
- (B) properties that primarily operate as hotels and motels.

**Exceptions:** Rental Housing, for the purposes of this Chapter, shall not include the following:

(A) Lawfully operating housing for the elderly that meets the definition of "housing for older persons," as provided in 42 U.S.C. § 3607.

(B) Lawfully operating group homes, governed by the Specialized Living Centers Act, 405 ILCS 3/1 et seq., as amended, dealing with the developmentally disabled, and such other similar non-profit uses governed by state or federal laws, rules or regulations if such similar uses are required to be exempted by law.

(C) Owner-occupied single-family dwellings having not more than one authorized boarder.

**"ROOMING HOUSE":** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

**"ROOMING UNIT":** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

**"RUBBISH":** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**"SLEEPING UNIT":** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are part of a dwelling unit are not sleeping units.

**"STRUCTURE":** That which is built or constructed or a portion thereof.

**"TENANT":** A person, occupant of leased or rented premises, corporation, partnership or group whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**"ULTIMATE DEFORMATION":** The deformation at which failure occurs and which be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

**"VENTILATION":** The natural or mechanical process of supplying conditioned air to, or removing such air from, any space.

**"WORKMANLIKE":** Executed in a skilled manner, e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**"YARD":** An open space on the same lot with a building, structure or use, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in these regulations.

**"YARD, FRONT":** A yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

**"YARD, REAR":** A yard extending across the full width of the lot between the rear lot line and the nearest line or point of the principal building.

**"YARD, SIDE":** A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

## **ARTICLE III - GENERAL REQUIREMENTS**

### **DIVISION I - GENERAL**

**29-3-1**        **SCOPE.** The provisions of this Chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property. **(301.1)**

**29-3-2**        **RESPONSIBILITY.** The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control. **(301.2)**

**29-3-3**        **VACANT STRUCTURES AND LAND.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety. **(301.3)**

**29-3-4**        **RESERVED.**

### **DIVISION II - EXTERIOR PROPERTY AREAS**

**29-3-5**        **SANITATION.** All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition. **(302.1)**

**29-3-6**        **GRADING AND DRAINAGE.** All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. **(302.2)**

(A)            **Exception:** Approved retention areas and reservoirs.

**29-3-7**        **SIDEWALKS AND DRIVEWAYS.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. **(302.3)**

**29-3-8**        **WEEDS.** (See Chapter 25; Article II)

**29-3-9**        **RODENT HARBORAGE.** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation. **(302.5)**

**29-3-10      EXHAUST VENTS.** Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate waste directly upon abutting or adjacent public or private property or that of another tenant. **(302.6)**

**29-3-11      ACCESSORY STRUCTURES.** All accessory structures, including detached garages, fence and walls, shall be maintained structurally sound and in good repair. **(302.7)**

**29-3-12      MOTOR VEHICLES.** Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. **(302.8)**

**Exception:** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

**29-3-13      PARKING MOTOR VEHICLES.** The parking of vehicles on any surface that is not an imposed surface in the front or side yard areas of a residential zone district is prohibited. Boats, travel trailers and utility trailers are subject to the **Zoning Code – Chapter 40.**

(A) **Improved Surface.** Means an area, excluding a driveway, the surface of which is comprised of a selected materials constructed to a depth sufficient to distribute the weight of a vehicle over such area to preclude deterioration and deflection of the area due to vehicle load, adverse weather, or other conditions.

**29-1-14      GRAFFITI.** All structures and exterior property shall be kept free from graffiti. The existence of graffiti on building, or on structures, including but not limited to fences or walls located upon any property is declared a nuisance. Where graffiti is found, a notice shall be issued describing the nuisance and shall establish a reasonable time limit for the abatement thereof by such owner, which time shall be not less than **five (5) days** nor more than **fourteen (14) days** after service of such notice. The notice shall also specify clearly that graffiti established on a painted surface shall be painted over with a color consistent with the predominant tone of the building or structure, and that graffiti established on any unpainted masonry or wood surface shall be removed by clearing so that such unpainted surface is returned.

### **DIVISION III – SWIMMING POOLS, SPAS AND HOT TUBS**

**29-3-15      SWIMMING POOLS.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. **(303.1)**

**29-3-16      ENCLOSURES.** Private swimming pools, hot tubs and spas, containing water more than **twenty-four (24) inches (610 mm)** in depth shall be completely surrounded by a fence or barrier at least **forty-eight (48) inches (1219 mm)** in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than **fifty-four (54) inches (1372 mm)** above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of **six (6) inches (152 mm)** from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. **(303.2)**

**29-3-17**

**RESERVED.**

## **DIVISION IV - EXTERIOR STRUCTURE**

**29-3-18      GENERAL.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. **(304.1)**

**29-1-19      UNSAFE CONDITIONS.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Code of Ordinances as required for existing buildings: **(304.1.1)**

- (A) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
- (B) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
- (C) Structures or components thereof that have reached their limit state;
- (D) Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
- (E) Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;
- (F) Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (G) Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (H) Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
- (I) Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects.
- (J) Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (K) Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
- (L) Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or
- (M) Chimneys, cooling towers, smokestacks and similar appurtenance not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

**Exceptions:**

- 1. When substantiated otherwise by an approved method.
- 2. Demolition of unsafe conditions shall be permitted when approved by the Code Official.

**29-3-20      PROTECTIVE TREATMENT.** All exterior surfaces, including but not limited to, doors door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint



shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the

building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement. **(304.2)**

**29-3-21      PREMISES IDENTIFICATION.** Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of **four (4) inches (102 mm)** high with a minimum stroke width of **one-half (0.5) inch (12.7 mm)**. **(304.3)**

**29-3-22      STRUCTURAL MEMBERS.** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads. **(304.4)**

**29-3-23      FOUNDATION WALLS.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests. **(304.5)**

**29-3-24      EXTERIOR WALLS.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration. **(304.6)**

**29-3-25      ROOFS AND DRAINAGE.** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampers or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspout shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance. **(304.7)**

**29-3-26      DECORATIVE FEATURES.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition. **(304.8)**

**29-3-27      OVERHANG EXTENSIONS.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment. **(304.9)**

**29-3-28      STAIRWAYS, DECKS, PORCHES AND BALCONIES.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. **(304.10)**

**29-3-29      HANDRAILS AND GUARDS.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. **(304.12)**

**29-3-30**      **WINDOW, SKYLIGHT AND DOOR FRAMES.** Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. **(304.13)**

(A)      **Glazing.** All glazing materials shall be maintained free from cracks and holes. **(304.13.1)**

(B)      **Openable Windows.** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware. **(304.13.2)**

**29-3-31**      **INSECT SCREENS.** During the period from April to October, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than **16 mesh per inch (16 mesh per 25 mm)** and every swinging door shall have a self-closing device in good working condition. **(304.14)**

(A)      **Exception:** Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

**29-3-32**      **DOORS.** All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with **Section 29-7-5.**

**29-3-33**      **BASEMENT HATCHWAYS.** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water. **(304.16)**

**29-3-34**      **GUARDS FOR BASEMENT WINDOWS.** Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents. **(304.17)**

**29-3-35**      **BUILDING SECURITY.** Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within. **(304.18)**

(A)      **Doors.** Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock meeting specifications set forth herein. Such deadbolt locks shall be operated only by the turning of a knob or a key and shall have a lock throw of not less than **one (1) inch.** For the purpose of this Section, a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt locks shall be installed according to manufacturer's specifications and maintained in good working order. All deadbolt locks required by this Section shall be designed and installed in such a manner so as to be operable inside of the dwelling unit, rooming unit or housekeeping unit without the use of a key, tool, combination thereof or any other special knowledge or effort. **(304.18.1)**

(B)      **Windows.** Operable windows located in whole or in part within **six (6) feet (1828 mm)** above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking devices. **(304.18.2)**

(C)      **Basement Hatchways.** Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry. **(304.18.3)**

**29-3-36**      **GATES.** All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates. **(304.19)**

## **DIVISION V - INTERIOR STRUCTURE**

**29-3-37      GENERAL.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, **two (2)** or more dwelling units or **two (2)** or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property. **(305.1)**

(A) **Unsafe Conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with **Chapter 6 Building Regulations: (305.1.1)**

- (1) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
- (2) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads and load effects;
- (3) Structures or components thereof that have reached their limit state;
- (4) Structural members are incapable of supporting nominal loads and load effects;
- (5) Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (6) Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (7) When substantiated otherwise by an approved method.
- (8) Demolition of unsafe conditions shall be permitted when approved by the Code Official.

**29-3-38      STRUCTURE MEMBERS.** All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads. **(305.2)**

**29-3-39      INTERIOR SURFACES.** All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected. **(305.3)**

**29-3-40      STAIRS AND WALKING SURFACES.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair. **(305.4)**

**29-3-41      HANDRAILS AND GUARDS.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition. **(305.5)**

**29-3-42      INTERIOR DOORS.** Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware. **(305.6)**

## DIVISION VI – COMPONENT SERVICEABILITY

**29-3-43      GENERAL.** The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. **(306.1)**

(A) **Unsafe Conditions.** Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with **Chapter 6 Building Regulations** as required for existing buildings: **(306.1.1)**

- (1) Soils that have been subjected to any of the following conditions:
  - (a) Collapse of footing or foundation systems;
  - (b) Damage to footing, foundation, concrete or other structural element due to soil expansion;
  - (c) Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
  - (d) Inadequate soil as determined by a geotechnical investigation;
  - (e) Where the allowable bearing capacity of the soil is in doubt; or
  - (f) Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
- (2) Concrete that has been subject to any of the following conditions:
  - (a) Deterioration;
  - (b) Ultimate deformation;
  - (c) Fractures;
  - (d) Fissures;
  - (e) Spalling;
  - (f) Exposed reinforcement; or
  - (g) Detached, dislodged or failing connections.
- (3) Aluminum that has been subject to any of the following conditions:
  - (a) Deterioration;
  - (b) Corrosion;
  - (c) Elastic deformation;
  - (d) Ultimate deformation;
  - (e) Stress or stain cracks;
  - (f) Joint fatigue; or
  - (g) Detached, dislodged or failing connections.
- (4) Masonry that has been subject to any of the following conditions:
  - (a) Deterioration;
  - (b) Ultimate deformation;
  - (c) Fractures in masonry or mortar joints;
  - (d) Fissures in masonry or mortar joints;
  - (e) Spalling;
  - (f) Exposed reinforcement; or
  - (g) Detached, dislodged or failing connections.
- (5) Steel that has been subject to any of the following conditions:
  - (a) Deterioration;
  - (b) Elastic deformation;
  - (c) Ultimate deformation;
  - (d) Metal fatigue; or
  - (e) Detached, dislodged or failing connections.
- (6) Wood that has been subject to any of the following conditions:
  - (a) Ultimate deformation;
  - (b) Deformation;
  - (c) Damages from insects, rodents and other vermin;

(d) Fire damage beyond charring;

- (e) Significant splits and cracks;
- (f) Horizontal shear cracks;
- (g) Vertical shear cracks;
- (h) Inadequate support;
- (i) Detached, dislodged or failing connections; or
- (j) Excessive cutting and notching.

**Exception:**

- (A) When substantiated otherwise by an approved method.
- (B) Demolition of unsafe conditions shall be permitted when approved by the Code Official.

## **DIVISION VII – HANDRAILS AND GUARDRAILS**

**29-3-44      GENERAL.** Every exterior and interior flight of stairs having more than **four (4) risers** shall have a handrail on one side of the stairs and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than **thirty (30) inches (762 mm)** above the floor or grade below shall have guards. Handrails shall not be less than **thirty (30) inches (762 mm)** in height or more than **forty-two (42) inches (1067 mm)** in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than **thirty (30) inches (762 mm)** in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface. **(307.1)**

**Exception:** Guards shall not be required where exempted by the adopted Building Code.

**29-3-45      RESERVED.**

## **DIVISION VIII - RUBBISH AND GARBAGE**

**29-3-46      ACCUMULATION OF RUBBISH OR GARBAGE.** All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage. **(308.1)**

**29-3-47      DISPOSAL OF RUBBISH.** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers. **(308.2)**

(A) **Rubbish Storage Facilities.** The owner of every occupied premise shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish. **(308.2.1)**

(B) **Refrigerators.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors. **(308.2.2)**

**29-3-48      DISPOSAL OF GARBAGE.** Every occupant of a structure shall dispose of all rubbish garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers. **(308.3)**

(A) **Garbage Facilities.** The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leakproof, covered, outside garbage container. **(308.3.1)**

(B) **Containers.** The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal. **(308.3.2)**

**29-3-49      RESERVED.**

## **DIVISION IX – PEST ELIMINATION**

**29-3-50      INFESTATION.** All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation. **(309.1)**

**29-3-51      OWNER.** The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure. **(309.2)**

**29-3-52      SINGLE OCCUPANT.** The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises. **(309.2)**

**29-3-53      MULTIPLE OCCUPANCY.** The owner of a structure containing **two (2)** or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination. **(309.4)**

**29-3-54      OCCUPANT.** The occupant of any structure shall be responsible for the continued rat-free condition of the structure, and if the occupant fails to maintain the rat-free condition, the cost of extermination shall be the responsibility of the occupant.

(A) **Exception:** Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination. **(309.5)**



## ARTICLE IV - LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

### DIVISION I - GENERAL

**29-4-1**        **SCOPE.** The provisions of this Chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure. **(401.1)**

**29-4-2**        **RESPONSIBILITY.** The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this Chapter. **(401.2)**

**29-4-3**        **ALTERNATIVE DEVICES.** In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *International Building Code* shall be permitted. **(401.3)**

**29-4-4**        **RESERVED.**

### DIVISION II - LIGHT

**29-4-5**        **HABITABLE SPACES.** Every habitable space shall have at least **one (1) window** of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be **eight percent (8%)** of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than **three (3) feet (914 mm)** from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

**Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least **eight percent (8%)** of the floor area of the interior room or space, but not less than **twenty-five (25) square feet (2.33 m<sup>2</sup>)**. The exterior glazing area shall be based on the total floor area being served. **(402.1)**

**29-4-6**        **COMMON HALLS AND STAIRWAYS.** Every common hall and stairway in residential occupancies, other than in one-and two-family dwellings, shall be lighted at all times with at least a **sixty (60) watt** standard incandescent light bulb for each **two hundred (200) square feet (19 m<sup>2</sup>)** of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than **thirty (30) feet (9144 mm)**. In other than residential occupancies, means of egress, including exterior means of egress stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of **one (1) footcandle (11 lux)** at floors, landings and treads. **(402.2)**

**29-4-7**        **OTHER SPACES.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliance, equipment and fixtures. **(402.3)**

**29-4-8**        **RESERVED.**

### DIVISION III - VENTILATION

**29-4-9      HABITABLE SPACES.** Every habitable space shall have at least **one (1)** operable window. The total operable area of the window in every room shall be equal to at least **forty-five percent (45%)** of the minimum glazed area required in **Section 29-4-5**.

**Exception:** Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least **eight percent (8%)** of the floor area of the interior room or space, but not less than **twenty-five (25) square feet (2.33 m<sup>2</sup>)**. The ventilation openings to the outdoors shall be based on a total floor area being ventilated. **(403.1)**

**29-4-10      BATHROOMS AND TOILET ROOMS.** Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by **Section 29-4-9**, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated. **(403.2)**

**Exception:** This Section shall not apply to existing nonconforming buildings or structures.

**29-4-11      COOKING FACILITIES.** Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit. **(403.3)**

**Exception:**

- (A) Where specifically approved in writing by the Code Official.
- (B) Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

**29-4-12      PROCESS VENTILATION.** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space. **(403.4)**

**29-4-13      CLOTHES DRYER EXHAUST.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacture's instructions. **(403.5)**

**Exception:** Listed and labeled condensing (ductless) clothes dryers.

**29-4-14      RESERVED.**

### DIVISION IV - OCCUPANCY LIMITATIONS

**29-4-15      PRIVACY.** Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces. **(404.1)**

**29-4-16      MINIMUM ROOM WIDTHS.** A habitable room, other than a kitchen, shall not be less than **seven (7) feet (2134 mm)** in any plan dimension. Kitchens shall have a clear passageway of not

less than **three (3) feet (914 mm)** between counterfronts and appliances or counterfronts and walls.  
**(404.2)**

**Exception:** This Section shall not apply to existing nonconforming buildings or structures.

**29-4-17 MINIMUM CEILING HEIGHTS.** Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than **seven (7) feet (2134 mm). (404.3)**

**Exceptions:**

(A) In one- and two-family dwellings, beams or girders spaced not less than **four (4) feet (1219 mm)** on center and projecting not more than **six (6) inches (152 mm)** below the required ceiling height.

(B) Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than **six (6) feet eight (8) inches (2033 mm)** with not less than **six (6) feet four (4) inches (1932 mm)** of clear height under beams, girders, ducts and similar obstructions.

(C) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least **seven (7) feet (2134 mm)** over not less than **one-third (1/3)** of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of **five (5) feet (1524 mm)** or more shall be included.

(D) This Section shall not apply to existing nonconforming buildings or structures.

**29-4-18 BEDROOM AND LIVING ROOM REQUIREMENTS.** Every bedroom and living room shall comply with the requirements of **Sections 29-4-18(A) through 29-4-18(F). (404.4)**

(A) **Room Area.** Every living room shall contain at least **one hundred twenty (120) square feet (11.2 m<sup>2</sup>)** and every bedroom shall contain a minimum of **seventy (70) square feet (6.5 m<sup>2</sup>)** and every bedroom occupied by more than one person shall contain a minimum of **fifty (50) square feet (4.6 m<sup>2</sup>)** of floor area for each occupant thereof. **(404.4.1)**

(B) **Closet.** Bedrooms shall contain at least **one (1) closet** or contain at least **nine (9) square feet** or an approved wardrobe cabinet.

(C) **Access From Bedroom.** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces. **(404.4.2)**

**Exception:**

(1) Units that contain fewer than **two (2) bedrooms**.

(2) Nonconforming use.

(D) **Water Closet Accessibility.** Every bedroom shall have access to at least **one (1) water closet** and **one (1) lavatory** without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least **one (1) water closet** and lavatory located in the same story as the bedroom or an adjacent story. **(404.4.3)**

**Exception:** Nonconforming use.

(E) **Prohibited Occupancy.** Kitchens and nonhabitable spaces shall not be used for sleeping purposes. **(404.4.4)**

(F) **Other Requirements.** Bedrooms shall comply with the applicable provisions of this Code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this Chapter; the plumbing facilities and water-heating facilities requirements of **Article V**; the heating facilities and electrical receptacle requirements of **Article VI**; and the smoke detector and emergency escape requirements of **Article VII. (404.4.5)**

**29-4-19 OVERCROWDING.** Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of **Table 29-4-19. (404.5)**

**Table 29-4-19**  
**MINIMUM AREA REQUIREMENTS**

Space	Minimum area in square feet		
	1-2 occupants	3-5 occupants	6 or more
Living room(a,b) Dining room (a,b)	120 No requirements	120 80	150 100
Bedrooms	Shall comply with Section 29-4-18(A)		

**For SI: 1 square foot = 0.093 m<sup>2</sup>**

**Note a.** See Section 29-4-19(B) for combined living room/dining room spaces.

**Note b.** See Section 29-4-19(A) for limitations on determining the minimum occupancy area for sleeping purposes.

(A) **Sleeping Area.** The minimum occupancy area required by **Table 29-4-19** shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with **Section 29-4-18. (404.5.1)**

**Exception.**

- (1) Nonconforming use.
- (2) Manufactured homes.
  - (a) All bedrooms shall have at least **fifty (50) square feet** of floor area.
  - (b) Bedrooms designed for **two (2)** or more people shall have **seventy (70) square feet** of floor area plus **fifty (50) square feet** for each person in excess of **two (2)**. (HUD 3280.109)

(B) **Combined Spaces.** Combined living room and dining room spaces shall comply with the requirements of **Table 29-4-19** if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room. **(404.5.2)**

**29-4-20** **EFFICIENCY UNIT.** Nothing in this Section shall prohibit an efficiency living unit from meeting the following requirements:

(A) A unit occupied by not more than **one (1) occupant** shall have a minimum clear floor area of **one hundred twenty (120) square feet (11.2 m<sup>2</sup>)**. A unit occupied by **two (2) occupants** shall have a minimum clear floor area of **two hundred twenty (220) square feet (20.4 m<sup>2</sup>)**. A unit occupied by **three (3) occupants** shall have a minimum clear floor area of **three hundred twenty (320) square feet (29.7 m<sup>2</sup>)**. These required areas shall be exclusive of the areas required by paragraphs (B) and (C).

(B) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of **thirty (30) inches (762 mm)** in front. Light and ventilation conforming to this Code shall be provided.

(C) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(D) The maximum number of occupants shall be **three (3)**.

**29-4-21** **FOOD PREPARATION.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage. **(404.7)**

## **ARTICLE V - PLUMBING FACILITIES AND FIXTURE REQUIREMENTS**

### **DIVISION I - GENERAL**

**29-5-1**        **SCOPE.** The provisions of this Chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided. **(501.1)**

**29-5-2**        **RESPONSIBILITY.** The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this Chapter. **(501.2)**

### **DIVISION II - REQUIRED FACILITIES**

**29-5-3**        **DWELLING UNITS.** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory. **(502.1)**

**29-5-4**        **ROOMING HOUSES.** At least **one (1)** water closet, lavatory and bathtub or shower shall be supplied for each **four (4)** rooming units. **(502.2)**

### **DIVISION III - TOILET ROOMS**

**29-5-5**        **PRIVACY.** Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling. **(503.2)**

**29-5-6**        **FLOOR SURFACE.** In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition. **(503.4)**

### **DIVISION IV – PLUMBING SYSTEMS AND FIXTURES**

**29-5-7**        **GENERAL.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition. **(504.1)**

**29-5-8**        **FIXTURE CLEARANCES.** Plumbing fixtures shall have adequate clearance for usage and cleaning. **(504.2)**

**29-5-9            PRESSURE-RELIEF VALVE.** Boilers shall be equipped with pressure-relief valves with minimum rated capacities for equipment served. Pressure relief valves shall be set at the maximum rating of the boiler. Discharge shall be piped to drains by gravity to within **eighteen (18) inches (457 mm)** of the floor or to an open receptor. **(IRC M2002.4)**

**29-5-10           PLUMBING SYSTEM HAZARDS.** Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard. **(504.3)**

## **DIVISION V - WATER SYSTEM**

**29-5-11           GENERAL.** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixtures shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *Illinois Plumbing Code*. **(505.1)**

**29-5-12           CONTAMINATION.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sinks faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker. **(505.2)**

**29-5-13           SUPPLY.** The water supply system shall be installed and maintained provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixture to function properly, safely, and free from defects and leaks. **(505.3)**

**29-5-14           WATER HEATING FACILITIES.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of not less than **one hundred (100) degrees F. (43 degrees C.)**. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters. **(505.4)**

**29-5-15           WATER HEATERS INSTALLED IN GARAGES.** Water heaters having an ignition source shall be elevated such that the source of ignition is not less than **eighteen (18) inches (457 mm)** above the garage flood. **(IRC P2801.6)**

**Exception:** Elevation of the ignition source is not required for appliances that are listed as flammable vapor ignition resistant.

## **DIVISION VI – SANITARY DRAINAGE SYSTEM**

**29-5-16           GENERAL.** All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system. **(506.1)**

**29-5-17      MAINTENANCE.** Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects. **(506.2)**

**29-5-18      GREASE INTERCEPTORS.** Grease interceptors and automatic grease removal devices shall be maintained in accordance with this Code and manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewer treatment plant or processes. All records of maintenance, cleaning and repairs shall be available for inspection by the Code Official. **(506.3) (See Chapter 38, Article IV)**

## **DIVISION VII - STORM DRAINAGE**

**29-5-19      GENERAL.** Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance. **(507.1)**



## ARTICLE VI - MECHANICAL AND ELECTRICAL REQUIREMENTS

### DIVISION I - GENERAL

**29-6-1**        **SCOPE.** The provisions of this Chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided. **(601.1)**

**29-6-2**        **RESPONSIBILITY.** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this Chapter. **(601.2)**

### DIVISION II - HEATING FACILITIES

**29-6-3**        **FACILITIES REQUIRED.** Heating facilities shall be provided in structures as required by this Section. **(602.1)**

**29-6-4**        **RESIDENTIAL OCCUPANCIES.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of **sixty-eight (68) degrees F. (20 degrees C.)** in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Section R303.9 of the *International Residential Code*. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating. **(602.2)**

**29-6-5**        **HEAT SUPPLY.** Every owner and operator of any building who rents, leases or lets one or more dwelling units, or sleeping units on terms, either express or implied, to furnish heat to the occupants thereof shall supply heat during the period from October to April to maintain a minimum temperature of **sixty-eight (68) degrees F. (20 degrees C.)** in all habitable rooms, bathrooms, and toilet rooms. **(602.3)**

**29-6-6**        **ROOM TEMPERATURE MEASUREMENT.** The required room temperatures shall be measured **three (3) feet (914 mm)** above the floor and near the center of the room and **two (2) feet (610 mm)** inward from the center of each exterior wall. **(602.5)**

### DIVISION III - MECHANICAL EQUIPMENT

**29-6-7**        **MECHANICAL APPLIANCES.** All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function. **(603.1)**

**29-6-8**        **REMOVAL OF COMBUSTION PRODUCTS.** All fuel-burning equipment and appliances shall be connected to an approved chimney or vent. **(603.2)**

**Exception:** Fuel-burning equipment and appliances which are labeled for unvented operation.

**29-6-9**            **CLEARANCES.** All required clearances to combustible materials shall be maintained. **(603.3)**

**29-6-10**           **ELEVATION OF IGNITION SOURCE.** Equipment and appliances having ignition source shall be elevated such that the source of ignition is not less than **eighteen (18) inches (457 mm)** above the floor in hazardous locations. For the purpose of this Section, rooms or spaces that are not part of the living space of a dwelling unit and that communicate directly with a private garage through openings shall be considered to be part of the private garage. **(IRC G2408.2)**

**Exception.** Elevation of the ignition source is not required for appliances that are listed as flammable vapor ignition resistant.

(A)            **Installation in Residential Garages.** In residential garages where appliances are installed in a separate, enclosed space having access only from outside of the garage, such appliances shall be permitted to be installed at floor level, provided that the required combustion air is taken from the exterior of the garage. **(IRC G2408.1)**

**29-6-11**           **SAFETY CONTROLS.** All safety controls for fuel-burning equipment shall be maintained in effective operation. **(603.4)**

**29-6-12**           **COMBUSTION AIR.** A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment. **(603.5)**

**29-6-13**           **ENERGY CONSERVATION DEVICES.** Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved. **(603.6)**

#### **DIVISION IV - ELECTRICAL FACILITIES**

**29-6-14**           **FACILITIES REQUIRED.** Every occupied building shall be provided with an electrical system in compliance with the requirements of this Section and **Article VI Division V.** **(604.1)**

**29-6-15**           **SERVICE.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70 listed in **Article VIII.** Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of **sixty (60) amperes.** **(604.2)**

**29-6-16**           **ELECTRICAL SYSTEM HAZARDS.** Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard. **(604.3)**

## **DIVISION V - ELECTRICAL EQUIPMENT**

**29-6-17      INSTALLATION.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner. **(605.1)**

**29-6-18      RECEPTACLES.** Every habitable space in a dwelling shall contain at least **two (2)** separate and remote receptacle outlets. Every laundry area shall contain at least **one (1)** grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least **one (1)** receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location. **(605.2)**

**29-6-19      LUMINAIRES.** Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least **one (1)** electric luminaire. Pool and spa luminaries over **fifteen (15) V** shall have ground fault circuit interrupter protection. **(605.4)**

**29-6-20      WIRING.** Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings. **(605.4)**

## **DIVISION VI – DUCT SYSTEMS**

**29-6-21      GENERAL.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function. **(607.1)**

## ARTICLE VII - FIRE SAFETY REQUIREMENTS

### DIVISION I - GENERAL

**29-7-1**        **SCOPE.** The provisions of this Article shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided. **(701.1)**

**29-7-2**        **RESPONSIBILITY.** The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this Article. **(701.2)**

### DIVISION II - MEANS OF EGRESS

**29-7-3**        **GENERAL.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the *International Fire Code*. **(702.1)**

**29-7-4**        **AISLES.** The required width of aisles in accordance with the *International Fire Code* shall be unobstructed. **(702.2)**

**29-7-5**        **LOCKED DOORS.** All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*. **(702.3)**

**29-7-6**        **EMERGENCY ESCAPE OPENINGS.** Required emergency escape openings shall be maintained in accordance with the Code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the Code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening. **(702.4)**

**29-7-7**        **FIRE PARTITIONS.**

(A)        **Opening Protection.** Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with either solid wood doors not less than **one and three-eighths (1 3/8) inch (35 mm)** in thickness, solid or honeycomb core steel doors not less than **one and three-eighths (1 3/8) inch (35 mm)** thick, or **twenty (20) minute** fire-rated doors. **(IRC 309.1 2003)**

(B)        **Floor Surfaces.** Garage floor surfaces shall be of approved noncombustible material. **(IRC 309.3 2003)**

(C)        **Separation Required.** The garage shall be separated from the residence and its attic area by not less than **one-half (1/2) inch (12.7 mm)** gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than **five-**

**eighths (5/8) inch (15.9 mm)** Type X gypsum board or equivalent. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than **one-half (1/2) inch (12.7 mm)** gypsum board or equivalent. **(IRC 309.2 2003)**

(D) **Duplex.** Dwelling units in two-family dwellings shall be separated from each other by wall and/or floor assemblies having not less than **one (1) hour** fire-resistance rating when tested in accordance with ASTM E 119. Fire resistance-rated floor-ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend to the underside of the roof sheathing. **(IRC 317.1 2003)**

### **DIVISION III - FIRE-RESISTANCE RATINGS**

**29-7-8 FIRE-RESISTANCE-RATED ASSEMBLIES.** The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained. **(703.1)**

**29-7-9 OPENING PROTECTIVES.** Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable. **(703.2)**

### **DIVISION IV - FIRE PROTECTION SYSTEMS**

**29-7-10 GENERAL.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the *International Fire Code*. **(704.1)**

(A) **Automatic Sprinkler Systems.** Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25. **(704.1.1)**

**29-7-11 SMOKE ALARMS.** Single or multiple-station smoke alarms shall be installed and maintained in Group R occupancies, regardless of occupant load at all of the following locations:

(A) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

(B) In each room used for sleeping purposes.

(C) In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than **one (1)** full story below the upper level.

**29-7-12 POWER SOURCE.** In Group R or I-1 occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection. **(704.3)**

**Exception:** Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

**29-7-12      INTERCONNECTION.** Where more than **one (1)** smoke alarm is required to be installed within an individual dwelling unit in Group R or I-1 occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. **(704.4)**

**Exceptions:**

(A) Interconnection is not required in buildings which are not undergoing alterations, repairs or construction of any kind.

(B) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

**29-7-13      CARBON MONOXIDE DETECTORS.** Effective **January 1, 2007**, every Illinois home was required to have at least one carbon monoxide alarm in an operating condition within **fifteen (15) feet** of every room used for sleeping purposes. Homes that do not rely on the burning of fuel for heat, ventilation or hot water; are not connected to a garage; and are not near a source of carbon monoxide (as determined by the Code Official) are not required to install carbon monoxide detectors. (P.A. 94-741)

## **ARTICLE VIII – CRIMINAL NUISANCE ABATEMENT**

### **DIVISION I – NUISANCE FREE RENTAL HOUSING**

**29-8-1      NUISANCE FREE RENTAL HOUSING.** It is determined and declared to be in the best interests of the residents of the City to implement a program in order to work with all owners, operators and persons in charge of rental housing to eliminate nuisance activity in order to safeguard their property and create a peaceful and safe environment in the City. It is the responsibility of the owners, operators and persons in charge of rental housing to take any and all actions permitted by law to eliminate such nuisances. However, this Article shall not be construed or enforced in any manner which would affect the tenancy of a Tenant whose only involvement in nuisance activity is only as the victim of a crime.

**29-8-2      NUISANCE FREE LEASE ADDENDUM.** Any owner, operator or person in charge of rental housing is required to utilize a nuisance-free lease addendum, in the form provided by the Chief, as part of every lease executed by an owner, operator or person in charge. The lease addendum shall state that any nuisance activity committed on the subject property by the Tenant, member of the Tenant's household, guest, operator or person in charge shall have the authority pursuant to the lease addendum to initiate eviction proceedings under Section 9-120 of the Illinois Code of Civil Procedure (**735 ILCS 5/9-120**) and/or other Illinois law regarding forcible entry and detainer.

**29-8-3      VIOLATIONS.**

(A) Any property on which nuisance activity occurs may be declared a nuisance property. No property shall be declared a nuisance property unless it is proven by a preponderance of the evidence that there has been **one (1)** or more instances of nuisance activity within a **one (1) year** period of time arising out of or arising from the property.

(B) Any owner, operator or person in charge who (a) allows or permits a property to become a nuisance property; (b) allows or permits a property to continue as a nuisance property; and (c) fails to implement reasonable and warranted measures, as specified in writing by the Chief, shall be in violation of this Article.

(C) Each day that a violation of this Article continues shall be considered a separate and distinct offense.

**29-8-4      PROCEDURES.**

(A) When the Police Chief receives notification **one (1)** or more documented occurrences of nuisance activity on a property, he or she may, at his or her discretion, independently review such reports to determine whether they describe the activities, behaviors, or conduct enumerated under **Section 25-1-1** hereof. Upon such finding, the Chief may, at his or her discretion, do either of the following:

(1) Notify the owner, operator or person in charge, in writing, that the property has been determined to be a nuisance property. If the Police Chief sends such notice, the notice shall contain the following information:

(a) The street address of the property or a legal description sufficient for identification of the property.

- (b) A statement that the matter is being referred to the City law department to be brought before an administrative hearing officer, as defined in **25-1-1** of this Code, for a hearing.



- (c) If the person in charge notifies the Police Chief immediately upon receipt of the notice and agrees to abate the nuisance within **ten (10) days**, or take other agreed upon, timely and warranted measures, the Police Chief may, at his or her discretion, postpone referring the matter to the law department.
  - (d) Service of notice shall be made either personally or by first-class mail, postage prepaid, or such other place which is likely to give the owner, operator or person in charge notice of the determination of the Police Chief.
  - (e) A copy of the notice shall be served on the owner at the address shown on the tax rolls of the county in which the property is located, and/or occupant at the address of the property, if these persons are different than the operator or person in charge, and shall be made either personally or by first-class mail, postage prepaid.
  - (f) The failure of any person to receive notice, as provided above, shall not invalidate or otherwise affect the proceedings under this chapter.
- (2) Notify the owner, operator or person in charge, in writing, that property is in danger of becoming declared a nuisance property. If the Police Chief sends such notice, the notice shall contain the following information:
- (a) The street address of the property or a legal description for identification of the property;
  - (b) A statement that the Police Department has information that the property may be a nuisance property along with a concise description of the nuisance activities that exist or have occurred. The Police Chief shall offer the owner, operator or person in charge an opportunity to propose a course of action that the Police Chief agrees will abate the nuisance activities giving rise to the violation.
  - (c) Demand that the person in charge respond to the Police Chief within **ten (10) business days** to discuss the nuisance activity.

**29-8-5                    BURDEN OF PROOF; PROCEDURE; FINES AND REMEDIES.**

(A) At hearing before the administrative hearing officer, the City shall have the initial burden of proof to show, by a preponderance of evidence, that the property is a nuisance property.

(B) If an owner, operator or person in charge is summoned before the hearing officer due to nuisance property, he shall give notice, in writing, to all of his tenants on that property. Said notice shall provide the following: The physical address of the property; the date and time that the property owner is to appear before the hearing officer; the fact that the appearance is due to alleged nuisance activity; and the be delivered, either personally or by U.S. mail, to each tenant on the property and must be posted in a prominent location on the property where the tenant(s) are likely to see it.

(C) Such a hearing shall be held in accordance with the procedures, as specified in **25-3-5**. The City's representative shall present evidence in support of its claim that the property is a nuisance property. The owner, operator or person in charge or a legal representative shall be permitted to rebut such evidence and present any other evidence that is, in the discretion of the hearing officer, relevant and reliable. The owner, operator, person in charge or tenant may invoke at hearing the affirmative defense set forth in Section 9-106.2 of the Illinois Code of Civil Procedure (**735 ILCS 5/9-106.2**), and, if proven by a preponderance of the evidence, such tenant shall not be forced to vacate the property for any initial incident involving domestic violence or sexual violence at the property,

provided that the owner, operator or person in charge must have barred the perpetrator of such domestic violence or sexual violence in accordance with applicable subsections (f) and/or (g) thereof.

(D) At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing, whether or not a violation of this Article exists. The determination shall be in writing and shall be designated as the findings, decisions, and order. The hearing officer's decision shall be final and binding. The findings, decision and order shall include the hearing officer's finding of fact, and order for abatement of the nuisance activity or sanctioning the owner, operator or person in charge, as specified below, or dismissing the case in the event a violation is not proved.

- (1) A copy of the findings, decision, and order shall be served upon the person in charge, or owner or operator if different than the person in charge, within **ten (10) business days**. Service shall be in the same manner as specified in **25-3-5**.
- (2) Payment of any penalty or fine shall be made to the City.
- (3) In the event that the order provides for the abatement of nuisance activity, the hearing officer shall establish a status date, which would be after the date established for the abatement of the nuisance activity, in order to determine where there has been compliance with the order. At such time, the hearing officer shall hear testimony and accept any evidence relevant to the compliance with the order and continued abatement of the nuisance activity.

(E) If the hearing officer makes a finding that a property was, or is, a nuisance property, he may impose any or all of the following remedies:

- (1) Fine the person in charge, and/or the owner or operator of the property if those persons are different than the person in charge, not less than **Two Hundred Dollars (\$200.00)** and not more than **One Thousand Dollars (\$1,000.00)** for each violation of this Article. Each day a nuisance activity occurs or continues shall be considered a separate and distinct violation. The hearing officer may, at his or her discretion, impose such a fine for each day the nuisance activity goes unabated. No person shall be found in violation of this section unless the City proves by a preponderance of the evidence that the owner, operator or person in charge failed to take reasonable and warranted measures to abate the nuisance activity. In establishing the amount of any fine, the hearing officer may consider any of the following factors:
  - (a) The actions taken by the owner, operator or person in charge to mitigate or correct the nuisance activities at the property.
  - (b) The repeated or continuous nature of the problem.
  - (c) The magnitude or gravity of the problem.
  - (d) Amount of cooperation given to the City by the owner, operator or person in charge.
  - (e) The cost incurred on the City to investigate, correct, or attempt to correct the nuisance activities.
  - (f) Any other factors deemed relevant by the hearing officer. Evidence of a property's general reputation and/or the reputation of the persons in or frequenting it shall be admissible.
- (2) Order the owner, operator or person in charge to take reasonable, timely and lawful measures to abate the nuisance activity, including specifying deadlines for the same, and in furtherance thereof, may order a period of continued compliance wherein the matter will be returned

- before the hearing officer to update him/her as to the continued nuisance-free status of the property for a period of up to **one (1) year**.
- (3) Suspend/revoke the rental housing occupancy and criminal nuisance abatement permit for the rental unit(s) involved in the nuisance or aggravated nuisance activity if such property is rented or leased. The hearing officer may order that said rental unit(s) be closed and secured against all unauthorized access, use, and occupancy for a period of up to **one (1) year**. If the hearing officer suspends or revokes the rental housing occupancy and criminal nuisance abatement permit for the rental unit(s) involved in the nuisance activity, the person in charge, or the owner or operator of the rental unit(s), if those persons are different than the person in charge, shall receive written notice that the rental housing occupancy and criminal nuisance abatement permit and the right to lease said unit(s) is suspended or revoked, as the case may be. The suspension or revocation of any rental housing occupancy and criminal nuisance abatement permit, or any right to lease unit(s), shall not release or discharge the rental housing occupancy and criminal nuisance abatement permit holder from paying fees or fines under this Code, nor shall such rental housing occupancy and criminal nuisance abatement permit holder be released from criminal prosecution or further civil proceedings.
  - (4) Suspend or revoke the occupancy permit that has been issued by the City for the establishment, business, club or any commercial entity that currently occupies the property. The hearing officer may order that the property be closed and secured against all unauthorized access, use, and occupancy for a period of up to **one (1) year**.
  - (5) Close any business, office, commercial warehouse, manufacturing, industrial, office or research operation, plant, or any other commercial property, entity, or use located on or in the nuisance property. The hearing officer may order that the property be closed and secured against all unauthorized access, use, and occupancy for a period of up to **one (1) year**.
  - (6) Order that a vacant or unused nuisance property of whatever use or a vacant lot which is a nuisance property, whether residential or commercial, be closed and secured against all unauthorized use, access and occupancy. The hearing officer may order that the property be closed and secured against all unauthorized access, use, and occupancy for a period of **one (1) year**. The hearing officer may further require that the nuisance property be fenced and/or gated to physically restrict access. He or She may also require the hiring of security personnel to assure there is no unauthorized access, use, and occupancy.
  - (7) Issue an order to close and secure any rented or leased, non-licensed, residential property against all unauthorized access, use, or occupancy for a period of not less than **sixty (60) days**, nor more than **one (1) year**.

(F) The hearing officer shall require each owner, operator or person in charge who is found to have violated this Article to attend the next available rental housing occupancy and criminal nuisance abatement class as administered by the Police Department or any other entity designated by the City.

**29-8-6**      **CHARGE FOR NUISANCE SERVICES.** The City finds that any premises that has generated more calls for police service for nuisance activities after being declared a nuisance property has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the City. The City therefore directs the Police Chief to charge the owners of such premises the costs associated with abating nuisance violations as defined herein at such premises for a period of **one (1) year**, after which, charging for the services will cease unless the City reconsiders the facts and determines to continue to charge for such services.

**29-8-7**      **RENTAL HOUSING OCCUPANCY AND CRIMINAL NUISANCE ABATEMENT PERMIT.**

(A)      **Permit Required.** It shall be unlawful for any person, person in charge, owner or operator, as defined in this Code, to lease, rent, or occupy the premises of a rental property for any reason or use of the said rental property until a rental housing occupancy and criminal nuisance abatement permit has been lawfully issued by the Code Official, notwithstanding the other requirements of this Code, as well as the requirements set forth in **29-1-8** and this Code. The permit so issued shall state that the condition of the premises and its proposed occupation and rental uses comply with all of the provisions of this Code as far as can be determined by a visual inspection of the premises, as well as a review of all relevant records.

(B)      **Application for Permit.** It shall be unlawful for any person, person in charge, owner or operator, as defined in this Code, to knowingly or recklessly make any false statement on the application for a rental housing occupancy and criminal nuisance abatement permit to allow occupancy of rental housing units by tenants as to the names, relationships, history, background, criminal nuisance activity, nuisance activity, or number of occupants who will occupy the rental unit, notwithstanding the requirements of **29-1-8** of this Code. The following documents shall be submitted with application; copy of lease with nuisance-free lease addendum and rent receipt with photo identification. In order to successfully apply for the permit, any person, person in charge, owner or operator must participate in the City mandated rental housing occupancy and criminal nuisance abatement class, as well as pay the **Twenty-Five Dollar (\$25.00)** fee per permit, per rental unit, on an annual basis. Any person, person in charge, owner or operator, who has already attended a municipal mandated criminal housing program within the City, may lawfully opt out of the class by providing documentation of successful program completion in the municipality.

(C)      **Action on Application.** The Code Official shall examine or cause to be examined all applications for rental housing occupancy and criminal nuisance abatement permits within a reasonable time after filing. No certificate of rental housing occupancy will be issued until an inspection of the premises and relevant records, as well as successful completion of the class or documentation proof of completion of a like city class, along with payment of the required fees.

(D)      **Rejection of Application.** If the application does not comply with the requirements of all pertinent laws, the Code Officials shall reject such application in writing, stating reasons thereof. Rejection of said application would forfeit paid fees and require a new application and class.

(E)      **Suspension of Permit.** Any permit issued shall become invalid if the occupancy of the rental unit is not commenced within **six (6) months** after issuance of the permit. Any permit shall also become invalid for a period specified by the Code Official if a violation of this Code is found by the hearing officer. Such suspension may result in a fine, as well as the need to reapply for a rental housing occupancy and criminal nuisance abatement permit per rental unit that is found in violation.

(F)      **Revocation of Permit.** The Code Official may revoke a permit in case of any false statement or misrepresentation of facts in the application on which the permit was based, or in the event of a violation of **29-1-8** and this Code. Such revocation will result in a fine, as well as the need to reapply for a rental housing occupancy and nuisance abatement permit per rental unit found in violation of the law or this Code.

## ARTICLE IX - REFERENCED STANDARDS

This Article lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title, and the section or sections of this document the reference the standard. The application of the referenced standards shall be as specified in **Section 29-1-11**.

**ASME**                      **American Society of Mechanical Engineers**  
**Three Park Ave**  
**New York, NY 10016-5990**

Standard reference number	Title	Referenced in code Section Number
A17.1/CSA B44-2007	Safety Code for Elevators or Escalators .....	606.1

**ASTM**                      **ASTM International**  
**100 Barr Harbor Drive**  
**West Conshohocken, PA 19428-2959**

Standard reference number	Title	Referenced in code Section Number
F 1346-91 (2003)	Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs .....	303.2

**ICC**                        **International Code Council**  
**500 New Jersey Avenue, NW**  
**6<sup>th</sup> Floor**  
**Washington, DC 20001**

Standard reference number	Title	Referenced in code Section Number
IBC-12	International Building Code® .....	102.3, 201.3, 401.3, 702.3
IEBC-12	International Existing Building Code® .....	305.1.1, 306.1.1
IFC-12	International Fire Code® .....	201.3, 604.3.1.1, 604.3.2.1, 702.1, 702.2, 704.1, 704.2
IFGC-12	International Fuel Code .....	102.3
IMC-12	International Mechanical Code .....	102.3, 201.3

**NFPA**                      **National Fire Protection Association**  
**1 Batterymarch Park**  
**Quincy, MA 02269**

Standard reference number	Title	Referenced in code Section Number
25-11	Inspection, Testing and Maintenance of Water-Based Fire Protections Systems.....	704.1.1
70-11	National Electrical Code .....	102.4, 201.3, 604.2

## **CHAPTER 30**

### **PUBLIC SAFETY**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>CIVIL EMERGENCY</i></b>	
	<i>Section 30-1-1 - Definitions</i>	<i>30-1</i>
	<i>Section 30-1-2 - Declaration of Emergency</i>	<i>30-1</i>
	<i>Section 30-1-3 - Curfew</i>	<i>30-1</i>
	<i>Section 30-1-4 - Authority of Mayor to Issue Orders</i>	<i>30-1</i>
	<i>Section 30-1-5 - Effectiveness</i>	<i>30-2</i>
	<i>Section 30-1-6 - Notification</i>	<i>30-2</i>
<b><i>II</i></b>	<b><i>POLICE DEPARTMENT</i></b>	
	<i>Division I – Department Administration</i>	
	<i>Section 30-2-1 - Department Established</i>	<i>30-3</i>
	<i>Section 30-2-2 - Order of Rank</i>	<i>30-3</i>
	<i>Section 30-2-3 - Appointments</i>	<i>30-3</i>
	<i>Section 30-2-4 - Rank</i>	<i>30-3</i>
	<i>Section 30-2-5 - Rules and Regulations</i>	<i>30-3</i>
	<i>Section 30-2-6 - Duties of the Chief</i>	<i>30-3</i>
	<i>Section 30-2-7 - Enforcement</i>	<i>30-3</i>
	<i>Section 30-2-8 - Part-Time Officers</i>	<i>30-4</i>
	<i>Section 30-2-9 - 30-2-201 Reserved</i>	
	<i>Division II – Auxiliary Police</i>	
	<i>Section 30-2-21 - Appointment</i>	<i>30-5</i>
	<i>Section 30-2-22 - Not Members of Police Department</i>	<i>30-5</i>
	<i>Section 30-2-23 - Powers and Duties</i>	<i>30-5</i>
	<i>Section 30-2-24 - Firearms</i>	<i>30-5</i>
	<i>Section 30-2-25 - Training</i>	<i>30-5</i>
	<i>Section 30-2-26 - Compensation</i>	<i>30-5</i>
	<i>Section 30-2-27 - Chain of Command</i>	<i>30-5</i>
	<i>Section 30-2-28 - Expenses</i>	<i>30-6</i>
	<i>Section 30-2-29 - Badges and Patches</i>	<i>30-6</i>
	<i>Section 30-2-30 - Multiple Membership</i>	<i>30-6</i>
<b><i>III</i></b>	<b><i>FIRE DEPARTMENT</i></b>	
	<i>Division I – Department Administration</i>	
	<i>Section 30-3-1 - Department Established</i>	<i>30-7</i>
	<i>Section 30-3-2 - Order of Rank</i>	<i>30-7</i>
	<i>Section 30-3-3 - Appointments</i>	<i>30-7</i>
	<i>Section 30-3-4 - Rank</i>	<i>30-7</i>
	<i>Section 30-3-5 - Rules and Regulations</i>	<i>30-7</i>
	<i>Section 30-3-6 - Duties of Chief</i>	<i>30-7</i>
	<i>Section 30-3-7 - Enforcement</i>	<i>30-7</i>
	<i>Section 30-3-8 - Outside Calls</i>	<i>30-7</i>
	<i>Section 30-3-9 - Obstruction of and Restitution to the Fire Department</i>	<i>30-8</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>FIRE DEPARTMENT (CONTINUED)</b>	
	<i>Division I – Department Administration (Continued)</i>	
	Section 30-3-10 - Non-Resident Service Fees	30-8
	Section 30-3-11 - 30-3-15 Reserved	
	<i>Division II – Officers</i>	
	Section 30-3-16 - Election	30-9
	Section 30-3-17 - Treasurer Fiscal Duties	30-9
	Section 30-3-18 - Bond Required	30-10
	Section 30-3-19 - Monetary Transfers	30-10
	Section 30-3-20 - Use of Funds	30-10
	Section 30-3-21 - 30-3-24 Reserved	
	<i>Division III – Volunteer Firemen</i>	
	Section 30-3-25 - Members Appointed	30-11
	Section 30-3-26 - Requirements	30-11
	Section 30-3-27 - Duties	30-11
	Section 30-3-28 - Training	30-11
	Section 30-3-29 - Compensation	30-11
	Section 30-3-30 - Compliance to Regulations	30-11
	Section 30-3-31 - Minimum Age Requirement	30-11
	Section 30-3-32 - 30-3-35 Reserved	
	<i>Division IV – Hazardous Materials</i>	
	Section 30-3-36 - Definitions	30-12
	Section 30-3-37 - Abatement of Hazardous Materials	30-12
	Section 30-3-38 - Hazard Materials Specialist	30-12
	Section 30-3-39 - Allocation of Expenses	30-12
	Section 30-3-40 - Charges for Services	30-12
	Section 30-3-41 - 30-3-45 Reserved	
	<i>Division V – Emergency Medical Ambulance Service and Ambulance Service</i>	
	Section 30-3-46 - Title	30-14
	Section 30-3-47 - Purpose	30-14
	Section 30-3-48 - Emergency Medical Ambulance Service	30-14
	Section 30-3-49 - Authorized Transport Destinations	30-14
	Section 30-3-50 - Destination Determination	30-14
	Section 30-3-51 - Mutual Aid to Areas Surrounding the City	30-14
	Section 30-3-52 - Required Training, License, Equipment, Policies and Operational Procedures	30-15
	Section 30-3-53 - Ambulance Service Charges and Fee Structure	30-15
	Section 30-3-54 - Billing and Payment Responsibility	30-15
<b>IV</b>	<b>EMERGENCY MANAGEMENT AGENCY (EMA)</b>	
	Section 30-4-1 - Policy and Procedures	30-17
	Section 30-4-2 - Limitations	30-17
	Section 30-4-3 - Definitions	30-18
	Section 30-4-4 - Emergency Management Agency	30-18
	Section 30-4-5 - Emergency Management Powers of the Mayor	30-19
	Section 30-4-6 - Financing	30-20

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IV</b>	<b>EMERGENCY MANAGEMENT AGENCY (EMA) (CONTINUED)</b>	
	Section 30-4-7 - Local Disaster Emergencies	30-20
	Section 30-4-8 - Testing of Disaster Warning Devices	30-20
	Section 30-4-9 - Mutual Aid Arrangements Between Political Subdivisions	30-21
	Section 30-4-10 - Communications	30-21
	Section 30-4-11 - Immunity	30-21
	Section 30-4-12 - Professions, Trades and Occupations	30-21
	Section 30-4-13 - Appropriations and Levy of Tax	30-21
	Section 30-4-14 - Authority to Accept Services, Gifts, Grants or Loans	30-22
	Section 30-4-15 - Orders, Rules and Regulations	30-22
	Section 30-4-16 - Utilization of Existing Agency, Facilities and Personnel	30-22
	Section 30-4-17 - Severability	30-22
	Section 30-4-18 - No Private Liability	30-22
	Section 30-4-19 - Succession	30-23
	Section 30-4-20 - Compensation	30-23
	Section 30-4-21 - Personnel Oath	30-23
	Section 30-4-22 - Emergency Termination or Reduction of Electrical Service	30-23
	Section 30-4-23 - Penalty	30-23



## CHAPTER 30

### PUBLIC SAFETY

#### ARTICLE I – CIVIL EMERGENCY

##### **30-1-1      DEFINITIONS.**

**"CIVIL EMERGENCY"** is hereby defined to be:

(A)            A "riot or unlawful assembly" characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by **three (3)** or more persons acting together, without authority of law; or

(B)            Any "natural disaster" or "man-made calamity", including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the City, resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

**"CURFEW"** is hereby defined as a prohibition against any person or persons walking, running, loitering, standing, or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City, excepting officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

**30-1-2      DECLARATION OF EMERGENCY.** Whenever an emergency as defined in **Section 30-1-1** of this Article exists, the Mayor shall declare the existence by means of a written declaration, setting forth the facts which constitute the emergency.

**30-1-3      CURFEW.** After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to such geographical areas of the City, or to the City as a whole, as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

**30-1-4      AUTHORITY OF MAYOR TO ISSUE ORDERS.** After the proclamation of a civil emergency, the Mayor of the City may also, in the interest of public safety and welfare, make any or all of the following orders:

(A)            Order the closing of all retail liquor stores, including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.

(B)            Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(C)            Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(D)            Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(E)            Issue such other orders as are imminently necessary for the protection of life and property.

**30-1-5      EFFECTIVENESS.** The proclamation herein authorized shall be effective for a period of **forty-eight (48) hours**, unless sooner terminated by a proclamation of the Mayor indicating that the civil emergency no longer exists. The Mayor shall have the power to reproclaim the existence of a civil emergency at the end of each **forty-eight (48) hour** period during the time the civil emergency exists.

**30-1-6      NOTIFICATION.** Upon issuing the proclamation herein authorized, the Chief of Police shall notify the news media situated within the City and shall cause **three (3) copies** of the proclamation declaring the existence of the emergency to be posted at the following places within the City:

- (A)                      The City Hall.
- (B)                      The Post Office.
- (C)                      The Police Station.

**(See 65 ILCS Sec. 5/11-1-6)**

## **ARTICLE II - POLICE DEPARTMENT**

### **DIVISION I - DEPARTMENT ADMINISTRATION**

**30-2-1      DEPARTMENT ESTABLISHED.** There is hereby established the Benton Police Department which shall be under the supervision and control of the Department of Public Health and Safety in all areas not under the jurisdiction of the Board of Police and Fire Commissioners.

**30-2-2      ORDER OF RANK.** The order of rank in the Police Department shall be as follows:

- (A) Chief of Police
- (B) Lieutenant
- (C) Investigator Sergeant
- (D) Patrol Sergeant
- (E) Patrolmen

The number of officers filling each rank of classification in the Police Department shall be determined by the Mayor and the City Council. **(Ord. No. 1050; 07-14-80)**

**30-2-3      APPOINTMENTS.** All appointments to or promotions within the Department shall be made by the Board of Fire and Police Commissioners, as provided by law, except for the Chief of Police.

**30-2-4      RANK.** The Chief of Police shall be the head of the Department and have the supervision over all officers and members thereof. The Chief of Police shall be appointed by the Mayor with the advice and consent of the Council.

**30-2-5      RULES AND REGULATIONS.** The Board of Police and Fire Commissioners shall adopt from time to time and have adopted rules and regulations for the government of the police force of the City. These rules and regulations are adopted hereto and by reference are made a part of Rules of Conduct of the employees of the Police Department, whether said employees be under the direct supervision of the Board of Fire and Police Commissioners or civilian employees within the clerical or dispatching departments.

**30-2-6      DUTIES OF THE CHIEF.** The Chief of Police shall keep such records and make such reports concerning the activities of his department as may be required by statute or by the City Council. The Chief shall be responsible for the performance by the Police Department of its functions, and all persons who are members of the Police Department shall serve subject to the orders of the Chief of Police.

The Chief of Police may make or prescribe such rules and regulations as he shall deem advisable; such rules shall be binding on such members. Such rules and regulations may cover conduct of the members, uniforms and equipment to be worn, carried, hour of service and vacation not in conflict with current City personnel policies, and all other similar matters necessary for the efficiency of the Department.

The Chief of Police shall have the custody of all lost, abandoned or stolen property recovered in the City.

**30-2-7            ENFORCEMENT.** It shall be the duty of the Chief of Police and the Board of Fire and Police Commissioners to enforce the foregoing rules and regulations.

**30-2-8                    PART-TIME OFFICERS.**

(A)                    **Employment.** The City may employ part-time police officers from time to time as they deem necessary.

(B)                    **Duties.** A part-time police officer shall have all the responsibilities of a full-time police officer and such specific duties as delineated in the General Orders of the Police Department, but the number of hours a part-time officer may work within a calendar year is restricted. Part-time police officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall be trained in accordance with the Illinois Police Training Act (**50 ILCS 705/1 et seq.**) and the rules and requirements of the Illinois Law Enforcement Training and Standards Board (ILETSB). Part-time police officers shall not be used as permanent replacements for permanent full-time police officers.

(C)                    **Hiring Standards.** Any person employed as a part-time police officer must meet the following standards:

- (1) Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
- (2) Be at least **twenty-one (21) years** of age.
- (3) Possess a high school diploma or GED certificate.
- (4) Possess a valid State of Illinois driver's license.
- (5) Possess no prior felony convictions.
- (6) Any individual who has served in the U.S. military must have been honorably discharged.

(D)                    **Discipline.** Part-time officers shall be under the disciplinary jurisdiction of the Chief of Police. Part-time police officers serve at the discretion of the City authorities, shall not have any property rights in said employment, and may be removed by the City authorities at any time. Part-time police officers shall comply with all applicable rules and General Orders issued by the Police Department.  
**(Ord. No. 12-13; 05-14-12)**

**30-2-9 - 30-2-20       RESERVED.**

**(See 65 ILCS Sec. 5/11-1-2)**

## **DIVISION II - AUXILIARY POLICE**

**30-2-21      APPOINTMENT.** The Mayor is hereby authorized to appoint auxiliary policemen as employees, subject to the advice and consent of the City Council. Prior to appointment, all proposed auxiliary policemen shall be fingerprinted and their fingerprints shall be checked with the Federal Bureau of Identification, Washington, D.C., for any possible criminal record. No person shall be appointed as an auxiliary policeman if he has been convicted of a felony or other crime involving moral turpitude. All appointment of any or all auxiliary policemen may be terminated by the Mayor, subject to the advice and consent of the City Council.

**30-2-22      NOT MEMBERS OF POLICE DEPARTMENT.** Such auxiliary policemen shall not be members of the Regular Police Department of the City. Auxiliary policemen shall be residents of Franklin County. Identification symbols worn by such auxiliary policemen shall be different and distinct from those used by the Regular Police Department and shall be selected and chosen by the Chief of Police of this City. Auxiliary policemen shall, at all times during the performance of their duties, be subject to the direction and control of the Chief of Police of this City.

**30-2-23      POWERS AND DUTIES.** Auxiliary policemen shall have the following powers and duties when properly assigned and on duty:

- (A) To aid or direct traffic in this Municipality.
- (B) To aid in control of natural or man-made disasters.
- (C) To aid in case of civil disorder.
- (D) To assist with security at public events as assigned.
- (E) Such auxiliary police officers shall not at any time be, or be deemed or considered to be, conservators of the peace.

**(Ord. No. 09-26; 06-11-07)**

**30-2-24      FIREARMS.** Auxiliary policemen shall not carry firearms, except with the permission of the Chief of Police of the City, and then only when in uniform and in the performance of their duties.

**30-2-25      TRAINING.** Auxiliary policemen, prior to entering upon any of their duties, shall be thoroughly briefed in the proper performance of such duties, either by the Chief of Police or by a regular member of the City Police Department authorized by him to do so. On-the-job training shall be given each Auxiliary Policeman and all Auxiliary Policemen shall be certified to act as such Auxiliary Policemen until certified capable of acting on his or her own by the Chief of Police of this City. Such training shall be prescribed by and put into effect by the Chief of Police. The Chief of Police shall file with the City Clerk a letter certifying each Auxiliary Policeman to be a successful trainee upon the completion of such training. **(Ord. No. 1182; 06-22-87)**

**30-2-26      COMPENSATION.** Auxiliary policemen shall receive compensation for services performed as provided in the budget. They shall be carried on the liability and workmen's compensation insurance of this City as employees.

**30-2-27      CHAIN OF COMMAND.** The same ranking system now in use by the Civil Defense organization shall be used for the auxiliary police to determine a chain of organization and

command within the auxiliary policemen group, subject to the direct control of the Chief of Police, as hereinbefore provided.

**30-2-28      EXPENSES.** The expenses of the auxiliary police shall be paid from the present auxiliary police fund as heretofore appropriated.

**30-2-29      BADGES AND PATCHES.** The City shall furnish, at its own expense, the badges and shoulder patches and other necessary equipment for each auxiliary policeman, properly identifying each man as an auxiliary policeman of the City.

**30-2-30      MULTIPLE MEMBERSHIP.** In the event any auxiliary policeman is also a member of the Emergency Management Agency Unit and his services are needed by the Chief of Police and the EMA Director, then the needs of the call of the Chief of Police shall be adhered to.

**(See 65 ILCS Sec. 5/3.1-30-20)**



## **ARTICLE III - FIRE DEPARTMENT**

### **DIVISION I - DEPARTMENT ADMINISTRATION**

**30-3-1**        **DEPARTMENT ESTABLISHED.** There is hereby established the Benton Fire Department which shall be under the supervision and control of the Department of Public Health and Safety in all areas not under the jurisdiction of the Board of Police and Fire Commissioners.

**30-3-2**        **ORDER OF RANK.** The order of rank of the Fire Department shall be as follows:

- (A)            Fire Chief
- (B)            Assistant Fire Chief
- (C)            Fireman

The number of officers filling each rank of classification in the Fire Department shall be determined by the City Council. **(Ord. No. 1050; 07-14-80)**

**30-3-3**        **APPOINTMENTS.** All appointments to or promotions within the Department shall be made by the Board of Fire and Police Commissioners, as provided by law, except for the Fire Chief.

**30-3-4**        **RANK.** The Fire Chief shall be the head of the Department and have supervision over all officers and members thereof. The Fire Chief shall be appointed by the Mayor with the advice and consent of the remaining Council members as provided by law.

**30-3-5**        **RULES AND REGULATIONS.** The Board of Police and Fire Commissioners shall adopt from time to time, and have adopted rules and regulations for the government of the Fire Force of the City. These rules and regulations are adopted hereto and by reference are made a part of Rules of Conduct of the employees of the Fire Department, whether said employees be under the direct supervision of the Board of Fire and Police Commissioners or civilian employees within the clerical or dispatching departments.

**30-3-6**        **DUTIES OF CHIEF.** It shall be the duty of the Fire Chief to preside at all meetings of the Department and he shall possess all the powers of a presiding officer of deliberative bodies. He shall have charge of the apparatus and attend to all necessary repairs of the same. He shall have command of the company when on duty.

The Fire Chief may make or prescribe such rules and regulations as he shall deem advisable; such rules shall be binding on such members. Such rules and regulations may cover conduct of the members' uniforms and equipment to be worn, carried, hours of service and vacation not in conflict with current City personnel policies, and all other similar matters necessary for the efficiency of the Department.

**30-3-7**        **ENFORCEMENT.** It shall be the duty of the Fire Chief and the Board of Fire and Police Commissioners to enforce the foregoing rules and regulations.

**30-3-8**        **OUTSIDE CALLS.** After **December 31, 1996**, out-of-town Fire Department calls shall not be made.

(A) **Definition.** An out-of-town fire call is any call outside the corporate limits of the City, except those calls made to aid or assist another station, company, and/or corporate entity.

(B) This regulation can be modified by an agreement with any political subdivision for said calls and payment agreement. **(Ord. No. 1417; 12-26-95)**

**30-3-9                    OBSTRUCTION OF AND RESTITUTION TO THE FIRE DEPARTMENT.**

(A) **Obstruction of the Fire Chief and/or a Fire Fighter.** No person shall disturb the Fire Chief and/or any firefighter in the discharge of his/her duties. If the Fire Department shall incur any expenses and/or damages due to this disturbance, the person causing the disturbance shall make restitution for any and all expenses and/or damages incurred.

(B) **Restitution.** If the Fire Department shall be called to fight a fire on private property and the Fire Department incurs any expenses, damage to its equipment, or damage to any other public property, the owner and/or person responsible for causing, accelerating, and/or facilitating the fire and/or damage or expenses incurred must make restitution for the expenses and/or damage. **(Ord. No. 99-42; 11-22-99)**

**30-3-10                    NON-RESIDENT SERVICE FEES.**

(A) Any operator or owner of a motor vehicle who is a non-resident of the District who receives service from the City Fire Department personnel and City emergency equipment, shall pay a fee of **Two Hundred Fifty Dollars (\$250.00).**

(B) Any operator or owner of a motor vehicle who is a non-resident of the District who receives service from the City Fire Department personnel, that requires specialty equipment, including, but not limited to, the "jaws of life," shall pay a fee of **Two Thousand Dollars (\$2,000.00).**

(C) Copies of reports of the providing of the services indicated in paragraph (A) and (B) hereof will be made available by the Fire Department upon payment of **Five Dollars (\$5.00)** for each copy.

**(Ord. No. 06-65; 09-25-06)**

**30-3-11 - 30-3-15    RESERVED.**

**(See 65 ILCS Sec. 5/11-6-1)**

## **DIVISION II - OFFICERS**

**30-3-16      ELECTION.** Pursuant to **Chapter 65 ILCS 5/11-10-2**, officers of the Benton Fire Department shall be elected upon vote by all members of the department who shall also be eligible to hold office, pursuant to the provisions of said **Section 5/11-10-2**.

**30-3-17      TREASURER FISCAL DUTIES.** The officers shall include a Treasurer and adoption of rules and regulations with respect to the Department and the management of money paid to the Treasurer.

(A)

### **Definitions.**

- (1) The term "Department" shall be defined as: the operations of the full-time, active duty personnel employed by the City, while in the performance of their duties as firefighters and Fire Chief; the equipment and assets used by said personnel in the performance of their firefighting duties. The term "Department" shall not include: personnel not on active duty for a period in excess of **ninety (90) days** until such time as said person shall return to active duty; equipment or other assets not inherently involved in the performance of active duties by active duty personnel as herein defined.
- (2) The term "Treasurer" shall be defined in the context of **65 ILCS 5/11-10-2**, and only full-time, active duty personnel employed by the City shall be eligible to hold such position.

(B)

### **Other Rules and Regulations.**

- (1) **Annual Election.** The full-time, active duty personnel shall constitute the Department "Members" and shall hold an election once per calendar year, or otherwise as necessary to fill any vacancy or vote on any matters necessary in the interim. At least **seven (7) days** before any said meeting, there shall be posted conspicuously at the Fire Department Office a notice of meeting, noting the date and time of the meeting and the matters to be considered and/or voted upon at such meeting. The results of said meeting(s) shall be reported by the Fire Chief to the Commissioner of Public Safety.
- (2) **Officers.** The Department shall elect officers. The Fire Chief shall serve as President; the Secretary and the Treasurer shall be selected from the full-time active duty personnel employed by the City. All officers shall serve **one (1) year** terms, except the President, which position shall always be filled by the Fire Chief. The Commissioner of Public Safety shall be an ex officio member of the Department and shall be entitled to attend all meetings of the Department or of the Officers elected hereunder.
- (3) **Accounts.** Any and all accounts held or opened in accordance with or pursuant to this Division shall be required to be reported by the Treasurer to the Commissioner of Public Safety and the Commissioner of Finance on at least a quarterly basis.
- (4) **Minutes.** Minutes of all meetings shall be maintained by the Fire Chief.
- (5) To the extent any terms of this Division shall be inconsistent with other ordinances governing City financial accounts, this Division shall have precedence because and to the extent it is mandated by **65 ILCS 5/11-10-2**.

**30-3-18      BOND REQUIRED.** The Treasurer shall give to the City sufficient bond to be approved by the Mayor conditioned upon the faithful performance of the Treasurer's duties under this Division and the rules adopted hereunder by the Department.

**30-3-19      MONETARY TRANSFERS.** The City Treasurer shall pay over to the Fire Department Treasurer all amounts received from Foreign Fire Insurers paid pursuant to **65 ILCS 5/11-10-1.**

**30-3-20      USE OF FUNDS.** All funds received shall be paid out on order of the Fire Department for maintenance, use, and benefit of the Department.

**30-3-21 - 30-3-24      RESERVED.**

**(Ord. No. 2000-01; 01-10-00)**

### **DIVISION III - VOLUNTEER FIREMEN**

**30-3-25      MEMBERS APPOINTED.** The Mayor of this City is hereby authorized to appoint **thirty (30)** volunteer firemen as employees, subject to the advice and consent of the City Council. **Ten (10)** of said **thirty (30)** volunteer firemen shall be qualified as certified underwater divers, who shall comprise and make-up the City Volunteer Fire Force Diving Team. The appointments for volunteer firemen as heretofore set out are to be made by the names submitted by the Chief of the Regular Fire Department. Prior to appointment, all proposed volunteer firemen shall be investigated by the Chief of the Fire Department of this City to determine if such proposed volunteer fireman has a criminal record, including, but not limited to crimes of the nature of a felony or other crime involving moral turpitude. The appointment of any such volunteer fireman may be terminated at the request of the Chief of the Fire Department and by the Mayor of this City, subject to the advice and consent of the City Council. **(Ord. No. 1054)**

**30-3-26      REQUIREMENTS.** The volunteer firemen shall not be members of the Regular Fire Department of the City. Volunteer firemen need not be residents of the City. Volunteer firemen shall, at all times during the performance of their duties, be subject to the direction and control of the Fire Chief of this City or such other officer or member of the Regular Fire Department who may be in charge at the time the volunteer member responds to duty. **(Ord. No. 905; 01-28-74)**

**30-3-27      DUTIES.** Volunteer firemen shall have the duty to respond to calls issued by the Fire Chief or other officers of the Fire Department and to aid and assist the Regular Fire Department in the prevention of fires and protection of life and property within the jurisdiction of the City Fire Department. Those members of the Volunteer Fire Force, who qualify as certified underwater divers shall, in addition to the duties heretofore set forth, have the additional duties to support the City Fire Department in search and recovery assignments, and to assist other departments of the City needing underwater skills.

**30-3-28      TRAINING.** Volunteer firemen, prior to entering upon any of their duties, shall be thoroughly trained in the property performance of such duties by the Fire Chief or other officer or member of the Fire Department. The Fire Chief shall draft and put into effect a course of training for members of the Volunteer Fire Department and shall file with the City Clerk a letter certifying each volunteer fireman to be a successful trainee, upon the completion of such training.

**30-3-29      COMPENSATION.** Members of the Volunteer Fire Department shall receive such compensation or reimbursement as the City Council may direct.

**30-3-30      COMPLIANCE TO REGULATIONS.** The volunteer firemen shall be subject to the rules and regulations of the Fire Department as promulgated by the Fire Chief and approved by the Mayor and City Council.

**30-3-31      MINIMUM AGE REQUIREMENT.** The minimum age for each volunteer fireman shall be **eighteen (18) years.** **(Ord. No. 936; 02-10-75)**

**30-3-32 - 30-3-35      RESERVED.**

## **DIVISION IV - HAZARDOUS MATERIALS**

### **30-3-36      DEFINITIONS.**

(A) Hazardous material or hazardous substance means any substance or mixture of substance which is toxic, corrosive, an irritant, strong sensitizer, flammable combustible or which generates pressure through decomposition, heat or other means and which may cause substantial personal injury or illness during or as a proximate result of any customary or reasonably anticipated handling or use and also means any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged the Director of the Department of Public Health of the State of Illinois determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with the Uniform Hazardous Substances Act of Illinois.

(B) The words toxic, highly toxic, corrosive, irritant, strong sensitizer, flammable, combustible, label, radioactive substance, shall be and they are hereby declared for the purposes of this Division to be defined as now set forth in the Uniform Hazardous Substances Act of Illinois and as hereafter amended. **(Ord. No. 1242; 09-11-89)**

**30-3-37      ABATEMENT OF HAZARDOUS MATERIALS.** The Fire Department is hereby authorized to control and eliminate hazardous materials and hazardous material emergencies. The Fire Department shall have the authority to summarily remove, abate, and remedy all hazardous material emergencies or incidents within or without the corporate limits of the City which are dangerous or prejudicial to public health or public safety. Expenses incurred by the Benton Fire Department shall be the joint and severable liability of the owner or owners of the hazardous material, the owner of the means of transport, and all other persons, firms or corporations having responsibility for or contributing to the hazardous material emergency or incident whether resident or non-resident.

**30-3-38      HAZARD MATERIALS SPECIALIST.** The Fire Chief or his designee is hereby authorized to seek and obtain the services of an independent hazardous material specialist or to seek and obtain the service of a hazardous material specialist associated with the company or companies responsible for the hazardous material emergency or incident. The expenses of removal, abatement, or remedy of a hazardous material emergency or incident shall include but not be limited to charges for all materials used; a charge for all fire-fighting services including equipment and manpower; charges for experts, specialists, or other consultants; and all other charges associated or related to the hazardous material emergency or incident.

**30-3-39      ALLOCATION OF EXPENSES.** The Fire Chief shall ascertain the expenses incurred in removing, abating or remedying the hazardous material emergency or incident and shall notify the responsibility party informing said party that all expenses and charges are due and payable within **thirty (30) days** from date of notice of the charges. Any person, firm or corporation who shall fail or refuse to pay the expenses of removal, abatement, or remedy shall be responsible for all attorney fees, collection costs, and other expenses incurred by the City in effecting collection of the amounts owing. Monies collected hereunder as expenses for removal, abatement or remedy of any hazardous material emergency or incident shall be used by the City to purchase materials, training and programs for controlling and containing hazardous material emergencies and incidents. **(Ord. No. 1242; 09-11-89)**

### **30-3-40      CHARGES FOR SERVICES.**

(A) The Fire Department is authorized and directed to respond, immediately upon being notified, and to do all things within its capabilities to contain, remove and dispose of any material hazardous to public health and safety that is leaked, spilled or otherwise improperly released within the corporate limits of the City.

(B) Should such response require the services of special personnel and equipment beyond the capabilities of the Fire Department to provide, the Chief of the Fire Department is authorized to obtain or to contract for the services of personnel or equipment sufficient to contain, remove and dispose of such hazardous materials.

(C) The cost incurred for the use of such special personnel and equipment, in addition to the cost of the use of City personnel and equipment, shall be charged to the person, firm or organization, jointly and severally, in possession of, in the process of transporting or otherwise responsible for the containment of any hazardous material spilled, leaked or otherwise improperly released.

(D) The amount of the costs incurred by the City from the use of special personnel and equipment is the amount to be charged the person, firm or organization designated in paragraph (C) hereof. In addition, such person, firm or organization shall be charged for the use of City personnel, equipment and materials as follows:

(1)	Pump Truck	\$300.00 per hour
(2)	Aerial Ladder Truck	\$300.00 per hour
(3)	Special Equipment	\$300.00 per hour
(4)	On Duty Personnel	Regular hourly rate
(5)	Off Duty Personnel Call Back	Regular hourly rate + 50% with 2 hour minimum
(6)	Paid On Call Personnel	\$20.00 per hour
(7)	Materials	Cost of Replacement
(8)	Other Equipment	Regular hourly rate

**(Ord. No. 09-22; 05-11-09)**

**30-3-41 - 30-3-45 RESERVED.**



## **DIVISION V – EMERGENCY MEDICAL AMBULANCE SERVICE AND AMBULANCE SERVICE**

**30-3-46      TITLE.** This Article and all ordinances supplemental or amendatory hereto, shall be known as the "Emergency Medical Ambulance Service Ordinance of the City."

**30-3-47      PURPOSE.** The purpose and intent of this Article is to prescribe requirements, and control fees for the operations of an emergency medical ambulance service in the City, and under operation by the Benton Fire Department and with approval of the City Council.

**30-3-48      EMERGENCY MEDICAL AMBULANCE SERVICE.**  
(A) The Benton Fire Department will operate and maintain an emergency ambulance service that provides Basic Life Support, unless otherwise provided in Illinois Public Act 98-0608, and to the citizens of the City.

(B) This emergency medical ambulance service will be operated and maintained for medical emergencies only. Our obligation is only to render emergency first aid and if necessary transport emergency patients in the City to an authorized hospital.

**30-3-49      AUTHORIZED TRANSPORT DESTINATIONS.**  
(A) The following is a list of hospital facilities to which the Benton Fire Department is authorized to transport emergency patients from within their jurisdiction:

- (1) Franklin Hospital
- (2) Good Samaritan Regional Health Center
- (3) Herrin Hospital
- (4) Carbondale Memorial Hospital
- (5) Heartland Regional Medical Center
- (6) Crossroads Community Hospital
- (7) Veterans Affairs Hospital – Marion, IL

(B) As hospitals change names, offered services, or as new hospitals are constructed, the Fire Chief shall recommend to add to or delete from this list of authorized hospital destinations with approval of the City Council.

**30-3-50      DESTINATION DETERMINATION.**  
(A) When suitable, the request of the patient or patient's legal representative shall be honored in accordance with the authorized transport destinations list.

(B) Every effort shall be made to follow the request of the family physician or attending physician when determining destination.

(C) If warranted by the seriousness of the injury or illness, the emergency medical personnel shall make the determination of the destination either by their own evaluation, medical control or with the appropriate hospital.

(D) Emergency situations, bed diversions, lack of specialty care equipment, or lack of available staff may prevent a patient from being transported to the hospital of their choice and to an alternate hospital.

**30-3-51      MUTUAL AID TO AREAS SURROUNDING THE CITY.**  
(A) Based on availability of equipment and/or personnel, the emergency medical ambulance will assist other fire department or ambulance service with equipment and/or personnel if requested.

(B) The Fire Chief with consent of the City Public Safety Commissioner shall have the authority to establish the boundaries and limitations for mutual aid. The Fire Chief or Public Safety

Commissioner shall notify the City Council within **thirty (30) days** of any changes made to the boundaries and limitations for mutual aid.

(C) When rendering mutual aid, a reasonable attempt will be made to comply with requesting agencies authorized transport destination list.

**30-3-52      REQUIRED TRAINING, LICENSE, EQUIPMENT, POLICIES AND OPERATIONAL PROCEDURES.** All training, state licensing, equipment, supplies, policies, and operational procedures shall be governed by the laws of the State of Illinois, Illinois Department of Public Health, the sponsoring EMS system, the physician providing medical direction and the rules, regulations and standard operational guidelines of the Fire Department.

**30-3-53      AMBULANCE SERVICE CHARGES AND FEE STRUCTURE.**

(A) The City operates an emergency medical ambulance service to safeguard and protect the life and public welfare of the community. The intent of this service is to care for the citizens of the City and offer competent emergency medical care.

(B) In order to provide and maintain the equipment, supplies and licensed personnel of a professional emergency medical ambulance service, it is necessary for the City to establish ambulance service fees.

(C) The City shall only charge a patient if said patient is transported by Fire Department personnel or a Fire Department personnel assists with treatment of a patient and where a transport refusal is obtained.

(D) The Fire Department offers **twenty-four (24) hour** emergency medical care at the level of Basic Life Support and additionally in accordance with Illinois Public Act 098-0608. In the event that a patient requires a higher level of care after transport is initiated and is not able to support Illinois Public Act 098-0608, an advanced life support intercept shall be requested unless the nearest appropriate care facility would be deemed a better option due to estimated time of arrival at medical facility.

(E) The established fees for the levels of care shall be set at the following rates for residents and non-residents of the City and the areas served for the provision of such service.

Basic Life Support Transport	\$600.00
Advanced Life Support Transport	\$900.00
Basic Life Support Non-Transport	\$300.00

In addition to the rates for the level of care provided, the following fee shall be added as an additional charge.

Transport Mileage	\$12.00 per mile
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When approval of the City Council, the usual fees for local emergency ambulance service and treatment may be waived or reduced if such waiver or reduction of fees is determined to be in the best interest of the City and with approval of the City Council.

**30-3-54      BILLING AND PAYMENT RESPONSIBILITY.**

(A) The procedures for billing and collection for services shall be prescribed by the City and Fire Department and administered by a third party billing company.

(B) It shall be the responsibility of the patient receiving emergency medical services or the patient's legal representative to satisfy the charges for the services rendered when an ambulance is dispatched and whether patient is transported by ambulance or treated without being transported.

(C) It shall be the responsibility of any person held in custody, confinement, or incarcerated by the City, county or state including but not limited to those persons under arrest,

protective custody, incarcerated, imprisoned, escaped from confinement, under supervised release, on

medical furlough, required to reside in a mental health facility or halfway house, living under home detention or confined completely or partially in any way under a penal statute, statute, rule or court order, for the payment of any medical services rendered to and received by that person during the course of their confinement or custody.

(D) Fire Department Patient Care Reports shall be sent to the third party billing company on a weekly basis and billing shall be sent to the patient, the patient's legal representative or the named responsible party for the services rendered, except where federal or state law dictates otherwise.

**(Ord. No. 17-11; 07-24-17)**

## **ARTICLE IV - EMERGENCY MANAGEMENT AGENCY (EMA)**

### **30-4-1      POLICY AND PROCEDURES.**

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

- (1) To create a municipal emergency management agency;
- (2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter **(65 ILCS Sec. 5/11-1-6)**.
- (3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency management operations.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary.

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

### **30-4-2      LIMITATIONS.** Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Mayor and the City Council to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

**30-4-3**        **DEFINITIONS.** As used in this Code, unless the context clearly indicates otherwise, the following words and terms shall have the definitions hereinafter ascribed:

(A)        **Coordinator** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.

(B)        **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.

(C)        **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.

(D)        **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.

(E)        **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F)        **Political Subdivision** means any county, city, village, or incorporated town.

**30-4-4**        **EMERGENCY MANAGEMENT AGENCY.**

(A)        There is hereby created an emergency management agency and a coordinator of the emergency management agency, herein called the "coordinator", who shall be the head thereof. The coordinator shall be appointed by the Mayor with the advice and consent of the Council. He shall serve at the pleasure of the Mayor.

(B)        The Emergency Management Agency shall obtain, with Council approval, such technical, clerical, stenographic and other administrative personnel, and may make such expenditures within their appropriation therefor as may be necessary to carry out the purpose of this Code.

(C)        The coordinator, subject to the direction and control of the Mayor, shall be the executive head of the Municipal Emergency Service and Disaster Agency, and shall be responsible under the direction of the Mayor for carrying out the program for emergency management operations of this municipality. He shall coordinate the activities of all organizations for emergency management operations within this municipality and shall maintain liaison, and cooperate with, the civil defense and emergency management agencies and organization of the county, other counties and municipalities, and of the federal and state government.

In the event of the absence, resignation, death, or inability to serve by the coordinator, the Mayor or any persons designated by him, shall be and act as coordinator until a new appointment is made as provided in this Code.

(D)        The Municipal Emergency Management Agency shall take an integral part in the development and revision of the local emergency operations plan.

(E)        In the development of the emergency operations plan, the municipal emergency management agency shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F)        The Municipal Emergency Management Agency shall:

(1)        Determine the requirements of the municipality for food, clothing and other necessities in the event of an emergency;

- (2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois Emergency Management Agency;



- (3) Biannually review and revise the local Emergency Operations Plan;
- (4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;
- (5) Establish a register of government and private response resources available for use in a disaster;
- (6) Prepare, for issuance by the Mayor, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.
- (7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;
- (8) Initiate and coordinate planning for:
  - (a) The establishment of an emergency operating center;
  - (b) The implementation of a 911 system.
- (9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

### **30-4-5**

#### **EMERGENCY MANAGEMENT POWERS OF THE MAYOR.**

(A) The Mayor shall have the general direction and control of the emergency management agency, and shall be responsible for the carrying out of the provisions of this Code.

(B) In performing his duties under this Code, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency management operations defined in this Code.

(C) In performing his duties under this Code, the Mayor is further authorized:

- (1) To make, amend and rescind all lawful necessary orders, rules and regulations of the local disaster plan to carry out the provisions of this Code within the limits of the authority conferred upon him.
- (2) To cause to be prepared a comprehensive plan and program for the emergency management of this municipality which plan and program shall be integrated into and coordinated with disaster plans of the state and federal governments and other political subdivisions, and which plan and program may include:
  - (a) Prevention and minimization of injury and damage caused by disaster;
  - (b) Prompt and effective response to disaster;
  - (c) Emergency relief;
  - (d) Identification of areas particularly vulnerable to disasters;
  - (e) Recommendations for zoning, building and other land-use controls, safety measures for securing permanent structures and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
  - (f) Assistance to local officials in designing local emergency action plans;
  - (g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from flood, conflagration or other disaster;
  - (h) Organization of municipal manpower and chains of command;
  - (i) Coordination of local emergency management activities;
  - (j) Other necessary matters.
- (3) In accordance with such plan and program for the emergency management of this municipality, and out of funds appropriated for such purposes, to procure and preposition supplies, medicines, materials and

equipment to institute training programs and public information

programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.

- (4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this municipality as may be necessary to ascertain the capabilities of the municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

(D) The Mayor is authorized to designate space in a municipal building, or elsewhere for the emergency management agency as its office.

#### **30-4-6 FINANCING.**

(A) It is the intent of the City Council and declared to be the policy of the municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the City Council's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the municipality a disaster, he may make application for funds from the state disaster relief fund. If monies available from the fund are insufficient, and if the Mayor finds that other sources of money to cope with the disaster are not available or are insufficient, he shall issue a call for an immediate session of the City Council for the purpose of enacting ordinances as the City Council may deem necessary to transfer and expend monies appropriated for other purposes, or borrow monies from the United States Government or other public or private sources. If less than a quorum of the members of the City Council is capable of convening in session to enact such ordinances for the transfer, expenditure or loan of such monies, the Mayor is authorized to carry out those decisions until such time as a quorum of the City Council can convene.

(C) Nothing contained in this Section shall be construed to limit the Mayor's authority to apply for, administer and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response or recovery.

#### **30-4-7 LOCAL DISASTER EMERGENCIES.**

(A) A local disaster emergency may be declared only by the Mayor or City Council. If declared by the Mayor, it shall not be continued for a period in excess of **seven (7) days** except by or with the consent of the City Council. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the municipal clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, as authorized by "**The Illinois Emergency Management Agency Act**", provided that, if the City Council meets at such time, he shall act subject to the directions and restrictions imposed by that body.

**30-4-8 TESTING OF DISASTER WARNING DEVICES.** The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

**30-4-9                    MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS.**

The coordinator for emergency management operations may, in collaboration with other public agencies within his immediate vicinity, develop or cause to be developed mutual aid arrangements with other political subdivisions, municipal corporations or bodies politic within this state for reciprocal disaster response and recovery in case a disaster is too great to be dealt with unassisted. The mutual aid shall not, however, be effective unless and until approved by each of such political subdivisions, municipal corporations or bodies politic as are parties thereto, in the manner provided by law, and unless and until filed with and approved in writing by the state director. Such arrangements shall be consistent with the state and local emergency management operations plan and program, and in the event of such disaster as described in **Section 30-4-3** of this Code, it shall be the duty of each local and department for emergency management operations to render assistance in accordance with the provisions of such mutual aid arrangements.

**30-4-10                  COMMUNICATIONS.**

The local Emergency Management Agency shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate.

**30-4-11                  IMMUNITY.**

Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency management operations or disaster activities, while complying with or attempting to comply with this Code or any rule or regulations promulgated pursuant to this Code is liable for the death of or any injury to persons, or damage to property, as a result of such activity. This section does not, however, affect the right of any person to receive benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress.

**30-4-12                  PROFESSIONS, TRADES AND OCCUPATIONS.**

If such disaster as is described in **Section 30-4-3** occurs in this municipality and the services of persons who are competent to practice any profession, trade or occupation are required in this municipality to cope with the disaster situation and it appears that the number of persons licensed or registered in this municipality to practice such profession, trade or occupation may be insufficient for such purpose, then any persons who are licensed elsewhere to practice any such profession, trade or occupation may, if a member of another political subdivision rendering aid in this municipality pursuant to the order of the head of that political subdivision and upon the request of the municipality, or if otherwise requested so to do by the Mayor or the coordinator of this municipality, during the time the disaster condition continues, practice such profession, trade or occupation in this municipality without being licensed or registered in this municipality.

**30-4-13                  APPROPRIATIONS AND LEVY OF TAX.**

The City Council may make appropriations for emergency management operations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision. The City Council may also levy for emergency management operations a tax not to exceed **.05%** of the full, fair cash value as equalized or assessed by the Department of Revenue on all taxable property in the municipality for the current year. However, the amount collectible under such a levy shall in no event exceed **Twenty-Five Cents (\$0.25)** per capita. The annual tax shall be in addition to and in excess of the amount authorized to be levied for general corporate purposes.

**30-4-14      AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS.**

Whenever the federal or state governments, or any agency or officer thereof, or whenever any person, firm or corporation shall offer to the municipality services, equipment, supplies, materials or funds by way of gift or grant for purposes of emergency management, the municipality, acting through the Mayor or through its City Council, may accept such offer and upon such acceptance the Mayor or the City Council may authorize any officer of the municipality to receive such services, equipment, supplies, materials or funds on behalf of the municipality.

**30-4-15      ORDERS, RULES AND REGULATIONS.**

(A) The Mayor shall file a copy of every rule, regulation or order and any amendment thereof made by him pursuant to the provisions of this Code in the office of the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-4-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Code and during the state of such disaster emergency, is abrogated, and said rule, regulation, order or amendment shall become effective immediately upon being filed with the Municipal Clerk, accompanied by a certificate stating the reason for the emergency.

(B) The Emergency Management Agency established pursuant to this Code, and the coordinator thereof, shall execute and enforce such orders, rules and regulations as may be made by the Governor under authority of the Illinois Emergency Management Agency Act. The local Emergency Management Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency.

**30-4-16      UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL.**

In carrying out the provisions of this Code, the Mayor and the coordinator of the emergency management agency are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed, upon request, to cooperate with and extend such services and facilities to the coordinator and the emergency management agency.

**30-4-17      SEVERABILITY.** If any provision of this Code or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect such other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Code are hereby declared to be severable.

**30-4-18      NO PRIVATE LIABILITY.**

(A) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual or impending disaster, or a mock or practice disaster response activity together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for negligently causing loss of, or damage to, the property of such person.

(B) Any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the municipality under the provisions of this Code, shall not be civilly liable for causing death of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C) Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the municipality, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the

event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable therefore.

**30-4-19      SUCCESSION.** In the event of the death, absence from the municipality or other disability of the Mayor preventing him from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law, the coordinator of the emergency management agency shall succeed to the duties and responsibilities of the Mayor.

**30-4-20      COMPENSATION.** The City Council, by its annual appropriations ordinance, may provide for the payment of the salary of the coordinator and such other office staff and personnel as may be expressly provided for in the ordinance. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provisions of that agency.

**30-4-21      PERSONNEL OATH.** Each person, whether compensated or non-compensated, who is appointed to serve in any capacity in the municipal Emergency Service and Disaster Agency, shall, before entering upon his duties, take an oath, in writing, before the coordinator of the municipal Emergency Service and Disaster Agency before a person authorized to administer oaths in this municipality, which oath shall be filed with the coordinator of the Emergency Management Agency, and which oath shall be substantially as follows:

"I, \_\_\_\_\_ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the City, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

**30-4-22      EMERGENCY TERMINATION OR REDUCTION OF ELECTRICAL SERVICE.**  
(A) **Declaration of Emergency Condition.** When in the judgment of the Mayor or City Council, as provided herein in **Section 30-4-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or City Council shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

**30-4-23      PENALTY.** Any person convicted of violating this Code or any order thereunder shall be punished, upon conviction, by a fine as provided by **Section 1-1-20** of this Code.

**(See 20 ILCS Sec. 3305/1 et seq.)**

**CHAPTER 33**  
**STREET REGULATIONS**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>DEPARTMENT ESTABLISHED</i></b>	
	<i>Section 33-1-1 - Department Established</i>	<i>33-1</i>
	<i>Section 33-1-2 - Commissioner of Streets</i>	<i>33-1</i>
<b><i>II</i></b>	<b><i>GENERAL REGULATIONS</i></b>	
	<i>Section 33-2-1 - Undermining</i>	<i>33-1</i>
	<i>Section 33-2-2 - Open Doors</i>	<i>33-1</i>
	<i>Section 33-2-3 - Repairing Sidewalks, Etc.</i>	<i>33-1</i>
	<i>Section 33-2-4 - Stairway – Railing</i>	<i>33-1</i>
	<i>Section 33-2-5 - Closing Street</i>	<i>33-1</i>
	<i>Section 33-2-6 - Signs Across Street</i>	<i>33-2</i>
	<i>Section 33-2-7 - Vehicles and Skateboards on Sidewalks</i>	<i>33-2</i>
	<i>Section 33-2-8 - Deposits on Sidewalks and Streets</i>	<i>33-2</i>
	<i>Section 33-2-9 - Obstructing Street</i>	<i>33-2</i>
	<i>Section 33-2-10 - Rainwater Drains</i>	<i>33-2</i>
	<i>Section 33-2-11 - Building Materials in Street</i>	<i>33-2</i>
	<i>Section 33-2-12 - Merchandise on Public Street</i>	<i>33-3</i>
	<i>Section 33-2-13 - Encroachments</i>	<i>33-3</i>
	<i>Section 33-2-14 - Posting Bills</i>	<i>33-3</i>
	<i>Section 33-2-15 - Signs on Poles</i>	<i>33-3</i>
	<i>Section 33-2-16 - Injury to New Pavements</i>	<i>33-3</i>
	<i>Section 33-2-17 - Barbed-Wire Fences</i>	<i>33-3</i>
	<i>Section 33-2-18 - Burning on Public Streets</i>	<i>33-3</i>
	<i>Section 33-2-19 - Grass Mowing</i>	<i>33-4</i>
	<i>Section 33-2-20 - Playing in Streets</i>	<i>33-4</i>
	<i>Section 33-2-21 - House Numbering</i>	<i>33-4</i>
	<i>Section 33-2-22 - Burning on Public Streets</i>	<i>33-4</i>
	<i>Section 33-2-23 - Vacating of Streets and Alleys</i>	<i>33-4</i>
<b><i>III</i></b>	<b><i>TREES AND SHRUBS</i></b>	
	<i>Section 33-3-1 - Planting</i>	<i>33-5</i>
	<i>Section 33-3-2 - Planting Trees in Right-of-Way</i>	<i>33-5</i>
	<i>Section 33-3-3 - Removal</i>	<i>33-5</i>
	<i>Section 33-3-4 - Injury</i>	<i>33-5</i>
	<i>Section 33-3-5 - Advertisements or Notices</i>	<i>33-5</i>
	<i>Section 33-3-6 - Dangerous Trees</i>	<i>33-5</i>
	<i>Section 33-3-7 - Wires</i>	<i>33-5</i>
	<i>Section 33-3-8 - Gas Pipes</i>	<i>33-5</i>
<b><i>IV</i></b>	<b><i>CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHT-OF-WAY</i></b>	
	<i>Section 33-4-1 - Purpose and Scope</i>	<i>33-6</i>
	<i>Section 33-4-2 - Definitions</i>	<i>33-7</i>
	<i>Section 33-4-3 - Annual Registration Required</i>	<i>33-10</i>



<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IV</b>	<b>CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHT-OF-WAY (CONT'D.)</b>	
	Section 33-4-4 - Permit Required; Applications and Fees	33-10
	Section 33-4-5 - Action on Permit Applications	33-11
	Section 33-4-6 - Effect of Permit	33-12
	Section 33-4-7 - Revised Permit Drawings	33-12
	Section 33-4-8 - Insurance	33-13
	Section 33-4-9 - Indemnification	33-14
	Section 33-4-10 - Security	33-14
	Section 33-4-11 - Permit Suspension and Revocation	33-15
	Section 33-4-12 - Change of Ownership or Owner's Identity or Legal Status	33-16
	Section 33-4-13 - General Construction Standards	33-17
	Section 33-4-14 - Traffic Control	33-17
	Section 33-4-15 - Location of Facilities	33-17
	Section 33-4-16 - Construction Methods and Materials	33-20
	Section 33-4-17 - Vegetation Control	33-24
	Section 33-4-18 - Removal, Relocation, or Modification of Utility Facilities	33-25
	Section 33-4-19 - Cleanup and Restoration	33-26
	Section 33-4-20 - Maintenance and Emergency Maintenance	33-26
	Section 33-4-21 - Variances	33-27
	Section 33-4-22 - Penalties	33-27
	Section 33-4-23 - Enforcement	33-27
<b>V</b>	<b>STREET IMPROVEMENTS</b>	
	Section 33-5-1 - Sidewalks	33-28
	Section 33-5-2 - Curbs and Gutters	33-28
	Section 33-5-3 - Storm Sewers	33-28
<b>VI</b>	<b>CULVERTS</b>	
	Section 33-6-1 - Obstruction of Drain or Storm Sewer	33-29
	Section 33-6-2 - Permit for Culvert	33-29
	Section 33-6-3 - Type of Culvert	33-29
	Section 33-6-4 - Cost of Installation	33-29
<b>VII</b>	<b>DRIVEWAYS</b>	
	Section 33-7-1 - Permit Required	33-30
	Section 33-7-2 - Grade Surface	33-30
	Section 33-7-3 - Specifications	33-30
	Section 33-7-4 - Repair	33-30
<b>VIII</b>	<b>SNOW REMOVAL</b>	
	Section 33-8-1 - Definitions	33-31
	Section 33-8-2 - Removal of Snow and Ice From Public Transportation System	33-31

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VIII</b>	<b>SNOW REMOVAL (CONTINUED)</b>	
	Section 33-8-3 - Depositing of Snow and Ice Restricted	33-31
	Section 33-8-4 - Mayor's Authority	33-31
	Section 33-8-5 - Parking Prohibited on Emergency and Secondary Snow Routes	33-31
	Section 33-8-6 - Designated Emergency Snow Routes	33-32
	Section 33-8-7 - Secondary Snow Routes	33-32
	Section 33-8-8 - Mayor's Authority	33-32
<b>IX</b>	<b>MOVING BUILDINGS</b>	
	Section 33-9-1 - Permit Required	33-33
	Section 33-9-2 - Application for Permit	33-33
	Section 33-9-3 - Investigation	33-33
	Section 33-9-4 - Denial of Permit	33-33
	Section 33-9-5 - Terms and Conditions of Permission	33-33
	Section 33-9-6 - Estimate of Cost and Deposit	33-34
	Section 33-9-7 - Liability Insurance	33-34
	Section 33-9-8 - Owner's Completion Bond	33-34
	Section 33-9-9 - Clearance of Site and Safety Measures Required	33-34
	Section 33-9-10 - Inspection Fee and Permit Fee	33-35
	Section 33-9-11 - Issuance of Permit	33-35
	Section 33-9-12 - Suspension or Revocation of Permit	33-35
	Section 33-9-13 - Control and Supervision	33-35
	Section 33-9-14 - Notice Required	33-35
	Section 33-9-15 - Default in Performance of Conditions	33-35
	Section 33-9-16 - Approval of Route	33-36
	Section 33-9-17 - Obstructing Streets	33-36
	Section 33-9-18 - Lights and Barricades	33-36
	Section 33-9-19 - Wires and Structural Supports	33-36
	Section 33-9-20 - Trees, Plants and Shrubs	33-36
	Section 33-9-21 - Repairs to Public Property	33-37
	Section 33-9-22 - Refunding of Deposits	33-37

## **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.

**CITY OF BENTON**  
**EXCAVATION PERMIT**

NAME \_\_\_\_\_

FIRM NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/VILLAGE \_\_\_\_\_ STATE \_\_\_\_\_ PHONE \_\_\_\_\_

LOCATION OF PROPOSED EXCAVATION \_\_\_\_\_

\_\_\_\_\_

NATURE OF EXCAVATION \_\_\_\_\_

\_\_\_\_\_

BONDING COMPANY:

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/VILLAGE \_\_\_\_\_ STATE \_\_\_\_\_ PHONE \_\_\_\_\_

AMOUNT OF BOND \$ \_\_\_\_\_

PREVIOUS EXPERIENCE (LIST CITIES AND/OR VILLAGES)

	<u>CITY/VILLAGE</u>	<u>CITY/VILLAGE OFFICIAL</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

I have read the municipal law with regard to excavations and my firm or company intends to fully comply with the Street Regulations Code provisions.

\_\_\_\_\_  
(Applicant's Signature)

**CITY OF BENTON**

**APPLICATION FOR CULVERT/DRIVEWAY PERMIT**

I, \_\_\_\_\_, do hereby request permission and authority to construct a culvert/driveway on the right-of-way of the City in accordance with the information provided on this application and the accompanying sketch. (Applicant must prepare a sketch showing location, length and pertinent details.)

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

Pipe material will be: \_\_\_\_\_

Wall thickness or gauge will be: \_\_\_\_\_

Type of joint will be: \_\_\_\_\_

DATED: \_\_\_\_\_, 20\_\_ SIGNED: \_\_\_\_\_  
(APPLICANT)

**CULVERT/DRIVEWAY PERMIT**

**APPLICATION**

**Approved ( )**

**Disapproved ( )**

If disapproved, state reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATED: \_\_\_\_\_, 20\_\_ SIGNED: \_\_\_\_\_

**CERTIFICATION**

The undersigned has inspected the construction and installation set forth above and finds that the same (is) (is not) in accordance with the permit.

DATED: \_\_\_\_\_, 20\_\_ SIGNED: \_\_\_\_\_

## **CHAPTER 34**

### **SUBDIVISION CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERAL PROVISIONS</i></b>	
	<i>Section 34-1-1 - Title</i>	<i>34-1</i>
	<i>Section 34-1-2 - Purpose</i>	<i>34-1</i>
	<i>Section 34-1-3 - Jurisdiction</i>	<i>34-1</i>
	<i>Section 34-1-4 - Instances When Plats Will Not be Required</i>	<i>34-1</i>
	<i>Section 34-1-5 - Interpretation</i>	<i>34-2</i>
	<i>Section 34-1-6 - Disclaimer of Liability</i>	<i>34-2</i>
<b><i>II</i></b>	<b><i>DEFINITIONS</i></b>	
	<i>Section 34-2-1 - Interpretation of Terms</i>	<i>34-3</i>
	<i>Section 34-2-2 - Selected Definitions</i>	<i>34-3</i>
<b><i>III</i></b>	<b><i>PLATS AND PLANS</i></b>	
	<i>Division I – Preliminary Plats</i>	
	<i>Section 34-3-1 - General Procedure</i>	<i>34-10</i>
	<i>Section 34-3-2 - Filing Procedure</i>	<i>34-10</i>
	<i>Section 34-3-3 - Information Required</i>	<i>34-10</i>
	<i>Section 34-3-4 - Plan Commission Action</i>	<i>34-11</i>
	<i>Section 34-3-5 - Review by Council; Time Constraints</i>	<i>34-11</i>
	<i>Section 34-3-6 - Rights and Privileges of Subdivider</i>	<i>34-12</i>
	<i>Section 34-3-7 - Reserved</i>	
	<i>Division II – Improvement Plans</i>	
	<i>Section 34-3-8 - Submission of Plans</i>	<i>34-12</i>
	<i>Section 34-3-9 - Information Required</i>	<i>34-12</i>
	<i>Section 34-3-10 - Inspections Required</i>	<i>34-13</i>
	<i>Section 34-3-11 - Filing "As-Built" Records</i>	<i>34-13</i>
	<i>Section 34-3-12 - Reserved</i>	
	<i>Division III – Assurance for Completion of Required Improvements</i>	
	<i>Section 34-3-13 - Approval of Final Plat – Improvements</i>	<i>34-13</i>
	<i>Section 34-3-14 - Forms of Assurance</i>	<i>34-13</i>
	<i>Section 34-3-15 - Amount of Bond or Deposit</i>	<i>34-14</i>
	<i>Section 34-3-16 - Eligible Sureties</i>	<i>34-14</i>
	<i>Section 34-3-17 - Term of Assurance, Extension</i>	<i>34-14</i>
	<i>Section 34-3-18 - Release of Bond/Escrow Deposit</i>	<i>34-14</i>
	<i>Section 34-3-19 - Failure to Complete Improvements</i>	<i>34-14</i>
	<i>Section 34-3-20 - 34-3-21 Reserved</i>	
	<i>Division IV – Final Plats</i>	
	<i>Section 34-3-22 - City Council Approval</i>	<i>34-15</i>
	<i>Section 34-3-23 - Filing, Time Limits</i>	<i>34-15</i>
	<i>Section 34-3-24 - Information Required</i>	<i>34-15</i>
	<i>Section 34-3-25 - Certificates Required</i>	<i>34-16</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>PLATS AND PLANS (CONTINUED)</b>	
	<i>Division IV – Final Plats (Continued)</i>	
	Section 34-3-26 - Administrative Review, Advisory Report	34-18
	Section 34-3-27 - Action by City Council	34-18
	Section 34-3-28 - Changes in Approved Final Plats	34-18
	Section 34-3-29 - 34-3-34 Reserved	
	<i>Division V – Maintenance of Improvements</i>	
	Section 34-3-35 - Subdivider's Responsibilities	34-19
	Section 34-3-36 - Maintenance Bond	34-19
	<i>Division VI – Vacation of Plats</i>	
	Section 34-3-37 - Vacation of Plats	34-19
<b>IV</b>	<b>ADMINISTRATIVE PROCEDURES</b>	
	Section 34-4-1 - Enforcement Officer, Duties	34-20
	Section 34-4-2 - Subdivision Variances	34-20
	Section 34-4-3 - Review by Plan Commission	34-20
	Section 34-4-4 - Action by City Council, Variance Standards	34-20
	Section 34-4-5 - Amendments	34-21
	Section 34-4-6 - Schedule of Fees	34-21
	Section 34-4-7 - Fees: Time of Payment	34-21
	Section 34-4-8 - Penalties	34-21
<b>V</b>	<b>DESIGN AND IMPROVEMENT STANDARDS</b>	
	<i>Division I - Generally</i>	
	Section 34-5-1 - Applicability of Article	34-22
	Section 34-5-2 - Suitability for Development Generally	34-22
	Section 34-5-3 - Reserved	
	<i>Division II – Lot Requirements</i>	
	Section 34-5-4 - Lot Size	34-22
	Section 34-5-5 - Access and Relationship to Street	34-22
	Section 34-5-6 - Reference Monuments	34-22
	<i>Division III – Street Design Standards</i>	
	Section 34-5-7 - Plan Integration	34-23
	Section 34-5-8 - Right-of-Way and Pavement Widths	34-23
	Section 34-5-9 - Topographical Considerations	34-23
	Section 34-5-10 - Through Traffic Discouraged	34-23
	Section 34-5-11 - Limited Access to Arterials	34-23
	Section 34-5-12 - Dead-End Streets	34-23
	Section 34-5-13 - Intersections	34-24
	Section 34-5-14 - Reverse Curves	34-24
	Section 34-5-15 - Improvements to Existing Streets	34-24
	Section 34-5-16 - When Excess Right-of-Way Required	34-24
	Section 34-5-17 - 34-5-19 Reserved	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b>DESIGN AND IMPROVEMENT STANDARDS (CONTINUED)</b>	
	<i>Division IV – Street Improvement Standards</i>	
	Section 34-5-20 - Developer's Expense	34-25
	Section 34-5-21 - Curb and Gutter	34-25
	Section 34-5-22 - Maintenance Responsibility	34-26
	Section 34-5-23 - 34-5-24 Reserved	
	<i>Division V – Blocks</i>	
	Section 34-5-25 - Block Width	34-26
	Section 34-5-26 - Block Length	34-26
	Section 34-5-27 - Crosswalks	34-26
	Section 34-5-28 - Reserved	
	<i>Division VI – Sidewalks</i>	
	Section 34-5-29 - Required	34-26
	Section 34-5-30 - Sidewalk Construction Standards	34-27
	Section 34-5-31 - Reserved	
	<i>Division VII – Streetlights</i>	
	Section 34-5-32 - Intersection Lighting	34-27
	Section 34-5-33 - Streetlight System Standards	34-27
	Section 34-5-34 - Reserved	
	<i>Division VIII – Street Name Signs</i>	
	Section 34-5-35 - Specifications	34-27
	Section 34-5-36 - Reserved	
	<i>Division IX – Utilities</i>	
	Section 34-5-37 - Utility Location and Easements Required	34-28
	Section 34-5-38 - Utility Easements	34-28
	Section 34-5-39 - Drainage Easements	34-28
	Section 34-5-40 - Maintenance Easements	34-28
	Section 34-5-41 - Reserved	
	<i>Division X – Water Facilities</i>	
	Section 34-5-42 - Potable Water Required	34-28
	Section 34-5-43 - Fire Hydrants	34-28
	Section 34-5-44 - Reserved	
	<i>Division XI – Sanitary Sewers</i>	
	Section 34-5-45 - Compliance with Regulations	34-29
	Section 34-5-46 - When Public System Planned	34-29
	Section 34-5-47 - Alternate Methods of Disposal	34-29
	Section 34-5-48 - Reserved	



<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VI</b>	<b>DRAINAGE AND STORM SEWERS</b>	
	<i>Division I – Purpose and Definitions</i>	
	Section 34-6-1 - Purpose and Intent	34-30
	Section 34-6-2 - Special Definitions	34-30
	Section 34-6-3 - Reserved	
	<i>Division II – General Guidelines</i>	
	Section 34-6-4 - Applicability	34-31
	Section 34-6-5 - Affidavit of Disclosure of Property Interest	34-31
	Section 34-6-6 - Method of Evaluation	34-31
	Section 34-6-7 - Detention of Differential Runoff	34-31
	Section 34-6-8 - Flows from Upstream Areas	34-32
	Section 34-6-9 - Facilities in Floodplains	34-32
	Section 34-6-10 - Land Credit for Detention Facilities	34-32
	Section 34-6-11 - Reserved	
	<i>Division III – Design Criteria</i>	
	Section 34-6-12 - General Requirements	34-32
	Section 34-6-13 - Other References	34-32
	Section 34-6-14 - Storm Water Runoff	34-32
	Section 34-6-15 - Hydraulic Considerations for Detention Storage	34-32
	Section 34-6-16 - Reserved	
	<i>Division IV - Plan Requirements</i>	
	Section 34-6-17 - Plan Requirements	34-33
	Section 34-6-18 - Construction Alternatives	34-34
	Section 34-6-19 - Reserved	
	<i>Division V – Inspection, Maintenance and Acceptance by City</i>	
	Section 34-6-20 - Inspection	34-34
	Section 34-6-21 - Maintenance	34-34
	Section 34-6-22 - Acceptance	34-34
	Section 34-6-23 - Reserved	
	<i>Division VI – Penalties for Violation</i>	
	Section 34-6-24 - General	34-35
	Section 34-6-25 - Corrective Actions	34-35
	Section 34-6-26 - Penalty	34-35

## CHAPTER 34

### SUBDIVISION CODE

#### ARTICLE I – GENERAL PROVISIONS

**34-1-1**        **TITLE.**    These regulations shall be known as and may be referred to as the Subdivision Code of the City.

**34-1-2**        **PURPOSE.**    In accordance with State law (**Ill. Comp. Stats., Chap. 65, Secs. 5/11-12-5, 5/11-12-8 -- 5/11-12-12; Chap. 765, Sec. 205/1 et seq.**) this Code regulates the subdivision and development of land in order to implement the Comprehensive Plan and Official Map duly adopted by the City. Thus this Code assists in achieving the following specific objectives:

- (A)            to preserve, protect, and promote the public health, safety, and welfare;
- (B)            to provide a pleasant living environment by furthering the orderly and efficient layout and use of land and by facilitating aesthetic urban design;
- (C)            to establish accurate legal records, to avoid development in wetland areas, and to avoid legal and other problems by requiring that subdivided land be properly monumented and recorded;
- (D)            to conserve and increase the value of land, improvements, and buildings throughout the City;
- (E)            to preserve the natural beauty and topography of the City to the maximum feasible extent, including preservation of such features as stands of trees, streams, significant archaeological sites, and historical landmarks;
- (F)            to provide adequate light, air, and privacy for all residents of new developments by preventing undue concentration of population;
- (G)            to protect against injury or damage caused by fire, pollution, flooding, storm water runoff, or erosion and sedimentation;
- (H)            to provide safe and convenient access to new developments and to avoid traffic congestion and unnecessary public expenditures by requiring the proper location, design, and construction of streets and sidewalks;
- (I)            to provide an environment whereby the cost of installing and maintaining adequate water mains, sanitary sewers, storm water sewers, and other utilities and services can be kept at a minimum; and
- (J)            to ensure that adequate parks, schools, and similar facilities can be made available to serve the residents.

**34-1-3**        **JURISDICTION.**    The provisions of this Code shall apply to all Planned Developments whether Residential, Commercial, or otherwise in nature, and to any other developments whether a Plat is required or not under the law, statutes, ordinances or regulations of the governmental body or agency having jurisdiction or control, and regardless of whether the same is labeled a subdivision or not, it being the intent of this Code to apply to all types of development, both within the City and to areas lying within **one and one-half (1.5) miles** of the corporate limits of the City.

**34-1-4**        **INSTANCES WHEN PLATS WILL NOT BE REQUIRED.**    The provision of these regulations do not apply and no plat is required in any of the following instances:

- (A)            the division or subdivision of land into parcels or tracts of **five (5) acres** or more in size which does not involve any new streets or easements of access or special utility easements;
- (B)            the division of lots or blocks of less than **one (1) acre** in any recorded subdivision which does not involve any new streets or easements of access or special utility easements;

land; (C) the sale or exchange of parcels of land between owners of adjoining and contiguous

(D) the conveyance of parcels of land or interests therein for use as a right-of-way for railroads or other public utility facilities and other pipelines which does not involve any new streets or easements of access or special utility easements;

(E) the conveyance of land for highway or other public purposes or grants or conveyance relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;

(F) conveyance made to correct description in prior conveyances;

(G) the sale or exchange of parcels or tracts of land following the division into no more than **two (2) parts** of a particular parcel or tract of land recorded on or before **July 17, 1959** and not involving any new streets or easements of access or add special utility easements;

(H) the conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access or special utility easements;

(I) the sale of a single lot of less than **five (5) acres** from a larger tract when a survey is made by a registered surveyor; provided, however, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract existing as of **October 1, 1973**.

**34-1-5** **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of the City, and every regulation set forth herein shall be considered the minimum requirement for the promotion of the public health, safety, and welfare.

(A) **More Restrictive Requirements Apply.** Whenever the requirements of this Code differ from those of any statute, lawfully adopted ordinance or regulation, easement, covenant, or deed restriction, the more stringent requirement shall prevail. Thus, in accordance with State law **65 ILCS 5/11-12-11**.

(B) **County Code.** Whenever this Code imposes higher standards it shall supersede the County regulations in the unincorporated territory located within the City's subdivision jurisdiction.

**34-1-6** **DISCLAIMER OF LIABILITY.**

(A) Except as may be provided otherwise by statute or ordinance, no officer, council member, agent, or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code. **(See "Local Governmental and Governmental Employees Tort Immunity Act," Ill. Comp. Stats., Chap. 745, Secs. 10/1-101.)**

(B) Any suit brought against any officer, council member, agent, or employee of the City, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the City Attorney until the final determination of the legal proceedings.

## ARTICLE II - DEFINITIONS

**34-2-1      INTERPRETATION OF TERMS.** In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Unless the context clearly indicates otherwise, words and phrases shall have the meanings respectively ascribed to them in **Section 34-2-2**; terms not defined in **Section 34-2-2** shall have the meanings respectively ascribed to them in the City's Zoning Code; if any term is not defined either in **Section 34-2-2** or in the Zoning Code, said term shall have its standard English dictionary meaning.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and vice versa.

(E) The word "shall" is mandatory; the word "may" is discretionary.

(F) Captions (i.e., titles of sections, subsections, etc.) are intended merely to facilitate general reference and in no way limit the substantive application of the provisions set forth thereunder.

(G) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(H) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

### **34-2-2      SELECTED DEFINITIONS.**

**Administrator, Zoning:** The official appointed by the Mayor and the Council to administer the Subdivision Code.

**Alley:** A public right-of-way which affords a secondary means of vehicular access to the side or rear of premises that front on a nearby street, and which may be used for utility purposes.

**Amendment:** A change in the provisions of this code, properly effected in accordance with State law and the procedures set forth herein.

**Area, Building:** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of unenclosed patios, terraces, and steps.

**Area, Gross:** The entire area within the lot lines of the property proposed for subdivision/development, including any areas to be dedicated/reserved for street and alley rights-of-way and for public uses.

**Area, Net:** The entire area within the boundary lines of the territory proposed for subdivision, less the area to be dedicated for street and alley rights-of-way and public use.

**Arterial Street:** A street designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic on a continuous route with intersections at grade, and on which traffic control devices are used to expedite the safe movement of through traffic.

**Barrier (Natural or Artificial):** Any street, highway, river, pond, canal, railroad, levee, embankment, or screening by a fence or hedge.

**Block:** An area of land entirely bounded by streets, highways, barriers, or rights-of-ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a street, highway, or R.O.W.) or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines.

**Building:** Any structure, whether temporary, semi-permanent, or permanent, designed or intended for the support, enclosure, shelter or protection of persons or property.

**Building Line:** See Setback Line.

**Catch Basin:** A receptacle, located where a street gutter opens into a storm sewer, designed to retain matter that would not easily pass through the storm sewer.

**Centerline:**

- (A) the centerline of any right-of-way having a uniform width;
- (B) the original centerline, where a right-of-way has been widened irregularly;
- (C) the new centerline, whenever a road has been relocated.

**Centerline Offset:** The distance between the centerline of two roughly parallel streets, measured along the third street with which both said "parallel" streets intersect.

**Cluster Development:** A subdivision planned and constructed so as to group housing units into relatively dense patterns while providing a unified network of open space and wooded areas, and meeting the requirements of the Subdivision Code and the Zoning Code.

**Collector Street:** A street which carries or is proposed to carry intermediate volumes of traffic from local streets to arterial streets and which may or may not be continuous.

**Common Land:** That land set aside for open space or recreational use for the owners of the lots of a subdivision, which land is conveyed by the developer in fee simple absolute title by warranty to trustees whose trust indenture shall provide that said common land be used for the sole benefit, use and enjoyment of the lot owners present and future. No lot owner shall have the right to convey his interest in the common land except as an incident of the ownership of a regularly platted lot.

**Comprehensive Plan:** The plan or any portion thereof adopted by the Council to guide and coordinate the physical and economic development of the City. The City's Plan may include, but is not limited to, plans and programs regarding the location, character, and extent of highways, bridges, public buildings or uses, utilities, schools, residential, commercial, or industrial land uses, parks, drainage facilities, etc.

**Cross-slope:** The degree of inclination measured across a right-of-way rather than in the direction traffic moves on said right-of-way.

**Cul-de-Sac:** A short minor local street having only one outlet for vehicular traffic and having the other end permanently terminated by a turn-around for vehicles; the term may also be used to refer solely to said turn-around.

**Curb and Gutter, Integral:** The rim forming the edge of a street plus the channel for leading off surface water, constructed of concrete as a single facility.

**Dedicate:** To transfer the ownership of a right-of-way, parcel of land, or improvement to the City or other appropriate government entity without compensation.

**Density, Gross:** The total number of dwelling units divided by the total project area, expressed as gross dwelling units per acre.

**Density, Net:** The total number of dwelling units divided by the net acreage. See definition of Area, Net.

**Design:** The arrangement of uses on the land and the arrangement of easements, lots and rights-of-way, including specifications of materials, alignment, grade and width of these elements.

**Develop:** To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation therefor.

**Dimensions:** Refers to both lot depth and lot width.

**Drainageway:** A watercourse, gully, dry stream, creek, or ditch which carries storm water runoff or which is fed by street or building gutters or by storm water sewers, or which serves the purpose of draining water from the lands adjacent to such watercourse, gully, dry stream, creek, or ditch.

**Easement:** A grant by the property owner to the public, a corporation, or a person of the use of land for limited and specifically named purpose.

**Escrow Deposit:** A deposit in cash or other approved securities to assure the completion of improvements within a subdivision.

**Filing Date:** The date that the applicant has filed the last item of required data or information with the City Clerk and has paid the necessary fees for review by the Plan Commission.

**Flood Hazard Area:** All land subject to periodic inundation from overflow of natural waterways.

**Frontage:** The lineal extent of the front (street-side) of a lot.

**Frontage Road:** A minor street fronting on an arterial street or highway (usually a limited access highway), used for access to abutting lots.

**Grade:** The degree of inclination of the site or right-of-way, expressed as a percentage. Synonym for "slope."

**Hillside Area:** An area with an average slope of **twenty percent (20%)** or more.

**Improvement:** Refers to site grading, street work and utilities (including water, sewer, electric, gas, storm water, telephone and cable television) to be installed or agreed to be installed by the subdivider on land to be used for public or private streets, and easements or other purposes as are necessary for the general use of lot owners in the subdivision. Including the furnishing of all materials, equipment, work and services such as engineering, staking and supervision, necessary to construct all the improvements required in Article V of the Code or any other improvements that may be provided by the subdivider. All of such materials, equipment and services shall be provided at the subdivider's cost and expense, although he may enter into a contract with individuals and firms to complete such improvements, and the improvements shall be subject to the final approval of the Plan Commission and the City Council.

**Improvement Plans:** The engineering plans showing types of materials and construction details for earth moving and for the structures and facilities to be installed both in, or in conjunction with, a subdivision. Plans must include drainage, streets, alleys and utility locations to be installed in or in conjunction with a subdivision - also, include overall drainage plan and its effect on contiguous land and source of effluent or discharge.

**Inlet:** A receptacle, located where surface and/or groundwater can run to by gravity to be received by the storm sewer.

**Intersection:** The point at which two or more public rights-of-way (generally streets) meet.

**Land Use Plan:** The comprehensive long-range plan for the desirable use of land, the purpose of such plan being, among other things, to serve as a guide to the progressive subdividing and use of undeveloped land.

**Local Street:** A street serving limited amounts of residential traffic, and for access to abutting property, and on which the speed limit is low and the traffic volume minimal.

**Lot:** A tract of land intended as a unit for the purpose (whether immediate or future) of development or transfer of ownership. A "lot" may or may not coincide with a "lot of record."

**Lot Area:** The area of a horizontal plane bounded by the front, side, and rear lines of a lot, exclusive of any land designated for street right-of-way.

**Lot, Butt:** A lot at the end of a block and located between **two (2) corner lots**.

**Lot, Corner:** A lot having at least **two (2) adjacent sides** that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

**Lot Depth:** The mean horizontal distance between the front end and the rear lot lines measured in the general direction of the side lot lines.

**Lot, Interior:** A lot whose side lines do not abut any street.

**Lot Line, Front:** The line separating the lot from the street. On a corner lot, the front lot line shall be the frontage having the least dimension.

**Lot Line, Rear:** The rear lot line is the lot line most nearly parallel to and most remote from the front lot line.

**Lot Line, Side:** Any lot line other than front or rear lot line. A corner side lot line separating a lot from a street is called a street side lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

**Lot of Record:** An area of land designated as a lot on a plat of subdivision recorded with the County Recorder of Deeds in accordance with State law.

**Lot, Through:** A lot having a part of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

**Lot Width:** The mean horizontal width of the lot measured at right angle to the general direction of the side lot lines.

**Maintenance Bond:** A surety bond, posted by the developer and approved by the City, guaranteeing the satisfactory condition of installed improvements for the one-year period following their dedication.

**Master Development Plan:** A combination of maps, drawings, site plans, charts and supportive narrative material that portrays total development to be achieved in the overall project area; which provides sufficient detailed information to both illustrate and describe the intended character and configuration of development to be accomplished.

**Metes and Bounds:** A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and description of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

**Official Map:** A graphic statement of the existing and proposed capital improvements planned by the City which require the acquisition of land--such as streets, drainage systems, parks, etc.



**Owner:** A person having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

**Parking Lane:** An auxiliary lane of a street and primarily used for vehicular parking.

**Pedestrian Way:** A right-of-way dedicated to public use which cuts across a block to facilitate safe pedestrian access to adjacent streets and properties.

**Performance Bond:** A surety bond posted by the developer and approved by the City, guaranteeing the installation of required improvements within, or in conjunction with, a subdivision.

**Person:** Any agent, individual, firm, association, partnership, corporation, syndicate or trust.

**Plan Commission:** The Plan Commission of the City.

**Plans:** All of the drawings including plats, cross-sections, profiles, working details and specifications, which the subdivider prepares or has prepared to show the character, extent and details of improvements required in this Code and which plans shall conform to any requirements of the Plan Commission as to scale and details for submittal to the approval officials of the City for consideration, approval or disapproval.

**Plat, Final:** The final engineering and architectural maps, drawings, and supporting material indicating the subdivider's plan of the subdivision which, if approved, may be filed with the County Recorder of Deeds.

**Plat, Preliminary:** Preliminary engineering and architectural maps, drawings, and supportive material indicating the proposed layout of a subdivision.

**Project Area:** That territory intended to be subdivided or developed, and portrayed and defined in the preliminary and final plats.

**Reserve:** To set aside a parcel of land in anticipation of its acquisition by the City or other appropriate government entity for public purposes.

**Reserve Strip:** A narrow strip of land between a public street and adjacent lots which is designated on a recorded subdivision plat or property deed as land over which vehicular travel is not permitted.

**Re-subdivision:** See Subdivision.

**Retention Area:** An area of land designed to capture water runoff from a developed parcel and release it at a specified rate of flow as determined by engineering studies **(See Section 5-16.4)**.

**Reverse Curve:** A curve in a street heading in approximately the opposite direction from the curve immediately preceding it so as to form an S-shape.

**Right-of-Way, Public:** A strip of land which the owner/subdivider has dedicated to the City or other appropriate government entity for streets, alleys, and other public improvements; sometimes abbreviated as r.o.w.

**Roadbed:** The graded portion of a street upon which the base course, surface course, shoulders and median are constructed.

**Roadway:** The entire improved portion of the street, including shoulders, parking lanes, travel way, curbs and gutter.

**Setback Line:** A line that is usually parallel to the front, side or rear lot line establishing the minimum space to be provided as the front, side or rear yard.

**Sidewalk:** A pedestrian way constructed in compliance with the standards of this Code, generally abutting or near the curb line of the street.

**Slope:** The degree of inclination of site or right-of-way expressed as a percentage. Synonym for "grade."

**Soil and Water Conservation District:** The County Soil and Water Conservation District.

**Street:** A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court and similar designations, but excludes an alley or a way for pedestrian or bicycle use only.

**Street, Area Service Highway:** Area service highways interconnect collectors and land access streets with the principal system and vice versa, brings all developed areas within a reasonable distance of principal streets, connects and provides direct access to major traffic generators, provides secondary service to smaller communities, may provide access to abutting property, and have a medium volume design capacity and travel speeds.

**Street, Cul-de-Sac:** A short, land-access street, having only **one (1) end** open for vehicular traffic, and the other permanently terminated by a turn-around for vehicles.

**Street, Dead-End:** Land access streets similar to cul-de-sacs, except that they provide no turn-around circle at their closed end, and are not permitted in any proposed subdivision.

**Street, Land Access:** Land access streets provide access to abutting properties, have a relatively short travel distance, and have a low volume design capacity and travel speeds.

**Street, Looped:** Land access streets having **two (2) open ends**, each end generally connecting with the same street, no other streets intersecting between its ends, and property fronts on both sides of the street.

**Street, Marginal Access or Service Road:** A land access street parallel and adjacent to area service highways providing access to abutting properties.

**Structure:** Anything constructed or erected which requires permanent or temporary location on or in the ground, or is attached to something having a fixed location on or in the ground. All buildings are structures but not all structures are buildings (e.g., a fence).

**Stub or Butt Street:** A street that is temporarily terminated, but that is planned for future continuation.

**Subdivider:** Any person, firm, partnership, association, corporation, estate or other group or combination acting as a unit, dividing or proposing to divide land in a manner that constitutes a subdivision as defined in this Article.

**Subdivision:** (1) The division of land into two or more lots or parcels for the purpose of either immediate or future sale, rental or building development or use(s) other than agricultural use or production. (2) Establishment or dedication of a public street or alley through a tract of land regardless of size. The term "subdivision" shall also include all re-subdivisions of land or lots.

**Topography:** The relief features or surface configuration of an area of land.

**Travelway:** That portion of a street used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

**Vacate:** To terminate the legal existence of right-of-way or subdivision, and to so note on the final plat recorded with the Franklin County Recorder of Deeds.

**Variance, Subdivision:** A relaxation in the strict application of the design and improvement standards set forth in this Code.

**Yard, Front:** A yard extending across the full width of the lot, the depth of which is set forth in the Zoning Code.

**Yard, Rear:** A yard extending across the full width of the lot between the nearest rear main building and the rear lot lines. The depth of the required rear yard shall be measured horizontally from the nearest part of the main building toward the nearest point of the rear lot lines.

**Yard, Side:** A yard between a main building and the side lot line, extending from the front yard or front lot lines, where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

**Zoning Code:** The Zoning Code of the City.

## ARTICLE III - PLATS AND PLANS

### DIVISION I - PRELIMINARY PLATS

**34-3-1 GENERAL PROCEDURE.** Before preparing a proposed plat for an area, the owner, developer, or their representatives should have a pre-application meeting with the Plan Commission and/or the Council to determine applicable ordinance regulations and standards which must be complied with. After the pre-application meeting(s), the subdivider should then prepare the preliminary plat. As defined in the Subdivision Code, the preliminary plat must contain a substantial amount of data, and will thus be incomplete and cannot be considered as filed until all required data are submitted. The preliminary plat is received with filing fees by the Zoning Administrator's office, who, in turn, will forward the same to the Plan Commission for their review. Following its review (as well as comments from other appropriate agencies when required), the Plan Commission forwards its recommendation(s) to the Council, who then either approve, disapprove, or approve with modifications the preliminary plat.

**34-3-2 FILING PROCEDURE.** Except as specifically provided otherwise below, every person who proposes to subdivide any land located within the subdivision jurisdiction of this municipality shall file **three (3) copies** of the preliminary plat of said subdivision with the City Clerk.

He shall also file **one (1) copy** of the preliminary plat and supporting data with the appropriate Soil and Water Conservation District. Said district shall have not more than **thirty (30) days** to submit any comments it might wish to make to the Zoning Administrator. **(See 70 ILCS 405/22.02A)**

Whenever a large tract is to be developed in stages and only a portion of that tract is to be submitted for final plat approval, nonetheless, a Master Development Plan of the entire tract shall be submitted.

All preliminary plats shall be reviewed and acted upon in accordance with **Illinois Compiled Statutes, Chapter 65, Section 5/11-12-8** and the provisions of the subsections below.

**EXCEPTION:** The provision of this section shall not apply to:

- (A) minor subdivisions as defined at **Section 34-2-2**; or
- (B) land that is specifically exempted from the Illinois Plats Act as now or hereafter amended. **(See 765 ILCS 205/1(B)).**

**34-3-3 INFORMATION REQUIRED.** Every preliminary plat shall be prepared by an Illinois Registered Land Surveyor at any scale from **one inch equals twenty feet (1" = 20')** through **one inch equals one hundred feet (1" = 100')** provided the resultant drawing does not exceed **thirty-six (36) inches square**.

- (A) small key map showing the relation of the proposed subdivision to section or U.S. Survey lines and to platted subdivisions and dedicated roads within **three hundred (300) feet** of the proposed subdivision;
- (B) names and addresses of the owner, subdivider (if not the owner), and registered professional engineer;
- (C) proposed name of the subdivision;
- (D) zoning district classification of the tract to be subdivided, and of the adjacent land;
- (E) north arrow, graphic scale, and date of map;
- (F) the gross and net acreage area of the proposed subdivision, the acreage of streets, and of any areas reserved for the common use of the property owners within the subdivision and/or for public use;
- (G) all lot lines adjacent to and abutting the subdivision;
- (H) tract boundary lines showing dimensions, bearings, angles, and references to known land lines;
- (I) topography of the tract to be subdivided as indicated by **two- (2) foot** contour data for land having slopes of **zero-four percent (0-4%)**, **five- (5) foot** contour data for land having

slopes between **four-twelve percent (4-12%)**, and **ten- (10) foot** contour data for land having slopes of **twelve percent (12%)** or more;

(J) any proposed alteration, adjustment or change in the elevation or topography of any area;

(K) locations of such features as bodies of water, ponding areas, natural drainageways, railroads, cemeteries, bridges, parks, schools, etc.;

(L) streets and rights-of-way on and adjoining the site of the proposed subdivision; showing the names and including street right-of-way and paving widths; approximate gradients; types and widths of pavement, curbs, sidewalks, crosswalks, planting strips and other pertinent data, including classification of all existing or proposed streets as to function as collector, major, minor or county road;

(M) a copy of the results of any tests made to ascertain subsurface rock and soil conditions and the water table;

(N) locations, widths, and purposes of all existing and proposed easements;

(O) a copy of the description of all proposed deed restrictions and covenants;

(P) location and size of existing and proposed sanitary and storm sewers;

(Q) locations, types, and approximate sizes of all other existing and proposed utilities;

(R) building setback or front yard lines and dimensions;

(S) locations, dimensions, and areas of all parcels to be reserved or dedicated for schools, parks/playgrounds, and other public purposes; and

(T) locations, dimensions, and areas of all proposed or existing lots within the subdivision;

(U) information as defined in **Section 34-3-4(A)**.

**34-3-4 PLAN COMMISSION ACTION.** The Plan Commission shall either approve or disapprove the application for preliminary plat approval within **sixty (60) days** from the date of said application or the filing of the last item of required supporting data, whichever date is later, unless the Plan Commission and the subdivider mutually agree to extend this time limit. If the Plan Commission disapproves the preliminary plat, they shall furnish to the applicant within the **sixty (60) day period** a written statement specifying the aspects in which the proposed plat fails to conform to this Code and/or the Official Map. If the Plan Commission approved the preliminary plat, they shall inform the Council that action can be taken at the next regularly scheduled Council meeting.

(A) **Notice of Meeting.** The Plan Commission shall give notice of its consideration of any preliminary plat and allow the opportunity to be heard to the following person(s) or groups during its preliminary review time span:

(1) Any person requesting notification of the meeting.

(2) Any property owner whose property is contiguous to the property, including property across the streets, railroads, creeks, and similar barriers; said information shall be provided by the applicant to the City Clerk's office when filing the plat.

(3) Any governmental or taxing body which requests notification of the meeting.

**34-3-5 REVIEW BY COUNCIL; TIME CONSTRAINTS.** The City Council shall review the preliminary plat, along with the Plan Commission recommendations and approve, disapprove or approve subject to certain conditions and/or modifications said preliminary plat within **thirty (30) days** after its next regularly scheduled meeting following receipt of the written Plan Commission recommendations.

If the Council rejects the preliminary plat, their resolution shall specify the aspects in which the plat fails to comply with this Code and/or the Official Map. The City Clerk shall attach a certified copy of the Council's resolution of approval or disapproval to the preliminary plat. One copy of the resolution and plat shall be retained by the Clerk, one copy shall be filed with the Plan Commission, and one copy shall be sent to the subdivider by return receipt mail.

**34-3-6            RIGHTS AND PRIVILEGES OF SUBDIVIDER.** Preliminary plat approval shall confer the following rights and privileges upon the subdivider:

(A)            That the preliminary plat will remain in effect for a **one (1) year** period from the day the Council approves the same. The applicant may, during this period, submit all or part or parts of said preliminary plat for final approval. In the event that the subdivision is being developed in stages, the applicant may, by written mutual agreement with the Council, have final approval of the last part of the plat delayed for a period not to exceed **five (5) years** from the date of the preliminary plat approval. Any part of a subdivision which is being developed in stages shall contain a tract of land at least **one (1) block** in area or **five (5) gross acres**.

(B)            That the general terms and conditions under which the preliminary plat approval was granted will not be changed for final approval.

(C)            The applicant may also proceed with any detailed improvement plans required for all facilities or utilities intended to be provided. Actual construction of such facilities and improvements may commence prior to final plat approval if the detailed improvement plans have been recommended by the City Engineer and approved by the Council, provided that such facilities and improvements will be inspected throughout their construction, and final plat approval will be contingent in part upon acceptable compliance to City improvement and facilities standards. If the applicant does not submit the improvement plans prior to the submission of the final plat, then he shall submit the improvement plans to the Zoning Administrator's office at the time that the final plat is submitted.

**34-3-7            RESERVED.**

## **DIVISION II - IMPROVEMENT PLANS**

**34-3-8            SUBMISSION OF PLANS.** After the Council has approved the preliminary plat, but prior to submission of the final plat, the developer shall furnish **three (3) copies** of the plans and specifications for all improvements to be installed within or in conjunction with the proposed development to the City Clerk, pay all associated filing fees before review by the City Engineer. These plans and specifications shall be signed and sealed by the registered professional engineer responsible for their preparation. Until the City Engineer certifies in writing that the proposed improvements conform to generally accepted engineering practices and to the standards in this Code:

(A)            the Zoning Administrator shall not issue any building permit to allow construction of said improvements; and

(B)            the Council shall not act upon the application for final plat approval.

**34-3-9            INFORMATION REQUIRED.** Improvement plans shall consist of black or blue line prints not larger than **thirty-six (36) inches square**. These plans and the related specifications shall provide all of the following information:

(A)            topography of the tract, both before and after development at the same scale as the approved preliminary plat;

(B)            existing and proposed elevations along the centerline of all streets;

(C)            radii of all curves and lengths of tangents on all streets;

(D)            locations and typical cross-section of street pavements including curbs/gutters, catch basins, and inlets;

(E)            locations and typical cross-section of sidewalks and driveway aprons;

(F)            locations, sizes, and invert elevations of all existing and proposed sanitary sewers, storm sewers, and fire hydrants, showing connections to any existing or proposed utility systems;

(G)            locations and sizes of all water, gas, electric, and other utilities;

(H) locations of street lighting standards and street signs;



- (I) one or more bench marks, when requested by Engineer, in or near the subdivision, to which the subdivision is referenced; the identity and elevation shall be based on sea level datum;
- (J) all proposed measures to control erosion and sedimentation;
- (K) high water elevations of all lakes/streams adjoining or within the tract;
- (L) such other information as the City Engineer may reasonably require to perform his duties under this section; and
- (M) existing and proposed survey monuments on street plans or on the proposed final plat as required by this Code.

**34-3-10      INSPECTIONS REQUIRED.** The subdivider/developer shall notify the Zoning Administrator of both the start and completion of construction.

(A) The Zoning Administrator and the Street Commissioner shall inspect said improvements while they are under construction. If the Zoning Administrator and the Street Commissioner determines that they are being built in violation of this Code, they shall promptly issue a stop order.

(B) The City Engineer and the Zoning Administrator shall inspect improvements upon their completion. This municipality shall not accept any completed improvement until the City Engineer and the Zoning Administrator have stated in writing that it complies with this Code.

**34-3-11      FILING "AS-BUILT" RECORDS.**

(A) The subdivider/developer shall file with the Zoning Administrator a set of reproducible cloth- or polyester-base film positive showing the as-built details and any deviations from the approved plans upon the completion of improvements, or when **fifty percent (50%)** of the building permits have been issued in a given plat.

(B) The subdivider/developer shall pay the costs to add water, sewer, street, and stormwater improvements to the overall City map(s); street, sewer, water, stormwater;

(C) If the Engineer finds the as-built to be unacceptable, building permits shall be discontinued until such time as the information is acceptable.

**34-3-12      RESERVED.**

**DIVISION III - ASSURANCE FOR COMPLETION OF REQUIRED IMPROVEMENTS**

**34-3-13      APPROVAL OF FINAL PLAT - IMPROVEMENTS.** The Council shall not approve any final plat of subdivision (and, hence, said final plat shall not be entitled to recording) until:

(A) all improvements required in the improvement plan have been completed by the subdivider/developer at his expense, inspected by the Zoning Administrator and the Engineer, and dedicated to this municipality or other appropriate entity; or

(B) in accordance with the subsections below, the subdivider/developer has provided this municipality with legal assurance to guarantee the satisfactory completion and dedication of all required improvements.

**34-3-14      FORMS OF ASSURANCE.** At the option of the Council, the required legal assurance may be either a performance bond or an escrow deposit. Every performance bond shall be reviewed by the City Attorney, and posted with the City Clerk. Any funds to be held in escrow shall be deposited with the City Clerk.

**34-3-15      AMOUNT OF BOND OR DEPOSIT.** The amount of the performance bond or escrow deposit shall be equal to the City Engineer's opinion of probable costs of constructing the uncompleted portion of the required improvements plus all required inspection fees. Any escrow deposit may be in the form of:

- (A) cash;
- (B) an irrevocable letter of credit or commitment from a lending institution guaranteeing to this municipality the availability of the escrow funds from time to time upon demand; or
- (C) certificates of deposit, treasury bills, or other readily negotiable instruments approved by the City Clerk, and made payable to this municipality.

**34-3-16      ELIGIBLE SURETIES.** No person shall be eligible to act as surety unless he has been approved by the City Clerk. The Clerk shall conduct or cause to be conducted spot audits of all sureties. Any surety who fails to perform shall be ineligible for **two (2) years** thereafter to act as surety for any subdivision improvement within this municipality's jurisdiction.

**34-3-17      TERM OF ASSURANCE, EXTENSION.** The initial term of any performance bond or escrow agreement shall not exceed **two (2) years**. If all the required improvements have not been completed by the end of the two-year period, the Plan Commission, with the advice and consent of the Council, may either extend said bond/escrow agreement for **one (1) year** only, or may proceed as per **Section 34-3-19**.

**34-3-18      RELEASE OF BOND/ESCROW DEPOSIT.**

- (A) The City Clerk may release up to **ninety percent (90%)** of the amount of the performance bond/escrow deposit upon receipt of written authorization from the Zoning Administrator. The amount which the Zoning Administrator authorizes to be released shall be equal to the value of improvements actually completed in accordance with approved plans.
- (B) The balance of the amount of the performance bond/escrow deposit shall not be released by the City Clerk until:
  - (1) the Zoning Administrator has certified in writing that all required improvements have been satisfactorily completed; and
  - (2) said improvements have been accepted by and dedicated to this City or other appropriate entity.

**34-3-19      FAILURE TO COMPLETE IMPROVEMENTS.** If all the required improvements have not been completed by the end of the two-year period (or three-year period, in the case of an extension), the Zoning Administrator, with the assistance of the City Attorney, may:

- (A) require the surety to perform on the bond, and to pay to this municipality an equal amount to the cost of completing the required improvements or the amount of the bond not theretofore released, whichever is less; or
- (B) order the City Clerk to retain all escrow funds needed to complete the required improvements, and to return the balance (if any) of such funds to the subdivider/developer; or
- (C) require the subdivider/developer to submit a new performance bond/escrow deposit in an amount sufficient to cover any increase in the cost of constructing the required improvements.

**34-3-20 - 34-3-21      RESERVED.**

## **DIVISION IV - FINAL PLATS**

**34-3-22      CITY COUNCIL APPROVAL.** The Council shall not approve any final plat unless they determine that it is in compliance with all pertinent requirements of this Code including those set forth in the subsections below.

**34-3-23      FILING, TIME LIMITS.** The subdivider of every subdivision -- whether major or minor but excluding land specifically exempted from the Illinois Plats Act as now or hereafter amended (**Ill. Comp. Stats., Chap. 765, Sec. 205/1(b)**) -- who desires final plat approval shall file **six (6) copies** of the final plat and supporting data with the City Clerk and pay all associated filing fees not later than **one (1) year** after preliminary plat approval has been granted. However, with the consent of the Council, the subdivider may delay application for final approval of part(s) of the tract shown on the preliminary plat for successive one-year periods. No subdivision plat or re-plat shall be filed for record or recorded in the office of the County Recorder of Deeds, unless and until the approval of the City is endorsed thereon. No lot shall be sold for such subdivision plat or re-plat until it has been approved by the Council and filed for record in the office of the County Recorder of Deeds as required by the State Statutes.

For official filings, the subdivider shall file the approved final plat with the County Recorder of Deeds within **sixty (60) days** after the Council has approved the same and the Mayor has affixed his signature thereto. **One (1) copy** of the final plat shall be given to the City Clerk's office by the subdivider bearing the official stamp of the County Recorder attesting its recording within **twenty (20) days** of such action.

**34-3-24      INFORMATION REQUIRED.** Every final plat shall be prepared by a land surveyor on new linen tracing cloth- or polyester-base film with waterproof black ink at a scale not greater than **one hundred (100) feet equals one (1) inch**, provided that the resultant drawing shall not exceed **thirty-six (36) inches square**. The final plat and supporting data shall portray/provide all of the following information:

- (A) north arrow, graphic scale, and date;
- (B) name of subdivider, subdivision, identification of the portion of the Public Lands Survey in which the subdivision is located;
- (C) accurate metes and bounds or other adequate legal description of the tract, and the included area of the subdivision to the nearest **one-hundredth (1/100) of an acre**;
- (D) accurate boundary lines, with dimensions and bearings or angles which provide a survey of the tract, closing with an error of closure of not more than **one (1) foot in ten thousand (10,000) feet**;
- (E) all dimensions shall be shown in feet and decimals of a foot;
- (F) reference to recorded plats of adjoining platted land within **three hundred (300) feet**, by record name, plat book, and page number;
- (G) accurate locations of all existing streets intersecting the boundaries of the subdivision;
- (H) right-of-way lines of all streets, other rights-of-way, easements, and lot lines with accurate dimensions, angles, or bearings and curve data, including radii, arcs or chords, points of tangency, and central angles;
- (I) name and right-of-way width of every proposed street;
- (J) purpose of any existing or proposed easement(s);
- (K) number of each lot, lot dimensions, and (in a separate list) lot areas;
- (L) purpose(s) for which sites, other than private lots, are reserved;
- (M) building or setback lines with accurate dimensions;
- (N) restrictions of all types which will run with the land, and become covenants in the deeds of lots;
- (O) certification of dedication of all public areas;

(P) accurate distances and directions to the nearest established official monument;  
reference corners shall be accurately described on the final plat;

(Q) reference to known and permanent monuments and bench marks from which future surveys may be made together with elevations of any bench marks; and the Surveyor must, at the time of making his survey, establish permanent monuments (set in such a manner that they will not be moved by frost) which mark the external boundaries of the tract to be divided or subdivided and must designate upon the plat the locations where they may be found;

(R) location, type, material and size of all monuments and lot markers.

**34-3-25 CERTIFICATES REQUIRED.** As required by State law (**Ill. Comp. Stats., Chap. 765, Sec. 205/2; Chap. 65, Sec. 5/11-12-8**), the following certificates shall be executed on the final plat:

(A)

**OWNER'S CERTIFICATE**

We, \_\_\_\_\_, the Owners of \_\_\_\_\_ (description) \_\_\_\_\_, have caused the said tract to be surveyed and subdivided in the manner shown, and said subdivision is to be hereinafter known as \_\_\_\_\_. All rights-of-way and easements shown hereon are hereby dedicated to the use of the public forever including the release and waiver of the right of homestead under the Homestead Exemption laws of the State of Illinois.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_ (Seal)

\_\_\_\_\_ (Seal)

(B)

**NOTARY PUBLIC'S CERTIFICATE**

State of Illinois )

) SS

County of )

I, \_\_\_\_\_, a Notary Public in and for the County aforesaid, do hereby certify that \_\_\_\_\_ (owners) are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and that they appeared before me this day in person and acknowledged that they signed and sealed the same as their free and voluntary act for the uses and purposes therein set forth, including the release of waiver of the right of homestead.

Given under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

(C)

**SURVEYOR'S CERTIFICATE**

I, \_\_\_\_\_, an Illinois Registered Land Surveyor, do hereby certify that this plat is a correct representation of a survey made under my direct supervision at the request of \_\_\_\_\_ for the purpose of subdividing the tract into lots as shown.

\_\_\_\_\_  
Land Surveyor

\_\_\_\_\_  
Illinois Registration Number

\_\_\_\_\_  
Date

(D)

**COUNTY CLERK'S CERTIFICATE**

I, \_\_\_\_\_, County Clerk of \_\_\_\_\_ County, Illinois, do hereby certify that I find no unpaid or forfeited taxes against any of the real estate included within this plat.

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Date

(E)

**CERTIFICATE OF CITY COUNCIL**

I, \_\_\_\_\_, Mayor of the City, do hereby certify that the plat shown herein was duly presented to the Council and approved at a meeting of same held on \_\_\_\_ (date) \_\_\_\_.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

(F)

**FLOOD HAZARD CERTIFICATE**

We, the undersigned, do hereby certify that no part of this plat to be recorded, is situated within **five hundred (500) feet** of any surface drain or watercourse serving a tributary area of **six hundred forty (640) acres** or more, or, if this plat is within **five hundred (500) feet** of any surface drain or watercourse, we hereby certify that this plat has been reviewed by the Illinois Department of Transportation Division of Water Resources and their report is on file with the County Recorder of Deeds.

By: \_\_\_\_\_  
Owner(s)

By: \_\_\_\_\_  
Illinois Land Surveyor

\_\_\_\_\_  
Registration Number

\_\_\_\_\_  
Date

**34-3-26      ADMINISTRATIVE REVIEW, ADVISORY REPORT.** Within **thirty (30) days** from the date of application for Final Plat approval, the Zoning Administrator and the City Engineer shall review said Final Plat (and supporting data), and shall each advise the Council in writing whether it substantially conforms to the approved preliminary plat and improvement plans. A copy of their Advisory Report shall be forwarded to the Plan Commission. The Plan Commission may prepare an addendum to said report (should they so desire), and forward same to the Council.

**34-3-27      ACTION BY CITY COUNCIL.** The Council shall either approve or disapprove the application for Final Plat approval by resolution within **sixty (60) days** from the date of said application or the filing of the last item of required supporting data, whichever date is later, unless the Council and the subdivider mutually agree to extend this time limit. The City Council shall not approve any Final Plat unless:

- (A) the final plat substantially conforms to the approved preliminary plat; and
- (B) the final plat manifests substantial compliance with the design and improvements standards of this Code, Zoning Code, and the Official Map; and
- (C) to the Council's knowledge and belief, the final plat complies with all pertinent requirements of State law; and
- (D) either of the following has been met:
  - (1) all required improvements have been completed, inspected, accepted, and dedicated; or
  - (2) the subdivider/developer has posted a performance bond or deposited funds in escrow to guarantee the satisfactory completion and dedication of all required improvements.

If the City Council disapproves the Final Plat, their resolution shall specify the aspects in which the Plat fails to meet the above conditions for approval.

The City Clerk shall attach a certified copy of the Council's resolution of approval or disapproval to the Final Plat. One copy of the resolution and plat shall be retained by the Clerk, one copy shall be filed with the Zoning Administrator, and one copy shall be given to the subdivider.

**34-3-28      CHANGES IN APPROVED FINAL PLATS.** Once a Final Plat is approved by the City Council, it shall not thereafter be modified; provided, however, that minor changes may be made upon written application to the Zoning Administrator. Major changes require the filing of a new Final Plat and complete re-review.

**34-3-29 - 34-3-34      RESERVED.**

## **DIVISION V - MAINTENANCE OF IMPROVEMENTS**

**34-3-35      SUBDIVIDER'S RESPONSIBILITIES.** The subdivider/developer shall maintain all the improvements in the subdivision until they have been accepted by and dedicated to the City or other appropriate entity.

**34-3-36      MAINTENANCE BOND.** Prior to dedication, the subdivider/ developer shall post a maintenance bond with the City Clerk in the form approved by the City Attorney. Said bond shall be in the amount determined by the Zoning Administrator to be sufficient to guarantee the satisfactory condition of the required improvements for a period of **one (1) year** from the date of their acceptance and dedication. If at any time during the one-year period the improvements are found to be defective, they shall be repaired/replaced at the subdivider/developer's expense. If the subdivider/developer fails or refuses to pay such costs within **ninety (90) days** after demand is made upon him by the Zoning Administrator, the City shall use the maintenance bond to make the necessary repairs/replacement. If the cost of repairs/replacement exceeds the bond amount, the subdivider/developer shall be liable for the excess. At the end of the one-year period, the maintenance bond shall be released.

## **DIVISION VI - VACATION OF PLATS**

**34-3-37      VACATION OF PLATS.** In accordance with State law (**Ill. Comp. Stats., Chap. 765, Secs. 205/6, 205/7, and 205/8**), any plat or part thereof may be vacated by the owner of the tract, at any time before the sale of any lot therein, by a written vacation instrument to which a copy of the plat is attached. If there are public service facilities in any street, other public way, or easement shown on said plat, the instrument shall reserve to the City or other public entity or public utility owning such facilities the property, rights-of-way, and easements necessary for continuing public service by means of those facilities and for maintaining or reconstructing the same. The vacation instrument shall be approved by the Council in the same manner as plats of subdivision and shall also be approved by the County Superintendent of Highways, the Highway Commissioner of the appropriate township, the District Engineer of the Illinois Department of Transportation, and the public utilities. In the case of the platted tracts wherein any lots have been sold, the written vacation instrument must also be signed by all the owners of lots in said tracts.



## ARTICLE IV - ADMINISTRATIVE PROCEDURES

**34-4-1      ENFORCEMENT OFFICER, DUTIES.** The Mayor or an appointed officer, is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties.

- (A) to review and forward preliminary plats to the Plan Commission (**See Art. III; Div. I**);
- (B) to transmit improvements plans to the City Engineer for his review (**See Art. III; Div. II**);
- (C) to review and forward final plats to the City Council (**See Sec. 34-3-23**);
- (D) to issue stop orders as necessary when the Zoning Administrator or City Engineer determines that approved improvements are being constructed in violation of this Code (**See Sec. 34-3-10**);
- (E) to pursue actions authorized at **Section 34-3-19** when a developer fails to complete required improvements;
- (F) to evaluate and pass upon proposed changes in approved final plats (**See Sec. 34-3-28**);
- (G) to review and forward applications for subdivision variances to the Plan Commission (**See Sec. 34-4-2**);
- (H) to maintain up-to-date records of matters pertaining to this Code including, but not limited to, preliminary plats, as-built records of completed improvements (**See Sec. 34-3-11**), final plats, variances, and amendments; and
- (I) to provide information to subdividers/developers and to the general public on matters related to this Code.

**34-4-2      SUBDIVISION VARIANCES.** Any subdivider/developer desiring a variance from the requirements of this Code shall file a written application therefor with the Zoning Administrator at the same time that he files his preliminary plat. The application shall fully explain the grounds for the variance request, and specify the section(s) of this Code which, if strictly applied, would cause great practical difficulties or hardship. The Administrator shall prepare an advisory report on every variance application and submit it, together with the completed application, to the Plan Commission.

**34-4-3      REVIEW BY PLAN COMMISSION.** The Plan Commission shall review the variance application and the Mayor's comments, perform on-site review when appropriate, and submit their advisory report to the City Council together with their recommendation on preliminary plat approval (**See Sec. 34-3-2**). The Plan Commission's advisory report shall be responsive to all the variances standards set forth in **Section 34-4-4**.

**34-4-4      ACTION BY CITY COUNCIL, VARIANCE STANDARDS.** At the same meeting at which they take action on the application for preliminary plat approval (**See Sec. 34-3-3**), the Council shall decide by resolution whether to grant or deny the requested subdivision variance. A copy of their decision, clearly stating their reasons therefor and the exact terms of any variance granted, shall be attached to both the preliminary and final plats. The Council shall not grant any subdivision variance unless, based upon the information presented to them, they determine that:

- (A) the proposed variance is consistent with the general purposes of this Code (**See Sec. 34-1-1**); and
- (B) strict application of the subdivision requirements (**See Article V**) would result in great practical difficulties or hardship to the applicant, not a mere inconvenience; and
- (C) the proposed variance is the minimum deviation from the subdivision requirements that will alleviate the difficulties/hardship; and

- (D) the plight of the applicant is due to peculiar circumstances not of his own making;
- and
- (E) the peculiar circumstances creating the variance request are not applicable to other tracts and, therefore, that a variance would be a more appropriate remedy than a code amendment; and
- (F) the variance, if granted, will not materially frustrate implementation of the municipal comprehensive plan including the Official Map.

**34-4-5**      **AMENDMENTS.** Amendments to this Code may be proposed by the City Engineer, any member of the Council, any Plan Commission member, or any party in interest. Every amendment proposal shall be filed on a prescribed form in the Mayor's office. The Mayor shall promptly transmit each proposal, together with any comments or recommendations he may wish to make, to the Plan Commission for a public hearing.

(A)      **Public Hearing, Notice.** The Plan Commission shall hold a public hearing on every amendment proposal within a reasonable time after said proposal is submitted to them. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing by publication in a newspaper of general circulation within this municipality.

(B)      **Advisory Report, Action By City Council.** Within a reasonable time after the public hearing, the Plan Commission shall submit an advisory report to the City Council. The City Council shall act on the proposed amendment at their next regularly scheduled meeting following submission of this report. Without another public hearing, the City Council may either pass or reject the proposed amendment or may refer it back to the Plan Commission for further consideration.

**34-4-6**      **SCHEDULE OF FEES.**

(A)      The review for the preliminary plat shall be **Fifty Dollars (\$50.00)**, plus **Five Dollars (\$5.00)** per lot.

(B)      The final plat fee shall be **Fifty Dollars (\$50.00)** if no variation from the preliminary plat, otherwise **Fifty Dollars (\$50.00)**, plus **Five Dollars (\$5.00)** per lot whenever Plan Commission review is required.

(C)      Improvement Plan review and inspection fee shall be **one percent (1%)** of the total opinion of probable cost for all improvements as determined by the City Engineer or by the total of all certified contracts for all work related to improvements.

**34-4-7**      **FEES: TIME OF PAYMENT.** All fees listed in **Section 34-4-6** shall be paid by the subdivider/developer or the applicant to the City Clerk's office at the time of submission of documents.

**34-4-8**      **PENALTIES.**

(A)      Any person who is convicted of a violation of this Code shall be guilty of a Class B misdemeanor and shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, plus costs. Each day that a violation continues shall be considered a separate offense.

(B)      Nothing contained in this Section shall prevent this Municipality from taking any other lawful action that may be necessary to secure compliance with this Code.

## ARTICLE V - DESIGN AND IMPROVEMENT STANDARDS

### DIVISION I - GENERALLY

**34-5-1      APPLICABILITY OF ARTICLE.** No land within the subdivision and development jurisdiction of this municipality shall be subdivided or developed except in compliance with the regulations of this Article and the applicable provisions of State law. **(See Ill. Comp. Stats., Chap. 65, Sec. 5/11-12-8; Chap. 765, Secs. 205/1 et seq.)** No lot in any subdivision shall be conveyed until:

(A) the final plat of said subdivision has been approved by the City Council and recorded in the office of the County Recorder of Deeds; and

(B) the portion of said subdivision in which the lot is located has been improved in accordance with the requirements of this Article or until a performance bond or other security has been posted to assure the completion of such improvements.

The Zoning Administrator shall not issue a building permit for any lot conveyed in violation of this Section.

**34-5-2      SUITABILITY FOR DEVELOPMENT GENERALLY.** Land that is unsuitable for development due to flooding, poor drainage, rough topography, adverse soil conditions, or other features which will be harmful to the health, safety, and general welfare of the inhabitants of the development and/or its surrounding areas shall not be subdivided or developed unless the subdivider/developer formulates adequate plans/methods to solve the problems caused by the adverse land conditions.

**34-5-3      RESERVED.**

### DIVISION II - LOT REQUIREMENTS

**34-5-4      LOT SIZE.** All lots in a subdivision shall be at least **ten thousand (10,000) square feet** in size with a minimum front lot line width of **seventy-five (75) feet**; land that is under water or reserved for street improvements shall not be counted to satisfy these minimum requirements. Every corner and through lot shall be large enough to permit compliance with the district's front setback requirements on every side of the lot that faces a street. All lot remnants shall be added to adjacent lots to avoid the creation of unbuildable parcels. All lots shall contain adequate space for required off-street parking and loading.

**34-5-5      ACCESS AND RELATIONSHIP TO STREET.** Land shall be subdivided in such a way that each lot abuts a street meeting the requirements of **Section 34-5-7**. All side lot lines shall be at right angles to straight street right-of-way lines or radial to curved street right-of-way lines except where a deviation from this rule will provide a better street and lot design.

**34-5-6      REFERENCE MONUMENTS.** Stone or reinforced concrete reference monuments, set in the ground in such a manner that they will not be moved by frost, shall be placed in the field in accordance with the Plats Act, as now or hereafter amended. **(Ill. Comp. Stats., Chap. 765, Sec. 205/1.)** All lot corners shall be marked by **one-half (0.5) inch** iron pins not less than **twenty-four (24) inches** long. These pins shall be driven into the ground deep enough that they do not protrude above the ground surface more than **one-half (0.5) inch**.

### **DIVISION III - STREET DESIGN STANDARDS**

**34-5-7      PLAN INTEGRATION.** All streets shall be properly integrated with the existing and proposed street system indicated in the municipal comprehensive plan, and shall meet the specifications set forth in **Table 5-A**.

**34-5-8      RIGHT-OF-WAY AND PAVEMENT WIDTHS.** Every right-of-way established for subdivision purposes is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. All rights-of-way shall be dedicated to the public by the developer.

The minimum pavement widths shall be as noted in **Table 5-A**.

**34-5-9      TOPOGRAPHICAL CONSIDERATIONS.** Grades of street shall conform as closely as possible to the natural topography, but shall not exceed the maximum grade nor be less than the minimum grade indicated in the Table of Street Design Specifications. All streets shall be arranged so that as many as possible of the building sites are at or above street grade.

**34-5-10     THROUGH TRAFFIC DISCOURAGED.** Marginal access and local streets shall be laid out so as to discourage use by through traffic. The rigid rectangular gridiron street pattern shall be avoided, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged to effect a more desirable street layout.

**34-5-11     LIMITED ACCESS TO ARTERIALS.** Where a development abuts or contains an existing or proposed arterial street, the Plan Commission may recommend to the Council that access to said arterial street be limited by one of the following means:

(A)            by subdividing lots so they back onto the arterial street and front onto a parallel local street (double frontage lots), coupled with the installation of screening in a reserve (access-restricting) strip along the rear lot lines of such lots;

(B)            a series of cul-de-sacs, U-shaped streets, or short loops entered from and generally at right angles to the arterial street, with the rear lot lines of the lots at the termini of such streets backing onto the arterial street; or

(C)            a frontage road separated from the arterial street by a planting strip, but having access thereto at suitable points.

**34-5-12     DEAD-END STREETS.**

(A)            **Temporary Stub Streets.** Streets shall be so arranged to provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire and police protection, and efficient provision of utilities, and where such continuation comports with the City's Official Map. If the adjacent property is undeveloped and the street must dead-end temporarily, the right-of-way shall be extended to the property line, and no strip that would prevent connections with future streets shall be reserved. A temporary turnabout shall be provided at the terminus of any temporary dead-end street.

(B)            **Permanent Dead-End Streets.** For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited to **five hundred (500) feet** in length.

The terminus of a permanent dead-end street shall not be closer than **fifty (50) feet** to the boundary of an adjacent tract. A cul-de-sac turnaround, having a minimum right-of-way radius of **fifty (50)**

**feet** and a minimum pavement radius of **forty-two (42)** feet, shall be provided at the end of every permanent dead-end street.

**34-5-13      INTERSECTIONS.**

(A)      **Only Two Streets.** Not more than **two (2) streets** shall intersect at any one point.

(B)      **Right Angles.** Streets shall be laid out so as to intersect as nearly as possible at right angles; in no case shall **two (2) streets** intersect at an angle of less than **seventy-five (75) degrees**. An oblique street shall be curved approaching an intersection and shall be approximately at right angles with said intersection for at least **one hundred (100) feet** therefrom.

(C)      **Proper Alignment.** Proposed new intersections along one side of an existing street shall, whenever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than **one hundred twenty-five (125) feet** shall not be permitted, except where the intersected street has divided lanes without median breaks at either intersection. Intersections involving collector or arterial streets shall be at least **eight hundred (800) feet** apart.

(D)      **Curb Radii.** To permit safe vehicular movements at corners, the minimum curb radius at the intersection of two streets shall be **twenty (20) feet**, and the minimum radius at the back of the curb shall be **thirty-two (32) feet**.

(E)      **Flat Grade.** Intersections shall be designed with a flat grade wherever practical. In hilly terrain, an area having not greater than a **three percent (3%)** slope for a distance of **fifty (50) feet** from the nearest right-of-way line of the intersecting street shall be provided at the approach to an intersection.

(F)      **Maximum Cross-Slope.** The cross-slopes on all streets, including intersections, shall not exceed **three percent (3%)**.

(G)      **Adequate Sight-Lines.** Where any street intersection will involve earth banks or existing vegetation on the triangular area shown in **Figure 1**, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent necessary to provide an adequate sight distance.

**34-5-14      REVERSE CURVES.** A tangent at least **one hundred (100) feet** long shall be introduced between reverse curves on local collector and collector streets (**see Figure 2**).

**34-5-15      IMPROVEMENTS TO EXISTING STREETS.** Whenever any development abuts an existing street that is narrower than the standards indicated in the Table of Street Design Specifications, the subdivider shall dedicate sufficient right-of-way on the side abutting the development to permit compliance with those standards. The developer shall improve said street to the standards imposed at **Section 34-5-21** et seq., and pay one-half the cost of said improvements.

**34-5-16      WHEN EXCESS RIGHT-OF-WAY REQUIRED.** Right-of-way width in excess of the standards set forth in the Table of Street Design Specifications shall be required where:

(A)      due to topography, additional width is necessary to provide adequate earth slopes;  
or

(B)      due to the location of railroad tracks, additional width is needed to construct overpasses, underpasses, and approaches thereto.

**34-5-17 - 34-5-19      RESERVED.**

## **DIVISION IV - STREET IMPROVEMENT STANDARDS**

**34-5-20      DEVELOPER'S EXPENSE.** All streets and alleys shall be improved solely at the expense of the developer in accordance with the requirements set forth herein. All streets shall be graded as hereinafter provided:

(A) All new streets, which are created and dedicated for use within a subdivision shall be graded, drained and surfaced in accordance with the minimum requirements hereinbelow set forth and in a manner which will provide complete and adequate drainage of all the streets, alleys, and public grounds which may be necessary in order to provide adequate and satisfactory drainage along the side of any existing public street which lies adjacent to the subdivision.

In general, all such new streets within the subdivision and all work to be undertaken thereon shall be designed and constructed according to **IDOT Roads and Bridges Standard Specifications** as the same are in effect at the time the Preliminary Plat and plans for such improvement work are submitted for approval.

(B) **Grading Roadway and Side Slopes.** The roadway shall be considered to be that part of the improvement which lies between the right-of-way lines.

(C) **Street Construction Standards.** All streets within the jurisdictional authority of the Municipality other than state highway shall be improved with pavements bounded by integral concrete curbs and gutter, in accordance with the following criteria:

- (1) Collector street pavements shall be provided with a bituminous surface of **one and one-half (1 ½) inches** of bituminous concrete binder and **one and one-half (1 ½) inches** of bituminous concrete surface Class 1 placed upon a crush stone base course CA #6 having a minimum thickness of **six (6) inches** compacted. The center **forty (40) feet** of the base course shall have a crown of **three (3) inches**.
- (2) Local street pavements shall be provided with a CA #6 crushed stone base course, having a minimum thickness of **seven (7) inches** compacted. An A-2 surface treatment shall be applied in accordance with the "**Standard Specifications for Road and Bridge Construction of the State of Illinois, Department of Transportation**".
- (3) The crushed stone base course shall be permitted to remain throughout one winter season before the bituminous surface is placed thereon. Following inspection of the base and subbase as to compaction and thickness of the base by the Zoning Administrator, the Zoning Administrator may, by authority in writing to the subdivider, waive the winter season waiting period. Compaction based on percent of optimum density.
- (4) The subdivider shall be required to improve arterial streets only to the width required by the current and immediate needs of his subdivision consistent to the standards and specifications herein contained.

(D) **Alleys.** Alleys where permitted or required, shall be constructed as specified for local streets.

(E) **Utility Lines.** Underground utilities in streets or rights-of-way or in easements shall be installed prior to the construction of such streets and/or alleys. Wherever possible, utilities will be placed in rear lot easements with street placement permitted in only the most unusual circumstances.

**34-5-21      CURB AND GUTTER.** All streets, except alleys and collector commercial, local commercial, arterial or industrial, shall be constructed with Portland cement concrete vertical curb and gutter and/or V-type gutter in accordance with the dimensions and specifications shown, therefor, in the Appendices. Only vertical curb and gutter shall be constructed in Industrial Streets. The materials and construction methods for curb and/or gutter shall conform with **IDOT Roads and Bridges Standard Specifications**.

**34-5-22      MAINTENANCE RESPONSIBILITY.** Subsequent to completion of street construction by the subdivider, the City Engineer shall make a final inspection of all streets to ascertain the acceptability of structural condition, earth slopes, drainage structures, etc. If said inspection indicates no deficient items, the City shall take formal action to accept the completed streets for maintenance based upon the Engineer's recommendation.

Should any item need correction or repair, the subdivider will be notified in writing of each deficiency. No street(s) will be accepted in a subdivision until all streets comply with the City's requirements to the satisfaction of the City Engineer. In addition, the developer will be required to provide a guarantee in the form of a Surety Bond in the amount of **Ten Thousand Dollars (\$10,000)** for a period of **three (3) years**.

**34-5-23 - 34-5-24      RESERVED.**

## **DIVISION V - BLOCKS**

**34-5-25      BLOCK WIDTH.** Blocks shall be sufficiently wide to accommodate **two (2) tiers** of lots having the minimum depth of **one hundred ten (100) feet**; provided, that this requirement may be waived in blocks adjacent to local collector or collector streets, railroads, or watercourses.

**34-5-26      BLOCK LENGTH.** No block shall be longer than **one thousand four hundred (1,400) feet** nor shorter than **three hundred (300) feet**. Wherever practicable, blocks along collector streets shall not be less than **one thousand (1,000) feet** in length.

**34-5-27      CROSSWALKS.** Crosswalks, not less than **ten (10) feet** wide, may be required through the center of blocks more than **one thousand (1,000) feet** long where necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities.

**34-5-28      RESERVED.**

## **DIVISION VI - SIDEWALKS**

**34-5-29      REQUIRED.** Sidewalks shall be required:  
(A) on the recommendation of the City Engineer that, sidewalks are needed to ensure public safety;  
(B) along collector streets, near schools, and in shopping areas and similar public places.

These requirements shall not be waived unless the City Engineer advises the Council that, in the area in question, sidewalks are not needed to ensure public safety, and/or that topographical conditions make the installation of sidewalks impractical.

All sidewalks constructed within the municipality shall meet IDOT Roads and Bridges Standard Specifications.



**34-5-30      SIDEWALK CONSTRUCTION STANDARDS.**

(A)      **Relationship to Curb.** The street-side edge of every sidewalk shall either abut the curb or be located at least **six (6) feet** from the curb to allow sufficient space for tree planting.

(B)      **Width.** Residential sidewalks shall be at least **four (4) feet** wide. Non-residential sidewalks shall be at least **five (5) feet** wide.

(C)      **Thickness of Concrete.** All sidewalks shall be constructed of concrete at least **four (4) inches** thick, except that across driveways the thickness shall be increased to **six (6) inches** and/or number **six (6)** reinforcing mesh shall be used.

(D)      **Grade.** No sidewalk shall be constructed at a grade steeper than **six percent (6%)**.

(E)      **Ramps at Intersections.** When sidewalks are required curbs shall be cut and sidewalks shall be ramped at all intersections so as to enhance the mobility of handicapped individuals. Ramps shall conform to the A.D.A. and Department of Transportation guidelines.

**34-5-31      RESERVED.**

**DIVISION VII - STREETLIGHTS**

**34-5-32      INTERSECTION LIGHTING.** Streetlights shall be provided at each intersection of streets (or alleys) within a subdivision and at each cul-de-sac, but in no event shall there be less than one streetlight per **four hundred (400) feet** (or portion thereof) of street frontage between intersections, or between a street intersection and the terminus of a dead-end street. Additionally, in multi-family dwelling subdivisions, lighting shall be provided within parking areas at a minimum rate of one light per **twenty-five (25) parking spaces** or any fraction thereof.

**34-5-33      STREETLIGHT SYSTEM STANDARDS.** The design and installation of the streetlight system in every subdivision shall be reviewed by the Zoning Administrator and the appropriate electric utility company.

The lighting intensity of each streetlight shall be equivalent, at a minimum, to a **175 watt lamp** or **6800 mercury luminary lamp**. Each streetlight standard (post) shall be at least **sixteen (16) feet** high.

**34-5-34      RESERVED.**

**DIVISION VIII - STREET NAME SIGNS**

**34-5-35      SPECIFICATIONS.** Street name signs of the size, height, and type approved by the Street Commissioner shall be supplied and placed by the developer at all intersections within or abutting any subdivision. Street names shall be sufficiently different in sound and spelling from other street names in this municipality so as to avoid confusion. The City Clerk shall maintain a list of existing street names for reference. A street which is planned as a continuation of an existing street shall bear the same name.

**34-5-36      RESERVED.**

## **DIVISION IX - UTILITIES**

**34-5-37      UTILITY LOCATION AND EASEMENTS REQUIRED.** At locations within the subdivision where utilities and drainage facilities are not to be constructed within public rights-of-way, the subdivider shall make provision for easements for such installations. Preliminary plats shall be submitted to the electric, gas, and telephone companies for their input regarding utility easements.

**34-5-38      UTILITY EASEMENTS.** Utility easements, not less than **twenty (20) feet** wide for sanitary sewers and water mains and not less than **fifteen (15) feet** wide for gas, electric, telephone, and cable television, shall be provided where necessary. Normally, in the case of abutting lots, an equal amount should be taken from each lot. Property owners may (at their own risk) plant shrubbery or hedges or install fences on the easement areas. Utilities (private and public), however, in order to have access for repair shall have the election to destroy said improvements and restore the area only by grading and seeding, or to have alternate access through the owner's property.

**34-5-39      DRAINAGE EASEMENTS.** Adequate easements for storm water drainage shall be established along any natural drainage channel and in such other locations as may be necessary to provide satisfactory disposal of storm water from streets, alleys, and all other portions of the subdivision. The location and minimum widths of such easements shall be approved by the City Engineer.

**34-5-40      MAINTENANCE EASEMENTS.** Maintenance easements of not less than **five (5) feet** in width shall be provided along all rear and side lot lines.

**34-5-41      RESERVED.**

## **DIVISION X - WATER FACILITIES**

**34-5-42      POTABLE WATER REQUIRED.** An adequate supply of potable water shall be provided to every platted lot in accordance with Illinois Department of Public Health regulations. If the public water system is reasonably accessible, each lot shall be properly connected thereto at the property line. All water distribution lines shall be at least **six (6) inches** in diameter.

**34-5-43      FIRE HYDRANTS.** Fire hydrants of the type approved by the City Council shall be installed in every subdivision as part of the water distribution system. The distance from any lot to a hydrant, measured along the centerline of the public right-of-way, shall not be greater than **four hundred (400) feet**.

**34-5-44      RESERVED.**

## **DIVISION XI - SANITARY SEWERS**

**34-5-45      COMPLIANCE WITH REGULATIONS.** All proposed sanitary sewer facilities shall comply with the regulations of the Illinois Department of Public Health and the Illinois Environmental Protection Agency, and shall be approved by the City Council. All water and sewer lines shall be constructed as per Standard Specifications for Water and Sewers Mains, State of Illinois, or as amended.

**34-5-46      WHEN PUBLIC SYSTEM PLANNED.** In areas where the public sanitary sewerage system is not reasonably accessible but where plans for the installation of said system have been approved by the Illinois Environmental Protection Agency, sanitary sewers shall be provided in accordance with such plans and temporarily capped. To serve the subdivision until the time when connection to the public system becomes practicable, an approved private central sewage disposal system shall be installed, or individual sewage disposal systems may be used. **(See Chapter 38; Article V of the City Code)**

**34-5-47      ALTERNATE METHODS OF DISPOSAL.** In the event it is not possible, or feasible, for the subdivider to extend the public sewer system into the proposed subdivision, for whatever reason, the subdivider has the right to petition the City to install an alternative method of sewage disposal. Any such petition shall be considered on an individual basis with each case standing on its own merit. No subdivision shall be approved without the City's approval of the method of sewage disposal:

(A)      **Private Central Sewage Systems.** Upon specific approval of the City Council, the subdivider may install a private central sewage system. The City shall reserve the right to review and approve/reject the detailed plans for such a system. Approval of the plans by the City shall in no way be construed as acceptance of the design or operation or maintenance responsibility for said installation. Such installation shall be designed and constructed in accordance with the rules and regulations of the Illinois Environmental Protection Agency, and the Illinois Department of Public Health. The subdivider shall assume perpetual operational and maintenance responsibilities for such installation unless arrangements to the contrary are provided for in a formal written agreement between home owners and the subdivider. Failure of the subdivider to discharge his operational/maintenance responsibilities may result in a fine of **Seven Hundred Fifty Dollars (\$750.00)** per day for each day a deficiency exists and shall apply to the subdivider, his heirs, successors, or assigns.

(B)      **Individual Disposal Systems.** Upon written approval of the City Council, the subdivider may install individual sewage disposal systems providing the lot size is in excess of **twenty thousand (20,000) square feet**. If such installations are permitted, they shall be designed and installed in accordance with the applicable provisions of the requirements and regulations of the **"Private Sewage Disposal Licensing Act and Code"** of the Illinois Department of Public Health.

**34-5-48      RESERVED.**

## **ARTICLE VI - DRAINAGE AND STORM SEWERS**

### **DIVISION I – PURPOSE AND DEFINITIONS**

**34-6-1      PURPOSE AND INTENT.** It is the policy of the City Council to protect and promote the public health, safety and general welfare. The criteria for storm water detention will reduce the possibility of damage to public and private property, will reduce the erosion on land and creek channels, will assist in the attainment and maintenance of water quality standards, and will preserve and enhance the environmental quality of the watercourses in the City. This criteria provides uniform procedures for designing and checking the design of storm drainage detention systems.

The Plan Commission shall not recommend the approval of any plat unless, after consultation with the City Engineer, they determine that the proposed provisions for storm water drainage are adequate. Drainage improvements in the subdivision shall be coordinated with existing and planned drainage improvements elsewhere so as to form an integrated municipal system. The storm water drainage system shall be separate and independent of the sanitary sewer system.

**34-6-2      SPECIAL DEFINITIONS.**

(A) **Development.** Any activity, including subdivisions, that alters the surface of the land to create additional impervious surfaces including, but not limited to, pavement, buildings, and structures except:

- (1) Additions to, improvements and repair of existing single-family and duplex dwellings.
- (2) Construction of any buildings, structures, and/or appurtenant service roads, drives, and walks on a site having previously provided storm water control as part of a larger unit of development consistent with the original development plan.
- (3) Remodeling, repair, replacement, and improvements to any existing structure or facility and appurtenances that does not increase the impervious area on the site in excess of **ten percent (10%)** or add one acre of impervious area.
- (4) Construction of any one new single-family or duplex dwelling unit, irrespective of the site area on which the same may be situated.

(B) **Emergency Spillway.** A device or devices used to discharge water under conditions of inflow that exceed the design inflow. The emergency spillway functions primarily to prevent damage to the detention facility that would permit the sudden release of impounded water. It shall be designed to handle the runoff from a 100-year storm.

(C) **Freeboard.** The difference in elevation between the top of a structure such as a dam or open channel and the maximum design water surface elevation or high water mark and is an allowance against overtopping by waves or other transient disturbances.

(D) **Principal Spillway.** A device such as an inlet, pipe, weir, etc., to discharge water during operation of the facility under the conditions of a **fifteen (15) year** or less return frequency of the existing conditions, before the proposed development.

(E) **Private Detention Facility.** Any detention facility located on and controlling discharge from a site wholly owned and controlled by one owner and not platted for future subdivision of ownership. Also, all facilities incorporating detention storage of storm water in or on any of the following:

- (1) Roofs of buildings or structures also used for other purposes.
- (2) Paved or surfaced areas also used for other purposes.
- (3) Enclosed underground pipes or structures on private property when the surface is used for other purposes.

(F) **Public Detention Facility.** Any detention facility controlling discharge from a tributary area owned by more than one owner and/or platted for future subdivision of ownership, except as defined as a private detention facility herein.

- (G) **Rational Method.** An empirical formula for calculating peak rates of runoff resulting from rainfall.
- (H) Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control Manual, March 1982 (IPSUSESCM).
- (I) **Tributary Area.** All land draining to the point of consideration, regardless of ownership.

**34-6-3        RESERVED.**

**DIVISION II - GENERAL GUIDELINES**

**34-6-4        APPLICABILITY.** This Code shall apply to all development within the limits of the City. Residential developments having a total area of less than **five (5) acres**, and commercial or industrial developments having a total area of less than **two (2) acres**, may be given a waiver by the City Council in accordance with **Section 34-4-4** of this Code, subject to the following conditions.

(A) The City retains the right to require detention storage in all cases in which the proposed development will generate excess runoff that adversely affects the carrying capacity of the receiving watercourse.

(B) Developments less than **two (2) acres** with less than **thirty percent (30%)** of the area paved and developments generating less than one cubic foot per second (CFS)/acre increased runoff shall not be required to provide detention storage, unless conditions (A) is applicable.

(C) This Code shall apply for all newly platted areas and new developments proposed after the date of passage of this Code. All development that have an approved preliminary plan by the Plan Commission at the time of the approval of this Code will not have to conform to this Code.

**34-6-5        AFFIDAVIT OF DISCLOSURE OF PROPERTY INTEREST.** The effective acreage for a site is not limited to a fractional part of the total. If a project is developed in phases or small plats, the total acreage of the project site must be considered. At the time the owner of any development submits a preliminary plat or preliminary plan, he shall also identify to the City all contiguous property or property in the watershed that he has interest in.

**34-6-6        METHOD OF EVALUATION.** The storage capacity and discharge rate shall be based upon the calculated volume and peak flow of the storm water runoff, respectively. The calculations for sites having an area of **one hundred (100) acres** or less shall be made using either the Illinois Manual for Soil Erosion and Sedimentation Control Method or the Rational Method. If the site is larger than **one hundred (100) acres** then the Engineer shall use the Illinois Manual for Soil Erosion and Sedimentation Control Method or if another method is desired to be used, the Engineer shall submit a proposed method of evaluation for the calculations for review and approval. The permitted discharge rate of storm water runoff shall be determined by calculating the rate of runoff for the site's pre- and post-development conditions. The Engineer shall determine the most critical storm looking at three different time periods: 1) the time of concentration, 2) a one hour storm and 3) a 24-hour storm.

**34-6-7        DETENTION OF DIFFERENTIAL RUNOFF.** All new developments shall provide a storm water system that insures that the rate of flow of storm water runoff discharged from the site after development does not exceed the rate of flow of storm water runoff discharged from the site before

development of a 25-year storm, unless given a waiver by the City in accordance with **Section 34-4-4** of this Code. Data shall be submitted for the 15-, 25-, and 100-year frequency storm.

**34-6-8            FLOWS FROM UPSTREAM AREAS.** Flows from upstream areas outside the site should be based upon the assumption that those areas are fully developed under forecast land use patterns. The required storage volume will be based upon the site only, with flows from upstream areas being by-passed or discharged via overflow spillways or other devices for the 100-year storm.

**34-6-9            FACILITIES IN FLOODPLAINS.** If detention storage is provided within a floodplain, only the net increase in storage volume above that which naturally existed on the floodplain shall be credited to the development. No credit will be granted for volumes below the elevation of the base flood at that location unless compensatory storage is also provided. Where encroachments in the existing floodplain fill the valley storage areas, an equal amount of detention volume shall be provided.

**34-6-10          LAND CREDIT FOR DETENTION FACILITIES.** The number of units/lots shall be based on the total area of the tract to be developed. All areas to be used as detention facilities shall be included in this total area.

**34-6-11          RESERVED.**

### **DIVISION III - DESIGN CRITERIA**

**34-6-12          GENERAL REQUIREMENTS.** The design shall be accomplished under the direction of a Registered Professional Engineer. The design shall also be based on land use in the tributary area as zoned, actually developed, or indicated by an adopted future land use plan, whichever basis produces the greatest runoff.

**34-6-13          OTHER REFERENCES.** Other agencies have criteria and regulations pertaining to drainage systems which may complement this criteria. When conflicts are encountered the most rigorous criteria shall govern.

(A)            **Federal Insurance Agency.** Floodplain Regulations and Implementing Ordinances Adopted by Municipalities: Drainage systems designed within the limits of the designated 100-year floodplain on the principal stream shall be designed to convey the flood as defined by applicable published floodplain information studies. For areas located in FIA Zone "A" outside the detailed study area, the developer shall prepare studies and calculations establishing the floodplain, elevation and width. These calculations shall be submitted to the reviewing agency for approval.

(B)            **Illinois Department of Water Resources.** Rules and Regulations of Dams and Reservoirs shall apply to those structures classified as dams thereunder.

**34-6-14          STORM WATER RUNOFF.** The design criteria used in determining the amount of runoff shall be the same as set out in **Section 34-6-1** of this Code.

**34-6-15          HYDRAULIC CONSIDERATIONS FOR DETENTION STORAGE.**

(A)            **Principal Spillways.** Shall be designed to meet the following requirements:

- (1) The principal spillway shall be designed to function without requiring attendance or operation of any kind or requiring use of equipment or tools.

- (2) All discharge from the detention facility when inflow is equal to or less than the 100-year inflow shall be via the principal spillway(s).



- (3) The design shall allow for discharge of at least **eighty percent (80%)** of the detention storage volume within **twenty-four (24) hours** after the peak or center of mass of the inflow has entered the detention basin. On basins less than **one hundred (100) acres**, this shall not apply.
- (4) The design discharge rate via the spillway shall continuously increase with increasing head and shall have hydraulic characteristics similar to weirs, orifices or pipes.

(B) **Emergency Spillways.** The emergency spillway shall be provided to pass a 100-year storm without damaging any property and, where applicable, designed to Illinois Department of Water Resources Dam Safety Requirements.

(C) **Outlet Works.** Shall have an outlet works consisting of valves, gates, pipes, and other devices as necessary to completely drain the facility in **seventy-two (72) hours** or less when required for maintenance or inspection on normally wet basins.

(D) **Sediment Storage.** Shall be designed to provide for **five (5) years** of sediment accumulation calculated by using Figure 1. All other detention facilities shall provide storage for **two (2) years** of sediment accumulation by using Figure 1, except for those using roofs of buildings, paved parking areas or other facilities designed to preclude the deposition or accumulation of sediment. Sediment storage volume shall be in addition to the volume required for temporary storage of storm water to properly size the detention facility on normally wet basins.

(E) **Erosion Control.** Principal spillways and outlet works shall be designed to prevent erosion and if necessary equipped with energy dissipating devices to slow the water to normal velocity as called out in the IPSUSESC Manual. Special measures shall be taken by the developer to not permit sediment from filling the proposed detention basin during all construction of the proposed development.

(F) **Public Detention Facilities.** The owner shall dedicate the detention facility and easements as set forth upon completion of the one-year warranty period and approval by the City Engineer, except:

- (1) When multipurpose wet facilities are planned or are suitable for use for private aquatic recreation or for aesthetic enhancement of the owner's property.
- (2) When multipurpose dry facilities incorporate surface recreational improvements.

(G) **Private Detention Facilities.** Shall be designed requiring the same criteria as the public detention facilities.

The amount of easement shall be equal to the land occupied by the facility plus a **twenty (20) foot** wide strip around the perimeter of the highest elevation attained by the design storage volume, plus an excess easement **twenty (20) feet** in width between the facility and public street. This easement shall be shown as common ground or be dedicated to the trustees of the subdivision or owner of the property for the purpose of maintenance of the storm water detention facility.

A plan for perpetual maintenance and designating responsibility for the maintenance shall be provided for its continuing performance to the standards established by this criteria.

**34-6-16      RESERVED.**

## **DIVISION IV - PLAN REQUIREMENTS**

**34-6-17      PLAN REQUIREMENTS.** The plan requirements shall be:

(A) Elevation-area-capacity curves for the storage facility including notation of the storage volumes allocated to runoff, and permanent residual water storage for other uses (wet basins only).

(B) Inflow hydrographs (detention volumes for rational method) for the 15-, 25-, and 100-year recurrence interval design storms.

(C) Stage-discharge rating curves for each spillway and for combined spillway discharges.

(D) Routing curves for the 15-year and all greater criteria recurrence interval design storms with time plotted as the abscissa and the following plotted as ordinates (this item is not required for the rational method):

- (1) Cumulative inflow volume.
- (2) Cumulative discharge.
- (3) Stage elevation.

**34-6-18      CONSTRUCTION ALTERNATIVES.**

(A) A developer shall build, as part of his development, a detention basin as required by this Code, unless the following sections apply.

(B) Developers of adjacent tracts may combine to build one detention site large enough to meet the requirements of all the tracts of land with approval of the City. The basin shall be located in the same drainage basin.

(C) On-site detention will be required whenever increased runoff from the proposed development creates a hazard down stream as determined by the City Engineer.

**34-6-19      RESERVED.**

**DIVISION V - INSPECTION, MAINTENANCE AND ACCEPTANCE BY CITY**

**34-6-20      INSPECTION.** The developer shall inspect or cause to be inspected, all storm water detention systems constructed within the City. Through such inspection reports the City Engineer shall ensure that the facilities under construction are being constructed in accordance with the approved plans for such development.

**34-6-21      MAINTENANCE.** Each owner of the property being developed has the responsibility and duty to properly operate and maintain any storm water management system which has not been accepted for maintenance by the City. The responsibility of maintenance of the system and subdivision projects shall remain with the developer until such time as the storm water management system escrow for such development has been released at the end of the one-year warranty period. Upon release of escrow, the maintenance responsibility shall be vested in the trustees of the subdivision by virtue of a trust indenture. Indenture of trusts shall clearly indicate resident responsibility for maintenance. All such privately owned maintained systems shall be subject to periodic inspections by the Engineer or its representative. After an inspection by the Engineer, he determines whether or not the conditions of the privately owned storm water detention system are safe and correct. Any cost incurred by the City, as a result of the Engineer's actions, shall be attest against the owner(s) of the system.

**34-6-22      ACCEPTANCE.** Upon acceptance by the Council, the storm water detention system may be dedicated to the City for perpetual maintenance. Any such system shall include adequate perpetual access and sufficient area for maintenance by the City personnel and vehicles.

**34-6-23      RESERVED.**

## **DIVISION VII - PENALTIES FOR VIOLATION**

**34-6-24      GENERAL.** Violation of the provisions of this Code or failure to comply with any of its requirements, including conditions and safeguards established shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense.

**34-6-25      CORRECTIVE ACTIONS.** Nothing herein contained shall prevent the City from taking such other lawful actions as is necessary to forbid or remedy any violations. All such costs connected therewith shall accrue to the person or persons responsible.

**34-6-26      PENALTY.** Any person who violates this Code shall be subject to the penalty in **Section 1-1-20** in the Revised Code.

**TABLE 5-A****STREET DESIGN SPECIFICATIONS**

<u>Residential Street Classification</u>	<u>Max. No. of Dwelling Units/ Net Acre</u>	<u>Permitted On-Street Parking</u>	<u>Required R.O.W. (ft.)</u>	<u>Min. Pave- ment Width (ft.)</u>	<u>Max. Grad- ient (%)</u>	<u>Min. Gradient (%)</u>
Marginal Access	To 1.99	None	40	20	6	1.3
Local	2.0-4.50	Both Sides	45	30	6	1.0
Collector	4.50/Greater	Both Sides	50	34	6	1.0
Arterial	Over 250 dwelling units served	None	70	28	6	1.0

<u>Commercial and Industrial Street Classification</u>	<u>Permitted On-Street Parking</u>	<u>Required R.O.W. (ft.)</u>	<u>Min. Pavement Width (ft.)</u>	<u>Max. Gradient (%)</u>	<u>Min. Gradient (%)</u>
Local	None	60	26	10	1.0
Local	One Side	60	34	10	1.0
Local	Both Sides	60	42	10	1.0
Collector	None	80	44	8	1.0

## **CHAPTER 36**

### **TAXATION**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERALLY</i></b>	
	<i>Section 36-1-1 - Corporate Rate</i>	<i>36-1</i>
	<i>Section 36-1-2 - Police Tax</i>	<i>36-1</i>
	<i>Section 36-1-3 - Audit Tax</i>	<i>36-1</i>
	<i>Section 36-1-4 - F.I.C.A. Tax</i>	<i>36-1</i>
	<i>Section 36-1-5 - General Liability</i>	<i>36-1</i>
	<i>Section 36-1-6 - Garbage Tax</i>	<i>36-1</i>
	<i>Section 36-1-7 - Workmen's Compensation</i>	<i>36-1</i>
	<i>Section 36-1-8 - Street and Bridge</i>	<i>36-1</i>
<b><i>II</i></b>	<b><i>TAXPAYER'S RIGHTS CODE</i></b>	
	<i>Section 36-2-1 - Title</i>	<i>36-2</i>
	<i>Section 36-2-2 - Scope</i>	<i>36-2</i>
	<i>Section 36-2-3 - Definitions</i>	<i>36-2</i>
	<i>Section 36-2-4 - Notices</i>	<i>36-2</i>
	<i>Section 36-2-5 - Late Payment</i>	<i>36-2</i>
	<i>Section 36-2-6 - Payment</i>	<i>36-3</i>
	<i>Section 36-2-7 - Certain Credits and Refunds</i>	<i>36-3</i>
	<i>Section 36-2-8 - Audit Procedure</i>	<i>36-3</i>
	<i>Section 36-2-9 - Appeal</i>	<i>36-4</i>
	<i>Section 36-2-10 - Hearing</i>	<i>36-5</i>
	<i>Section 36-2-11 - Interest and Penalties</i>	<i>36-5</i>
	<i>Section 36-2-12 - Abatement</i>	<i>36-5</i>
	<i>Section 36-2-13 - Installment Contracts</i>	<i>36-5</i>
	<i>Section 36-2-14 - Statute of Limitations</i>	<i>36-5</i>
	<i>Section 36-2-15 - Voluntary Disclosure</i>	<i>36-6</i>
	<i>Section 36-2-16 - Publication of Tax Ordinances</i>	<i>36-6</i>
	<i>Section 36-2-17 - Internal Review Procedure</i>	<i>36-6</i>
	<i>Section 36-2-18 - Application</i>	<i>36-6</i>
<b><i>III</i></b>	<b><i>SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX</i></b>	
	<i>Section 36-3-1 - Definitions</i>	<i>36-7</i>
	<i>Section 36-3-2 - Simplified Municipal Telecommunications Tax Imposed</i>	<i>36-9</i>
	<i>Section 36-3-3 - Collection of Tax by Retailers</i>	<i>36-10</i>
	<i>Section 36-3-4 - Returns to Department</i>	<i>36-10</i>
	<i>Section 36-3-5 - Resellers</i>	<i>36-10</i>
<b><i>IV</i></b>	<b><i>GAS TAX</i></b>	
	<i>Section 36-4-1 - Tax Imposed</i>	<i>36-11</i>
	<i>Section 36-4-2 - Exceptions</i>	<i>36-11</i>
	<i>Section 36-4-3 - Additional Taxes</i>	<i>36-11</i>
	<i>Section 36-4-4 - Definitions</i>	<i>36-11</i>
	<i>Section 36-4-5 - Reports to City</i>	<i>36-11</i>
	<i>Section 36-4-6 - Credit for Over-Payment</i>	<i>36-12</i>
	<i>Section 36-4-7 - Penalty</i>	<i>36-12</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b><i>ELECTRICITY TAX</i></b>	
	<i>Section 36-5-1 - Tax Imposed</i>	<i>36-13</i>
	<i>Section 36-5-2 - Exceptions</i>	<i>36-13</i>
	<i>Section 36-5-3 - Additional Taxes</i>	<i>36-13</i>
	<i>Section 36-5-4 - Collection</i>	<i>36-13</i>
	<i>Section 36-5-5 - Reports to City</i>	<i>36-14</i>
	<i>Section 36-5-6 - Credit for Over-Payment</i>	<i>36-14</i>
	<i>Section 36-5-7 - Penalty</i>	<i>36-14</i>
	<i>Section 36-5-8 - Unconstitutional</i>	<i>36-14</i>
<b>VI</b>	<b><i>FOREIGN FIRE INSURANCE COMPANIES</i></b>	
	<i>Section 36-6-1 - Conformance</i>	<i>36-15</i>
	<i>Section 36-6-2 - Fees</i>	<i>36-15</i>
	<i>Section 36-6-3 - Required Reports</i>	<i>36-15</i>
	<i>Section 36-6-4 - Recovery of Monies</i>	<i>36-15</i>
	<i>Section 36-6-5 - Unlawful Operation</i>	<i>36-15</i>
	<i>Section 36-6-6 - Penalty</i>	<i>36-15</i>
<b>VII</b>	<b><i>HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX</i></b>	
	<i>Section 36-7-1 - Tax Imposed</i>	<i>36-16</i>
	<i>Section 36-7-2 - Penalties</i>	<i>36-16</i>

## **CHAPTER 36**

### **TAXATION**

#### **ARTICLE I – GENERALLY**

**36-1-1        CORPORATE RATE.** The maximum rate for general corporate purposes of the City be and the same is hereby established at a rate of **.25%.** **(See 65 ILCS Sec. 5/8-3-1)**

**36-1-2        POLICE TAX.** The maximum rate for police protection purposes of the City be and the same is hereby established at a rate of **.075%.** **(See 65 ILCS Sec. 5/11-1-3)**

**36-1-3        AUDIT TAX.** The City Council may levy a "Municipal Auditing Tax" upon all taxable property in the City which will produce an amount which will equal the cost of all auditing for the City. **(See 65 ILCS Sec. 5/8-8-8)**

**36-1-4        F.I.C.A. TAX.** The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to participate in the federal Social Security System. **(See 40 ILCS Sec. 5/21-101 et seq.)**

**36-1-5        GENERAL LIABILITY.** The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to purchase general liability insurance for the City.

**36-1-6        GARBAGE TAX.** The maximum tax for garbage collection purposes, be and the same is hereby established at a rate of **.20%.** **(See 65 ILCS Sec. 5/11-19-4)**

**36-1-7        WORKMEN'S COMPENSATION.** The maximum tax for Worker's Compensation and Occupational Diseases Claims purposes, be and the same is hereby established at a rate to pay for legal services, purchase insurance, purchase claim services, pay for judgments and settlements. **(See 745 ILCS Sec. 10/9-107)**

**36-1-8        STREET AND BRIDGE.** The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of **.06%.** **(See 65 ILCS Sec. 5/11-81-1 and 5/11-81-2)**



## ARTICLE II

### TAXPAYERS' RIGHTS CODE

**36-2-1**        **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

**36-2-2**        **SCOPE.** The provisions of this Code shall apply to the City's procedures in connection with all of the City's locally imposed and administered taxes.

**36-2-3**        **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A)            **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".

(B)            **Corporate Authorities.** "Corporate Authorities" means the Mayor and City Council.

(C)            **Locally Imposed and Administered Tax or "Tax".** "Locally Imposed and Administered Tax" or "Tax" means each tax imposed by the City that is collected or administered by the City not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the City other than infrastructure maintenance fees.

(D)            **Local Tax Administrator.** "Local Tax Administrator", the City's Treasurer, is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this Code to give full effect to this Code. The exercise of such authority by the local tax administrator shall not be inconsistent with this Code and the Act.

(E)            **City.** "City" means the City of Benton, Illinois.

(F)            **Notice.** "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the City's locally imposed and administered taxes.

(G)            **Tax Ordinance.** "Tax Ordinance" means each ordinance adopted by the City that imposes any locally imposed and administered tax.

(H)            **Taxpayer.** "Taxpayer" means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the City.

**36-2-4**        **NOTICES.** Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than **seven (7) calendar days** prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

(A)            First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or

(B)            Personal service or delivery.

**36-2-5**        **LATE PAYMENT.** Any notice, payment, remittance or other filing required to be made to the City pursuant to any tax ordinance shall be considered late unless it is:

(A)            physically received by the City on or before the due date, or

(B)            received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the City, with adequate postage prepaid.

**36-2-6**        **PAYMENT.** Any payment or remittance received for a tax period shall be applied in the following order:

- (A)            first to the tax due for the applicable period;
- (B)            second to the interest due for the applicable period; and
- (C)            third to the penalty for the applicable period.

**36-2-7**        **CERTAIN CREDITS AND REFUNDS.**

(A)            The City shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B)            The statute of limitations on a claim for credit or refund shall be **four (4)** or less years after the end of the calendar year in which payment in error was made. The City shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the City.

(C)            The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

- (1)            The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
  - (a)            the name of the locally imposed and administered tax subject to the claim;
  - (b)            the tax period for the locally imposed and administered tax subject to the claim;
  - (c)            the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
  - (d)            the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
  - (e)            a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the City.
- (2)            Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
  - (a)            grant the claim; or
  - (b)            deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
- (3)            In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **six percent (6%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

**36-2-8**        **AUDIT PROCEDURE.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Code.

(A)            Each notice of audit shall contain the following information:

- (1)            the tax;
- (2)            the time period of the audit; and

- (3) a brief description of the books and records to be made available for the auditor.

(B) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within **thirty (30) days** after the originally designated audit and during normal business hours.

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than **seven (7) days** nor more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the **thirty (30) days**, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English Language and shall be subject to and available for inspection by the City.

(E) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the City. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

(F) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within **thirty (30) days** of the City's determination of the amount of overpayment.

(G) In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

### **36-2-9      APPEAL.**

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) the reason for the assessment;
- (2) the amount of the tax liability proposed;
- (3) the procedure for appealing the assessment; and
- (4) the obligations of the City during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within **forty-five (45) days** of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within **fourteen (14) days** of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the **forty-five (45) day** period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than **ninety (90) days** after the expiration of the **forty-five (45) day** period.

**36-2-10      HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-2-9**, above, the local tax administrator shall conduct a hearing regarding any appeal.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed **fourteen (14) days**.

(C) At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

**36-2-11      INTEREST AND PENALTIES.** In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(A) **Interest.** The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be **six percent (6%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed.

(B) **Late Filing and Payment Penalties.** If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of **five percent (5%)** of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of **five percent (5%)** of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the City issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to **twenty-five percent (25%)** of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

**36-2-12      ABATEMENT.** The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

**36-2-13      INSTALLMENT CONTRACTS.** The City may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) working days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

**36-2-14      STATUTE OF LIMITATIONS.** The City, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have **forty-five (45) days** after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(A) No determination of tax due and owing may be issued more than **four (4) years** maximum after the end of the calendar year for which the return for the applicable period was

filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations shall be **six (6) years** maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

**36-2-15**      **VOLUNTARY DISCLOSURE.** For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of **one percent (1%)** per month, for all periods prior to the filing of the application but not more than **four (4) years** before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than **ninety (90) days** after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within **ninety (90) days** after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

**36-2-16**      **PUBLICATION OF TAX ORDINANCES.** Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the City Clerk's office.

**36-2-17**      **INTERNAL REVIEW PROCEDURE.** The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

- (A) timely remove the lien at the City's expense;
- (B) correct the taxpayer's credit record; and
- (C) correct any public disclosure of the improperly imposed lien.

**36-2-18**      **APPLICATION.** This Ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

**(See 50 ILCS 45/1 et seq.)**

### ARTICLE III - SIMPLIFIED TELECOMMUNICATIONS TAX

**36-3-1**        **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A)        **"Amount Paid"** means the amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid.

(B)        **"Department"** means the Illinois Department of Revenue.

(C)        **"Gross Charge"** means the amount paid for the act or privilege of originating or receiving telecommunications in such a municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel termination point within a municipality that has imposed a tax under this Article and charges for the portion of the inter-office channels provided within that municipality. Charges for that portion of the inter-office channel connecting **two (2)** or more channel termination points, one or more of which is located within the jurisdictional boundary of such municipality, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the municipality and the denominator of which is the total number of channel termination points connected by the inter-office channel. However, "gross charge" shall not include any of the following:

- (1) any amounts added to a purchaser's bill because of a charge made pursuant to:
  - (a) the tax imposed by this Section,
  - (b) the tax imposed by the Telecommunications Excise Tax Act,
  - (c) the tax imposed by Section 4251 of the Internal Revenue Code,
  - (d) 911 surcharges, or
  - (e) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.
- (2) charges for a sent collect telecommunication received outside the City.
- (3) charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement.
- (4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges.
- (5) charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity.
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax



imposed under this Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.

- (7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made).
- (8) charges paid by inserting coins in coin-operated telecommunications devices.
- (9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
- (10) Charges for nontaxable services or telecommunications if:
  - (a) those charges are aggregated with other charges for telecommunications that are taxable,
  - (b) those charges are not separately stated on the customer bill or invoice, and
  - (c) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business.

If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services or telecommunications billed on a combined basis shall be attributed to the taxable services or telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

(D) **"Interstate Telecommunications"** means all telecommunications that either originate or terminate outside this State.

(E) **"Intrastate Telecommunications"** means all telecommunications that originate and terminate within this State.

(F) **"Person"** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, county, or other political subdivision of this State.

(G) **"Purchase at Retail"** means the acquisition, consumption or use of telecommunications through a sale at retail.

(H) **"Retailer"** means and includes every person engaged in the business of making sales at retail as defined in this Section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. The permit may be revoked by the Department at its discretion.

(I) **"Retailer maintaining a place of business in this State"**, or any like term, means and includes any retailer having or maintaining within the State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its

subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

(J) **"Sale at Retail"** means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

(K) **"Service address"** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

(L) **"Taxpayer"** means a person who individually or through his or her agents, employees, or permittees, engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Article.

(M) **"Telecommunications"**, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this Article, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Act. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupation Tax Act.

**36-3-2      SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED.** A tax is hereby imposed upon any and all of the following acts or privileges:

(A) The act or privilege of originating in the City or receiving in the City intrastate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

(B) The act or privilege of originating in the City or receiving in the City interstate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the

amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state.

(C) The tax imposed by this Article is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the City.

**36-3-3                    COLLECTION OF TAX BY RETAILERS.**

(A) The tax authorized by this Article shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Article and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Article shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(B) Whenever possible, the tax authorized by this Article shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

**36-3-4                    RETURNS TO DEPARTMENT.** On or before the last day of **February, 2017** and on or before the last day of each month thereafter, the tax imposed under this Article on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act. **(Ord. No. 16-22; 09-26-16)**

**36-3-5                    RESELLERS.**

(A) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

(B) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunications tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

(C) Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

**(Unless Otherwise Noted, Ord. No. 2016-13; 05-23-16)**

## **ARTICLE IV – GAS TAX**

**36-4-1      TAX IMPOSED.** A tax is imposed on all persons engaged in the following occupations or privileges:

(A)                Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within City and not for resale, at the rate of **five percent (5%)** of the gross receipts therefrom.

**36-4-2      EXCEPTIONS.** None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and Statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any person engaged in the business of distributing, supplying, furnishing or selling gas, be subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of the "**Municipal Retailers' Occupation Tax Act**" authorized by Chapter 65, Sec. 5/8-11-1, Illinois Compiled Statutes, nor shall any tax authorized by this Section be imposed upon any person engaged in the business unless such tax is imposed in like manner and at the same rate upon all persons engaged in the business of the same class in the City, whether privately or municipally owned or operated. Any accounts of the City shall be exempt from the taxes imposed by this ordinance.

**36-4-3      ADDITIONAL TAXES.** Such tax shall be in addition to the payment of money, or value of products or services furnished to this City by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayers' business.

**36-4-4      DEFINITIONS.** For the purposes of this Article, the following definitions shall apply:

**"GROSS RECEIPTS"** means the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, except for that consideration received from the City; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith, and shall be determined without any deduction on account of the cost of transmitting such messages without any deduction on account of the service, product or commodity supplied, the cost of materials used, labor or service costs, or any other expenses whatsoever.

**"PERSON"** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

**36-4-5      REPORTS TO CITY.** On or before the last day of April, each taxpayer shall make a return to the City Treasurer for the months of January, February and March, 2016, stating:

- (A)                His name.
- (B)                His principal place of business.
- (C)                His gross receipts during those months upon the basis of which the tax is imposed.
- (D)                Amount of tax.

(E)  
require.

Such other reasonable and related information as the corporate authorities may

On or before the last day of every third month thereafter, each taxpayer shall make a like return to the City Treasurer for a corresponding **three (3) month** period.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City Treasurer, the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

**36-4-6            CREDIT FOR OVER-PAYMENT.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

**36-4-7            PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willingly violates any other provision of this Article shall, upon conviction, be fined as provided in **Section 1-1-20** of the City Code and in addition, shall be liable in a civil action for the amount of tax due.

**(65 ILCS 5/8-11-2)**

**(Ord. No. 2016-14; 05-23-16)**



## ARTICLE V - ELECTRICITY TAX

**36-5-1      TAX IMPOSED.** A tax is imposed on all persons engaged in the following occupations or privileges:

(A)      The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the City at the following rates, calculated on a monthly basis for each purchaser:

(1)	First 2,000 KWH	0.61 cents per KWH
(2)	Next 48,000 KWH	0.40 cents per KWH
(3)	Next 50,000 KWH	0.36 cents per KWH
(4)	Next 400,000 KWH	0.35 cents per KWH
(5)	Next 500,000 KWH	0.34 cents per KWH
(6)	Next 2,000,000 KWH	0.32 cents per KWH
(7)	Next 2,000,000 KWH	0.315 cents per KWH
(8)	Next 5,000,000 KWH	0.310 cents per KWH
(9)	Next 10,000,000 KWH	0.305 cents per KWH
(10)	Over 20,000,000 KWH	0.300 cents per KWH

(B)      Pursuant to **65 ILCS 5/8-11-2**, the rates set forth in subsection (A) above shall be effective **January 1, 2017**.

**36-5-2      EXCEPTIONS.** None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the **"Municipal Retailer's Occupation Tax Act"** as authorized by **65 ILCS 5/8-11-1**; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the Municipality. **All accounts of the City shall be exempt from the taxes imposed by this ordinance.**

**36-5-3      ADDITIONAL TAXES.** Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

**36-5-4      COLLECTION.** The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the Municipality by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to **three percent (3%)** of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Municipality upon request. If the person delivering the electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Municipality in the manner prescribed by the Municipality. Persons delivering electricity

who file returns pursuant to this Section shall, at the time of filing such return, pay the Municipality the amount of the tax collected pursuant to this Article.

**36-5-5        REPORTS TO CITY.** On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article to a person delivering electricity as set forth in **Section 36-5-4** and who is not otherwise exempted from paying such tax shall make a return to the City Treasurer for the preceding month stating:

- (A)            His name.
- (B)            His principal place of business.
- (C)            His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (D)            Amount of tax.
- (E)            Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

**36-5-6        CREDIT FOR OVER-PAYMENT.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

**36-5-7        PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** in addition, shall be liable in a civil action for the amount of tax due. **(65 ILCS 5/8-11-2)**

**36-5-8        UNCONSTITUTIONAL.** In the event that Public Act 90-561 is declared unconstitutional, or if **Section 36-5-1 of Article V** created by this Ordinance is voided by court action, the provisions of the City Code commonly known as the Gross Receipts Utility Tax shall remain in effect in all respects as if it had never been amended by this Ordinance, and any amounts paid to the City by any person delivering electricity pursuant to this Ordinance shall be deemed to have been paid pursuant to the Gross Receipts Utility Tax as it existed prior to the passage of this Amendatory Ordinance.

**(Ord. No. 2016-15; 05-23-16)**

## **ARTICLE VI**

### **FOREIGN FIRE INSURANCE COMPANIES**

**36-6-1      CONFORMANCE.** It shall be unlawful for any corporation or association, not incorporated under the laws of the State of Illinois to engage in the City in effecting fire insurance or to transact any business of fire insurance in this City, while in default by not fully complying with any of the requirements of this Section, and until such requirements shall have been fully complied with; but this provision shall not relieve any company, corporation or association from the payment of any risk that may be undertaken in violation of this Section.

**36-6-2      FEES.** Any such corporation, company or association not incorporated under the laws of the State of Illinois, which is engaged in the City in effecting fire insurance, shall pay the City Treasurer for the maintenance, use, and benefit of the Fire Department of the City, a sum of money equal in amount to **two percent (2%)** per annum of the gross receipts received as premiums upon fire insurance policies by any and all agents of such corporation, company, association during the year ending on the first day of July in each year, for any insurance effected or agreed to be effected on property located in the City by or with such corporation, company, or association during such year.

**36-6-3      REQUIRED REPORTS.** Every person acting in the City as agent for or on behalf of any such corporation, company, or association shall, on or before the **fifteenth (15<sup>th</sup>) day** of July of each and every year, render the City Clerk a full, true, and just account verified by oath of all premiums upon fire insurance policies which, during the year ending the first day of July preceding such report, shall have been received by him, or by some other person for him, in his behalf of any such corporation, company or association on property located in the City. Such agent shall also, at the time of rendering the aforesaid report, pay to the City Treasurer the sum of money for which company, corporation, or association represented by him is chargeable, by virtue of the provisions of this Section.

**36-6-4      RECOVERY OF MONIES.** The sum of money for which such company, corporation, or association is so chargeable may be recovered of it, or its agents or agent, by an action in the name of and for the use of the City as for money had and received. Nothing in this Section shall be held to exempt any person, corporation, company, association from indictment and conviction under the provisions of an act entitled "An Act to enable cities, towns, and villages, organized under any general or special law, to levy and collect a tax or license fee from foreign insurance companies for the benefit of organized fire department," in force **July 1, 1895**.

**36-6-5      UNLAWFUL OPERATION.** No insurance agent in the City shall have any insurance business or dealings with any company, association, or corporation not incorporated under the laws of this state, which shall be in default for not reporting or making payments as hereinbefore provided, until it shall have complied with all the requirements of this Section.

**36-6-6      PENALTY.** Any person violating any of the provisions of this Section shall, upon conviction, be fined as provided in **Section 1-1-20** of the City Code.

## **ARTICLE VII – HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX**

**36-7-1      TAX IMPOSED.** A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail in the City at the rate of **one percent (1%)** of the gross receipts from such sales made in the course of such business while this Article is in effect; and a tax is hereby imposed upon all persons engaged in this City in the business of making sales of service, at the rate of **one percent (1%)** of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. This "Home Rule Municipal Retailers' Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics, and vehicles for the primary use on roadways and that are registered with the Secretary of State as such.

The imposition of this home rule tax is in accordance with provisions of Section 8-11-1 of the Illinois Municipal Code **(65 ILCS 5/8-11-1)**.

**36-7-2      PENALTIES.** The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce the provisions of this Article.

**(Ord. No. 05-14; 05-23-05)**

**CHAPTER 37**

**TRASH FRANCHISE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<i>Section 37-1-1</i>	- <i>Trash Franchise</i>	<i>37-1</i>
<i>Section 37-1-2</i>	- <i>Trash Carts</i>	<i>37-1</i>
<i>Appendix "A"</i>	- <i>Municipal Contract</i>	<i>37-2</i>
<i>Exhibit "A"</i>	- <i>General Specifications</i>	<i>37-3</i>
<i>Exhibit "B"</i>	- <i>Insurance Requirements</i>	<i>37-10</i>
<i>Exhibit "C"</i>	- <i>Waste Material Collection and Disposal Rates</i> <i>Contractor's Pricing</i>	<i>37-11</i>

## **CHAPTER 37**

### **TRASH FRANCHISE**

**37-1-1**        **TRASH FRANCHISE.** The trash and garbage collection franchise between the City and CWI of Illinois/Republic Services of De Soto, Illinois is hereby included as **Appendix "A"** as approved on **July 27, 2015**.

**37-1-2**        **TRASH CARTS.** It shall be unlawful for any person to leave a trash cart at the curbside or by the street for more than **twenty-four (24) hours** after the trash is picked up or collected.

## **APPENDIX "A"**

### **MUNICIPAL CONTRACT**

THIS CONTRACT, made and entered into this 27<sup>th</sup> day of July, 2015 by and between the City of Benton, Illinois (hereinafter called the "City"), represented herewith by its duly elected and acting Mayor, Fred Kondritz, and CWI of Illinois, Inc. d/b/a CWI of Illinois // Republic Services of De Soto, an Illinois corporation qualified to do and actually doing business in the State of Illinois (hereinafter called "Contractor"), herein represented by its duly qualified and acting Agent.

WITNESSED, THAT in consideration of the covenants and agreements herein contained, to be performed by the parties hereto and of the payments hereinafter agreed to be made, it is mutually agreed as follows:

1. The Contractor is hereby granted the sole and exclusive license and privilege within the territorial jurisdiction of the City and shall furnish all personnel, labor, equipment, trucks, and all other items necessary to collect waste materials during term of this Contract for all residential units.
2. The Contract Documents shall include the following documents, and this Contract does hereby expressly incorporate same herein as fully s if set forth verbatim in this Contract:
  - a. Exhibit A – General Specifications
  - b. Exhibit B – Insurance Requirements
  - c. Exhibit C – Contractor's Proposal/Pricing
  - d. This Instrument
  - e. Any addenda or changes to the foregoing agreed to by the parties hereto.
3. All provisions of the Contract Documents shall be strictly complied with and conformed to by the Contractor, and no amendment to this Contract shall be made except upon written consent of the parties. No amendment shall be construed to release either party from any obligation of the Contract Documents except as specifically provided for in such amendment.
4. The initial term of this Contract shall be from August 1, 2015 (the "Effective Date") until July 31, 2019.

IN WITNESS HEREOF, Fred Kondritz, the Mayor of the City of Benton, Illinois, hereunto subscribed his/her name, and Doug McFarland, Authorized Agent of CWI of Illinois, Inc. d/b/a CWI of Illinois // Republic Services of De Soto, has also hereunto subscribe his/her name on the days and dates set forth after their various signatures.

CITY OF BENTON, ILLINOIS

BY: /s/ Fred Kondritz  
Mayor

ON: July 27, 2015

CWI OF ILLINOIS, INC. d/b/a CWI OF ILLINOIS//  
REPUBLIC SERVICES OF DE SOTO

BY: /s/ Doug McFarland  
Authorized Agent

ON: July 24, 2015



## **EXHIBIT "A"**

### **GENERAL SPECIFICATIONS**

#### **1. DEFINITIONS.**

- 1.1 Ashes. Residue from fires used for heating buildings and cooking.
- 1.2 Bags. Plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed thirty-five (35) pounds.
- 1.3 Bin. Metal receptacle designed to be lifted and emptied mechanically for use primarily at selected Municipal Facilities and Large Commercial and Industrial Units.
- 1.4 Bulky Waste. Stoves, refrigerators (with all CFC removed), water tanks, washing machines, furniture and other similar items, and, materials other than Construction Debris, Large Dead Animals, Hazardous Waste or Stable Matter with weights or volumes greater than those allowed for Bins or Containers, as the case may be.
- 1.5 Bundle. Tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four (4) feet in length or thirty-five (35) pounds in weight.
- 1.6 City. City of Benton, Illinois.
- 1.7 Container for Garbage, Rubbish & Yard Waste Collection. A receptacle with the capacities designated on the exhibits hereto that is designed for the purpose of curbside collection of Garbage and Rubbish and is constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid. The mouth of a container shall have a diameter greater than equal to that of the base. The weight of a container and its contents shall not exceed thirty-five (35) pounds.
- 1.8 Commercial and Industrial Refuse. All Bulky Waste, Construction Debris, Garbage, Rubbish and Stable Matter generated by a Producer at a Large Commercial and Industrial Unit.
- 1.9 Construction Debris. Waste building materials resulting from construction, remodeling, repair or demolition operations at a Residential Unit or Municipal Facility.
- 1.10 Disposal Site. A Waste Material depository designated by Contractor, including but not limited to sanitary landfills, transfer stations, incinerators, recycling facilities and waste processing/separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals to receive for processing or final disposal of Waste Material and Small Dead Animals.
- 1.11 Excluded Waste. Excluded Waste is all Commercial and Industrial Refuse, Large Dead Animals, Institutional Solid Waste, Hazardous Waste, Offal Waste, Stable Matter, Vegetable Waste, and, Special Waste.
- 1.12 Garbage. Any and all Small Dead Animals; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of Excluded Waste.
- 1.13 Hazardous Waste. A form of Excluded Waste and is defined as any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic Hazardous Waste as defined by federal, state, provincial or local law or any otherwise regulated waste. Hazardous Waste shall include, but not be limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and including future amendments thereto, and any other applicable federal, state or local laws or regulations.

1.14 Institutional Solid Waste. Solid waste originating from education, health care and research facilities such as schools, hospitals, nursing homes, laboratories and other similar establishments.

1.15 Large Commercial and Industrial Unit. All premises, locations or entities, public or private, requiring Garbage and Rubbish collection within the corporate limits of City that are not classified as a Residential Unit or Municipal Facility.

1.16 Large Dead Animals. Animals or portions thereof equal to or greater than ten (10) pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

1.17 Multi-Family. The term multi-family shall refer to all residential dwelling units of more than one (1) unit considered to be condominiums, apartment houses or grouped housing.

1.18 Offal Waste. Waste animal (land or marine) matter from establishments such as butcher shops, slaughterhouses, food processing and packing plants, rendering plants and fertilizer plants.

1.19 Producer. An operator or occupant of a commercial or industrial facility or a Residential Unit who generates Garbage, Rubbish, Yard Waste or Recyclable Materials.

1.20 Recycling. The collection of and the delivery of Recyclable Materials pursuant to the Contract Documents.

1.21 Residential Unit. A dwelling within the corporate limits of the City occupied by a person or group of persons comprising not more than four (4) families. A Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of four (4) or less contiguous or separate single-family dwelling units, shall be treated as a Residential Unit, except that each single-family dwelling within any such Residential Unit shall be billed separately as a Residential Unit.

1.22 Rubbish. All waste wood, wood chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Excluded Waste.

1.23 Small Dead Animals. Animals or portions thereof less than ten (10) pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

1.24 Solid Waste. Useless, unwanted or discarded materials with insufficient liquid content to be free-flowing, that result from domestic, industrial, commercial, agricultural, governmental and community operations which require proper storage, collection, transportation and disposal to prevent environmental pollution inimical to public health, safety and welfare. Solid Waste does not include sewage, earth or material used to fill land in accordance with construction codes, mining residues, slag, dissolved or suspended solids in industrial waste water effluents which are not acceptable for disposal in sanitary sewage treatment system or any material included in the definition of Excluded Waste.

1.25 Special Waste. Any nonhazardous solid waste which, because of its physical characteristics, chemical make-up, or biological nature requires either special handling, disposal procedures including liquids for solidification at the landfill, documentation, and/or regulatory authorization, or poses an unusual threat to human health, equipment, property, or the environment. Special Waste includes, but is not limited to:

- (a) Waste generated by an industrial process or a pollution or a pollution control process;
- (b) Waste which may contain residue and debris from the cleanup of spilled petroleum, chemical or commercial products or wastes, or contaminated residuals;
- (c) Waste which is nonhazardous as a result of proper treatment pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 ("RCRA");
- (d) Waste from the cleanup of a facility which generates, stores, treats, recycles or disposes of chemical substances, commercial products or wastes;
- (e) Waste which may contain free liquids and requires liquid waste solidification;
- (f) Containers that once contained hazardous substances, chemicals, or insecticides so long as such containers are "empty" as defined by RCRA;
- (g) Asbestos containing or asbestos bearing material that has been properly secured under existing Applicable Law;

- (h) Waste containing regulated polychlorinated biphenyls (PCBs) as defined in the Toxic Substances Control Act (TSCA);

- (i) Waste containing naturally occurring radioactive material (NORM) and/or technologically-enhanced NORM (TENORM); and
- (j) Municipal or commercial solid waste that may have come into contact with any of the foregoing.

1.26 Stable Matter. – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

1.27 Waste Material. All nonhazardous, Solid Waste (including Garbage, Rubbish, Ashes, Construction Debris and White Goods) generated at Residential Units that is not excluded by this Contract. Waste Material shall not include any Excluded Waste.

1.28 Vegetable Waste. Putrescible solid waste resulting from the processing of plants for food by commercial establishments such as canneries. This definition does not include waste products resulting from the preparation and consumption of food in places such as cafeterias and restaurants.

1.29 White Goods. Included as "white goods" are any and all refrigerators, ranges, water heaters, freezers, air conditioners, humidifiers, stoves, clothes dryers, dehumidifiers, ovens, dishwashers, water coolers, heat pumps, chillers, furnaces and boilers. Goods NOT considered "white goods" are hand-held appliances, televisions, VCRs, garbage disposals, business or office equipment, computers and microwave ovens.

## 2. SCOPE OF WORK.

2.1 General. The work under this Contract shall consist of all the supervision, materials, equipment, labor and all other items necessary to collect and dispose of the Waste Material from all Residential Units and other specified locations in accordance with the Contract Documents.

2.2 Work Not Covered by Contract. The work under this Contract does not include:

- (a) the collection or disposal of construction or demolition debris from commercial locations;
- (b) the collection or disposal of Excluded Waste materials;
- (c) the collection or disposal of any waste materials or recyclable materials from Large Commercial and Industrial Units in the City.

2.3 Additional Work Separately Contracted at Contractor's Election with Large Commercial and Industrial Units. Contractor may provide waste collection and disposal service, and/or recyclables collection services for Large Commercial and Industrial Units according to individual agreements negotiated between Contractor and such customers and under such terms and conditions as may be mutually agreed upon by Contractor and such customers. However, this Contract does not require such customers to use Contractor for such services.

2.4 Additional Work Separately Contracted at Contractor's Election with Residential Units and Municipal Facilities. Contractor may provide waste collection and disposal services and/or recyclable services to Residential Units and Municipal Facilities (e.g. collection and removal of construction debris, large dead animals, bulky items, etc.) that are not included within the scope of this Contract according to individual agreements negotiated between Contractor and such customers and under such terms and conditions as may be mutually agreed upon by Contractor and such customers. However, this Contract does not require such customers to use Contractor for such services.

## 3. COLLECTION OPERATIONS – GENERAL PROVISIONS.

3.1 Location of Containers, Bags and Bundles for Collection. Each Container, Bag and Bundle shall be placed at curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled City roadways. Containers, Bags and Bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, Containers, Bags and Bundles shall be placed as close as practicable to an access point for the collection vehicle.

3.2 Hours of Operation. Collection of Waste Material shall not start before 7:00 A.M. or continue after 6:00 P.M. on the same day. Exceptions to collection hours shall be effected only upon the mutual agreement of the City and Contractor, or when Contractor reasonably determines that an

exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

3.3 Routes of Collection. Residential Unit collection routes shall be established by the Contractor. The Contractor may from time to time make changes in routes or days of collection affecting Residential Units, provided such changes in routes or days of collection are submitted to the City at least two (2) weeks in advance of the commencement date for such changes.

3.4 Holidays. The following shall be holidays for purposes of this Contract: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Contractor may decide to observe any or all of the above mentioned holidays by suspension of collection service on the holiday, but such decision in no manner relieves Contractor of his obligation to provide collection service at Residential Units at least one time per week.

3.5 Complaints. All complaints shall be made directly to the Contractor and shall be given prompt and courteous attention. In the case of alleged missed scheduled collections, the Contractor shall investigate and, if such allegations are verified, shall arrange for the collection of Waste Material not collected within two (2) business days after the complaint is received.

3.6 Collection Equipment. The Contractor shall provide an adequate number of vehicles meeting standards and inspection requirements as set forth by the laws of the State for regular municipal waste collection services. For Waste Material collection, all vehicles and other equipment shall be kept in good repair and appearance at all times. Each vehicle shall have clearly visible on each side the identity of the Contractor.

3.7 Office. The Contractor shall maintain an office or such other facilities through which it can be contacted by direct visit or by local (toll free) call from anywhere in the City. It shall be equipped with sufficient telephones and shall have a responsible person in charge from 8:00 A.M. to 5:00 P.M. on regular collection days.

3.8 Hauling. All Waste Material hauled by the Contractor shall be so contained, tied or enclosed that leaking, spilling or blowing are minimized.

3.9 Disposal. All Waste Material collected within the City under this Contract shall be deposited at any Disposal Site properly authorized by the State. The Contractor shall negotiate directly with the Owner/Operator of the Disposal Site for permission to use the Disposal Site and the Contractor shall bear all disposal costs.

3.10 Notification. The City shall notify all Producers at Residential Units about complaint procedures, rates, regulations, and day(s) for scheduled Waste Material collections.

3.11 Litter or Spillage. The Contractor shall not litter premises in the process of making collections, but Contractor shall not be required to collect any Waste Material that has not been placed in approved containers or in a manner herein provided. During hauling, all Waste Material shall be contained, tied or enclosed so that leaking, spillage or blowing is minimized. In the event of spillage by the Contractor, the Contractor shall be required to clean up the litter caused by the spillage.

#### 4. BASIS OF PRICES AND METHOD OF PAYMENT.

##### 4.1 Waste Material Collection and Disposal Rates.

- (a) Residential Units. The prices to be paid by the City for the collection and disposal of Waste Material from all Residential Units and Municipal Facilities shall be as shown on Exhibit C, as adjusted in accordance with this Agreement, and shall be computed based upon the actual number of Residential Units to which Contractor provided such services during each month of this Contract. The City shall also pay Contractor the other costs and charges as specified in Section 4.3.

##### 4.2 Additional Costs and Charges.

- (a) Intentionally Deleted

4.3 Modification to Rates. Contractor shall increase the rates for service effective on each anniversary of the effective date of this Contract as set forth in Exhibit C.

4.4 City to Act as Collector. The City shall submit statements to and collect from all Residential Units for services provided by the Contractor pursuant to this Contract, including those accounts that are delinquent.

4.5 Delinquent and Closed Accounts. The Contractor shall discontinue Waste Material collection service at any Residential Unit as set forth in a written notice sent to it by the City. Upon further notification by the City, the Contractor shall resume Waste Material collection on the next

regularly scheduled collection day. The City shall indemnify and hold the Contractor harmless from any claims,



suits, damages, liabilities or expenses (including but not limited to expenses of investigation and attorney's fees) resulting from the Contractor's discontinuing service at any location at the direction of the City.

4.6 Contractor Billings to City. The Contractor shall bill the City for Waste Material collection and disposal services rendered to Residential Units within ten (10) days following the end of the month and the City shall pay the Contractor on or before the 15<sup>th</sup> day following the end of such month. Such billing and payment shall be based on the price rates and schedules set forth in the Contract Documents. Payments not made by the City on or before their due date shall be subject to late fees of: a) the greater of Five Dollars (\$5.00) or one and one-half percent (1.5%) per month or portion thereof; or, b) the maximum allowed by law, if less than a). In the event the City withholds payment of a portion or whole of an invoice and it is later determined that a portion or all of such withheld amount is owed to Contractor, such amount shall be subject to the late fees provided herein from the original due date until paid by City.

5. COMPLIANCE WITH LAWS. The Contractor shall conduct operations under this Contract in compliance with all applicable laws; provided, however, that the Contract shall govern the obligations of the Contractor where there exist conflicting ordinances of the City on the subject.

6. NON-DISCRIMINATION. Contractor shall not discriminate against any person because of race, sex, age, creed, color, religion or national origin.

7. INDEMNITY AND INSURANCE. The Contractor shall provide insurance affording coverage to the City where appropriate, and shall include general public liability and property damage insurance and compensation insurance. Certificates evidencing the issuance of such insurance, addressed to the City shall be filed with the City Clerk's office within ten (10) days after the date of signing of the contract.

The Contractor shall be an Independent Contractor and shall indemnify, defend, save and hold harmless the City, individually and collectively, all of its executives, representatives, elected officials, officers, agents, employees, successors and assigns jointly and severally of and from all or manner of liability, losses, expenses, demands, taxes, suits, action(s), payments, costs, charges, damages, lawsuits, proceedings, judgments, or claims, including workers' compensation claims, of any nature whatsoever including reasonable attorney's fees and costs of defense, on the account of any injury to, or death of, its employees, or injury to, or death of any other person, or damage to, or injury of, real estate, or personal property, in any way resulting from, arising out of, in connection with, or pursuant to the contract, caused by the operations of the Contractor, its agents, retailers, employees, or any subcontractors in performance of the services to be conducted, including ownership, maintenance, use, operation, or control of any vehicle owned, operated, maintained, or controlled by the Contractor or subcontractor.

The Contractor shall, at its own expense, appear, defend, and pay all reasonable fees of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgments shall be rendered against the City in any such action, the Contractor shall, at its own expense, satisfy and discharge same.

The Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and hold harmless and defend the City, and to pay expenses and damages as herein provided.

The Contractor shall not be liable for any suits, actions, legal proceedings, claims, demands, costs, expenses and attorney's fees arising out of a willful or negligent act or omission of the City, its officers, agents, servants and employees.

8. LICENSES AND TAXES. The Contractor shall obtain all licenses and permits (other than the license and permit granted by this Contract) and promptly pay all taxes required by the City and by the State.

9. FORCE MAJEURE. Except for City's obligation to pay amounts due to Contractor, any failure or delay in performance under this Contract due to contingencies beyond a party's reasonable control,

including, but not limited to, strikes, riots, terrorist acts, compliance with applicable laws or governmental

orders, fires, bad weather and acts of God, shall not constitute a breach of this Contract, but shall entitle the affected party to be relieved of performance at the current pricing levels under this Contract during the term of such event and for a reasonable time thereafter. The collection or disposal of any increased volume resulting from a flood, hurricane or similar or different Act of God over which the Contractor has no control, shall be include as part of the Contractor's service under this Agreement. In the event of such a flood, hurricane or other Act of God, the Contractor and the City shall negotiate the payment to be made to the Contractor. Further, when the City and the Contractor reach such agreement, then the City shall grant the Contractor variances in routes and schedules, as deemed necessary, of the Contractor.

10. ASSIGNMENT OF CONTRACT. Neither party shall assign this Contract in its entirety without the other party's prior written consent, which consent shall not be unreasonably withheld, delayed or modified. Notwithstanding the foregoing, Contractor may assign this Contract without the City's consent to its parent companies or any of their subsidiaries, to any person or entity that purchases any operations from Contractor or as a collateral assignment to any lender to Contractor.

11. EXCLUSIVE CONTRACT. The Contractor shall have an exclusive franchise, license and privilege to provide Waste Material collection and disposal services within the corporate limits for and on behalf of the City to the designated Residential Units and Municipal Facilities covered by this Agreement.

12. TITLE; EXCLUDED WASTE.

12.1 Title. Title to Waste Materials shall pass to the Contractor when placed in Contractor's collection vehicle. Title to and liability for any Excluded Waste shall at no time pass to Contractor.

12.2 Excluded Waste. If Excluded Waste is discovered before it is collected by Contractor, Contractor may refuse to collect the entire Bin, Container, Bag or Bundle of waste. In such situations, Contractor shall contact the City and the City shall undertake appropriate action to ensure that such Excluded Waste is removed and properly disposed of by the depositor or generator of the waste. In the event any Excluded Waste is not discovered by Contractor before it is collected, Contractor may, in its sole discretion, remove, transport and dispose of such Excluded Waste at a location authorized to accept such Excluded Waste in accordance with all applicable laws and charge the depositor or generator of such Excluded Waste all direct and indirect costs incurred due to removal, remediation, handling, transportation, delivery and disposal of such Excluded Waste. The City shall provide all reasonable assistance to Contractor to conduct an investigation to determine the identity of the depositor or generator of the Excluded Waste and to collect the costs incurred by Contractor in connection with such Excluded Waste. Subject to the City's providing all such reasonable assistance to Contractor, Contractor shall release City from any liability for any such costs incurred by Contractor in connection with such Excluded Waste, except to the extent that such Excluded Waste is determined to be attributed to the City.

13. TERMINATION OF CONTRACT.

13.1 Termination by the City. In the event of a failure by Contractor to perform any material provision of this Contract, the City shall give written notice of such breach to the Contractor along with at least thirty (30) days (the "cure period") to correct such breach. City may terminate this Contract after such cure period if Contractor has not adequately corrected such breach in accordance with this Contract and City so notifies Contractor in writing of such termination action. At such time, City shall pay Contractor only all charges and fees for the services performed on or before such termination date. Thereafter, in the event such termination occurs during the initial term of this Contract, City, as its sole and exclusive remedy may exercise its rights under Contractor's performance bond, and procure the services of another waste services provider to complete the work covered under this Contract for the remainder of the time period covered by the initial term of this Contract. Except for such right during the initial term of this Contract, following any such termination and the final payment from the City to the Contractor, neither party shall have any further obligation under this Contract other than for claims for personal injuries or property damage as expressly provided in this Contract and arising prior to such termination date.

13.2 Termination by Contractor. In the event of a failure by City to perform any material provision of this Contract, the Contractor shall give written notice of such breach to the City along with at

least thirty (30) days (the "cure period") to correct such breach. Contractor may terminate this Contract after such cure period if City has not adequately corrected such breach in accordance with this Contract and Contractor so notifies City in writing of such termination action. At such time, City shall pay Contractor for all charges and fees for the services performed on or before such termination date. Thereafter, following any such termination and the final payment from the City to the Contractor, neither party shall have further obligation under this Contract other than for claims for personal injuries or property damage as expressly provided in these terms and arising prior to such termination date.

14. CONTRACTOR'S PROPERTY. All bins, containers, trucks and any other equipment that Contractor furnishes under this Contract shall remain Contractor's property. City shall be liable for all loss or damage to such equipment (except for normal wear and tear and for loss or damage resulting from Contractor's handling of the equipment) caused due to the negligence or willful misconduct of the City. City and its residents shall use the equipment only for its proper and intended purpose and shall not overload (by weight or volume), move or alter the equipment.

15. NEWLY DEVELOPED AREAS. Contractor will, within thirty (30) days of notification to the City, provide Waste Material Collection and Disposal Services of the same frequency and quality required by the Contract to newly developed areas within the City's current territorial limits. Any areas that may be annexed by the City which contain Residential Units which the City would like Contractor to service, shall be subject to negotiation of a mutually acceptable amendment to this Contract and possible adjustment to Contractor's pricing for such new areas.

16. MISCELLANEOUS TERMS.

16.1 Damage to Property. Contractor shall be responsible for repair of any damages to City's property or equipment located adjacent to the collection receptacles (Bins, Containers, Bags or Bundles), and to City's pavement, curbing or other driving surfaces resulting from Contractor's negligence or willful misconduct while providing the services under this Contract.

16.2 Confidentiality. Contractor shall have no confidentiality obligation with respect to any Waste Materials collected pursuant to this Contract.

16.3 No Guaranties or Liquidated Damages. Except as may be specifically provided herein, Contractor provides no guarantees or warranties with respect to the work performed. No liquidated damages or penalties may be assessed against Contractor by City.

16.4 Intellectual Property. No intellectual property (IP) rights in any of Contractor's IP are granted to City under this Contract.

16.5 Binding Effect. This Contract shall be binding upon and inure solely to the benefit of the parties and their permitted assigns.

16.6 Severability. If any provision of this Contract shall be invalid, illegal or unenforceable, it shall be modified so as to be valid, legal and enforceable but so as most nearly to retain the intent of the parties. If such modification is not possible, such provision shall be severed from this Contract. In either case, the validity, legality and enforceability of the remaining provisions of this Contract shall not in any way be affected thereby.

16.7 No Waiver. The failure or delay on the part of either party to exercise any right, power, privilege or remedy under this Contract shall not constitute a waiver thereof. No modification or waiver by either party of any provision shall be deemed to have been made unless made in writing. Any waiver by a party for one or more similar events shall not be construed to apply to any other events whether similar or not.

16.8 Governing Law. This Contract shall be interpreted and governed by the laws of the state where the work is performed.

16.9 Entire Agreement. This Contract sets forth the entire agreement of the parties and supersedes all prior agreements, whether written or oral, that exists between the parties regarding the subject matter of this Contract.

16.10 Attorneys' Fees. If any litigation is commenced under this Contract, the successful party shall be entitled to recover, in addition to such other relief as the court may award, its reasonable

attorneys' fees, expert witness fees, litigation related expenses and court or other costs incurred in such litigation or proceeding.

## **EXHIBIT "B"**

### **INSURANCE REQUIREMENTS**

During the term of this Contract, Contractor shall maintain in force, at its expense, insurance coverage with minimum limits as follows:

#### **Workers' Compensation**

Coverage A	Statutory
Coverage B – Employers Liability	\$1,000,000 each Bodily Injury by Accident \$1,000,000 policy limit Bodily Injury by Disease \$1,000,000 each occurrence Bodily Injury by Disease

#### **Automobile Liability**

Bodily Injury/Property Damage Combined – Single Limit	\$3,000,000 Coverage is to apply to all owned, non-owned, hired and leased vehicles (including trailers)
Pollution Liability Endorsement	MCS-90 endorsement for pollution liability coverage

#### **Commercial General Liability**

Bodily Injury/Property Damage Combined – Single Limit	\$2,500,000 each occurrence \$5,000,000 general aggregate
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All such insurance policies will be primary without the right of contribution from any other insurance coverage maintained by City. All policies required herein shall be written by insurance carriers with a rating of A.M. Bests of at least "A-" and a financial size category of at least VII. Upon City's request, Contractor shall furnish City with a certificate of insurance, evidencing that such coverages are in effect. Such certificate: (i) will also provide for thirty (30) days prior written notice of cancellation to the City; (ii) shall show City as an additional insured under the Automobile and General Liability policies; and, (iii) shall contain waivers of subrogation in favor of City (excluding Worker's Compensation policy) except with respect to the sole negligence or willful misconduct of City. In addition, the following requirements apply:

- The Commercial General Liability policy must include Contractual Liability coverage specifically covering Contractor's Indemnification of City herein.
- Coverage must be provided for Products/Completed Operations.
- The policy shall also contain a cross Liability/Severability of Interests provision assuring that the acts of one insured do not affect the applicability of coverage to another insured.

## **EXHIBIT "C"**

### **WASTE MATERIAL COLLECTION AND DISPOSAL RATES CONTRACTOR'S PRICING**

#### **City of Benton Residential Trash Removal:**

August 1, 2015 – July 31, 2019:           \$9.77 per home per month (Regular Rate)  
August 1, 2015 – July 31, 2019:           \$9.52 per home per month (Senior Adult)

*\*Each household will receive one (1) 95-gallon trash cart*

#### **The following will receive weekly service at no charge:**

1. City Hall
2. Street Department Building
3. Public Square (Four locations)
4. Benton Fire Department
5. Benton Water Plant (two locations)
6. Municipal Airport
7. Mini Park
8. City Parking Lot Northeast of Square
9. Twin Oaks
10. Lake Benton Bridges
11. Antique Car Museum
12. Scout Cabin
13. Benton Civic Center
14. Benton Public Library
15. Churches within the City limits of Benton
16. Non-Profit Organizations 501(c)(3)

#### **Move-Out Service**

Contractor will provide service for "move-outs" where property has changed hands and furniture and/or bagged debris is placed at the curb for collection. The City will verify residents who qualify for this service.

#### **Back Door Service**

Residents with disabilities or elderly residents unable to transport their trash to the curb for collection can have their trash collected at the side of the house or garage. The City will verify residents who qualify for this service.

#### **City Cleanup:**

Two (2) curbside cleanups will be provided each year on dates mutually agreed upon by the City and Contractor.

*\*During City cleanup, Contractor shall not pick up any Excluded Waste*



## **CHAPTER 38**

### **UTILITIES**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>DEPARTMENT ESTABLISHED</i></b>	
	<i>Section 38-1-1 - Department Established</i>	<i>38-1</i>
	<i>Section 38-1-2 - Public Property Department</i>	<i>38-1</i>
	<i>Section 38-1-3 - Superintendent of Water and Sewer</i>	<i>38-1</i>
	<i>Section 38-1-4 - Duties of the Superintendent</i>	<i>38-1</i>
<b><i>II</i></b>	<b><i>RATES AND REGULATIONS</i></b>	
	<i>Section 38-2-1 - Contract for Water and Sewer Services</i>	<i>38-2</i>
	<i>Section 38-2-2 - Liability for Charges</i>	<i>38-4</i>
	<i>Section 38-2-3 - Estimated Charge</i>	<i>38-4</i>
	<i>Section 38-2-4 - Adjustments for Excessive Use of Water</i>	<i>38-4</i>
	<i>Section 38-2-5 - Consumer Lists</i>	<i>38-5</i>
	<i>Section 38-2-6 - No Free Service</i>	<i>38-5</i>
	<i>Section 38-2-7 - Water and Sewer Deposits</i>	<i>38-5</i>
	<i>Section 38-2-8 - Damage to Streets, Alleys or any Public Way</i>	<i>38-5</i>
<b><i>III</i></b>	<b><i>WATER SYSTEM</i></b>	
	<i>Division I - General Regulations</i>	
	<i>Section 38-3-1 - Definitions</i>	<i>38-6</i>
	<i>Section 38-3-2 - Application for Taps and Service Connections to the Waterworks System</i>	<i>38-7</i>
	<i>Section 38-3-3 - All Service to be by Meter</i>	<i>38-7</i>
	<i>Section 38-3-4 - Inspection</i>	<i>38-7</i>
	<i>Section 38-3-5 - Meter Damaged</i>	<i>38-8</i>
	<i>Section 38-3-6 - Damage Due to Interruption of Service; Liability</i>	<i>38-8</i>
	<i>Section 38-3-7 - Resale of Water</i>	<i>38-8</i>
	<i>Section 38-3-8 - Discontinuing Service - Dangerous Usage</i>	<i>38-8</i>
	<i>Section 38-3-9 - Electric Ground Wires</i>	<i>38-8</i>
	<i>Section 38-3-10 - Water for Building or Construction Purposes</i>	<i>38-8</i>
	<i>Section 38-3-11 - Fire Hydrants</i>	<i>38-9</i>
	<i>Section 38-3-12 - Limited Water in Emergencies</i>	<i>38-9</i>
	<i>Section 38-3-13 - Shortage and Purity of Supply</i>	<i>38-9</i>
	<i>Section 38-3-14 - Non-Compliance with Rules and Regulations</i>	<i>38-9</i>
	<i>Section 38-3-15 - Easements</i>	<i>38-9</i>
	<i>Section 38-3-16 - Use of Water on Consumer's Premises</i>	<i>38-10</i>
	<i>Section 38-3-17 - Specifications</i>	<i>38-10</i>
	<i>Section 38-3-18 - Water Line Size</i>	<i>38-10</i>
	<i>Section 38-3-19 - Allocation of Maintenance Costs Between User and City</i>	<i>38-10</i>
	<i>Section 38-3-20 - City Not Liable for Interruption of Supply</i>	<i>38-10</i>
	<i>Section 38-3-21 - Water Well Permits Required</i>	<i>38-11</i>
	<i>Section 38-3-22 - Abandoned Connection</i>	<i>38-11</i>
	<i>Section 38-3-23 - Alternative Water Source</i>	<i>38-11</i>
	<i>Section 38-3-24 - Groundwater Use Prohibited</i>	<i>38-11</i>

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>WATER SYSTEM (CONTINUED)</b>	
	<i>Division I - General Regulations (Continued)</i>	
	Section 38-3-25 - Utility Services Protocol for Non-Residents	38-11
	Section 38-3-26 - Rules to Become Part of Contract	38-12
	Section 38-3-27 - 38-3-29 Reserved	
	<i>Division II - Cross-Connection Administration</i>	
	Section 38-3-30 - Approved Backflow Device	38-12
	Section 38-3-31 - Cross-Connection Prohibited; Exception	38-12
	Section 38-3-32 - Investigations by Superintendent	38-12
	Section 38-3-33 - Right to Enter Premises	38-12
	Section 38-3-34 - Notice to Customer; Reconnect Fee	38-13
	Section 38-3-35 - Contaminations Cost and the Consumer	38-13
	Section 38-3-36 - 38-3-37 Reserved	
	<i>Division III - Cross-Connection Control Code</i>	
	Section 38-3-38 - Purpose	38-13
	Section 38-3-39 - Application	38-14
	Section 38-3-40 - Responsibility of Owner	38-14
	Section 38-3-41 - Definitions	38-14
	Section 38-3-42 - Water System	38-16
	Section 38-3-43 - Cross-Connection Prohibited	38-17
	Section 38-3-44 - Survey and Investigations	38-17
	Section 38-3-45 - Where Protection is Required	38-18
	Section 38-3-46 - Type of Protection Required	38-19
	Section 38-3-47 - Backflow Prevention Devices	38-19
	Section 38-3-48 - Inspection and Maintenance	38-19
	Section 38-3-49 - Booster Pumps	38-20
	Section 38-3-50 - Violations and Penalties	38-20
	Section 38-3-51 - 38-3-54 Reserved	
	<i>Division IV - Extension of Mains</i>	
	Section 38-3-55 - Determination of Who Pays Expense of Extension	38-21
	Section 38-3-56 - Easements	38-21
	Section 38-3-57 - Size and Type	38-21
	Section 38-3-58 - Title	38-21
	Section 38-3-59 - Maintenance and Replacement	38-21
<b>IV</b>	<b>UTILITY RATES</b>	
	<i>Division I – General</i>	
	Section 38-4-1 - Building Unit Defined	38-22
	Section 38-4-2 - Revenues	38-22
	Section 38-4-3 - Accounts	38-22
	Section 38-4-4 - Notice of Rates	38-22
	Section 38-4-5 - Access to Records	38-23
	Section 38-4-6 - 38-4-9 Reserved	
	<i>Division II – Water Rates</i>	
	Section 38-4-10 - Water Tap-On Fees: Inside City	38-23
	Section 38-4-11 - Illinois Plumbing Code	38-23

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>IV</b>	<b>UTILITY RATES (CONTINUED)</b>	
	<i>Division II – Water Rates (Continued)</i>	
	Section 38-4-12 - Maintenance of Water Lines	38-23
	Section 38-4-13 - Water Rates	38-23
	Section 38-4-14 - 38-4-16 Reserved	
	<i>Division III - Wastewater Service Charges</i>	
	Section 38-4-17 - Basis for Wastewater Service Charges	38-24
	Section 38-4-18 - Basic User Charge	38-24
	Section 38-4-19 - Computation of Basic User Charge	38-24
	Section 38-4-20 - Debt Service Charge	38-25
	Section 38-4-21 - Capital Improvement Charge	38-25
	Section 38-4-22 - Surcharge on Excessive Concentrations	38-25
	Section 38-4-23 - Review of Service Charges	38-25
	Section 38-4-24 - Notification of Users	38-25
	Section 38-4-25 - Measurement of Flow	38-25
	Section 38-4-26 - Basic User Charge	38-25
	Section 38-4-27 - Debt Service Charge	38-26
	Section 38-4-28 - Capital Improvement Charge	38-26
	Section 38-4-29 - Rates	38-26
	Section 38-4-30 - Multi-Unit Buildings	38-26
	Section 38-4-31 - Surcharge Rates	38-26
	Section 38-4-32 - Computation of Wastewater Service Charge	38-26
	Section 38-4-33 - Materials and Labor	38-27
	Section 38-4-34 - Tapping of the Mains	38-27
<b>V</b>	<b>SEWER SYSTEM</b>	
	<i>Division I – Definitions</i>	
	Section 38-5-1 - Definitions	38-28
	Section 38-5-2 - 38-5-3 Reserved	
	<i>Division II – Use of Public Sewers Required</i>	
	Section 38-5-4 - Deposit of Wastes	38-33
	Section 38-5-5 - Sewage in Natural Outlet	38-33
	Section 38-5-6 - Private System, Unlawful	38-33
	Section 38-5-7 - Connection to System Required	38-33
	<i>Division III – Private Sewage Disposal</i>	
	Section 38-5-8 - Private Sewage System	38-33
	Section 38-5-9 - Private Sewer System Approval	38-34
	Section 38-5-10 - Private Sewage System Permit	38-34
	Section 38-5-11 - Requirements for System	38-34
	Section 38-5-12 - Availability of Public Connection	38-34
	Section 38-5-13 - Maintenance of Private System	38-34
	Section 38-5-14 - Additional Restrictions	38-34
	Section 38-5-15 - Cleaning of Private System	38-34
	<i>Division IV – Building Sewers and Connections</i>	
	Section 38-5-16 - Disturbing System Unlawful	38-34
	Section 38-5-17 - Compliance with Regulating Authorities	38-35

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>V</b>	<b>SEWER SYSTEM (CONTINUED)</b>	
	<i>Division IV – Building Sewers and Connections (Continued)</i>	
	Section 38-5-18 - Application for Permit	38-35
	Section 38-5-19 - Capacity of Sewer	38-35
	Section 38-5-20 - Cost of Installation	38-35
	Section 38-5-21 - Separate Sewer; Exception	38-35
	Section 38-5-22 - Old Building Sewers	38-35
	Section 38-5-23 - Construction Methods	38-35
	Section 38-5-24 - Elevation	38-35
	Section 38-5-25 - Prohibition Connections	38-36
	Section 38-5-26 - Building Sewer; Plumbing Code	38-36
	Section 38-5-27 - Notification for Inspection	38-36
	Section 38-5-28 - Barricades at Excavations	38-36
	Section 38-5-29 - Excavation	38-36
	Section 38-5-30 - Backfill	38-36
	Section 38-5-31 - Return of Bond	38-36
	<i>Division V – Use of Public Wastewater Facilities</i>	
	Section 38-5-32 - Discharge of Storm Water	38-37
	Section 38-5-33 - Storm Water	38-37
	Section 38-5-34 - Regulations of Wastes	38-37
	Section 38-5-35 - Industrial Discharges	38-37
	Section 38-5-36 - Harmful Effects of Certain Materials	38-37
	Section 38-5-37 - Harmful Wastes; Approval	38-38
	Section 38-5-38 - Interceptors Provided	38-39
	Section 38-5-39 - Flow-Equalizing Facilities	38-40
	Section 38-5-40 - Industrial Wastes Control Manhole	38-40
	Section 38-5-41 - Industrial Waste Testing	38-40
	Section 38-5-42 - Measurements and Tests	38-41
	Section 38-5-43 - Special Arrangements	38-41
	Section 38-5-44 - 38-5-45 Reserved	
	<i>Division VI – Inspections</i>	
	Section 38-5-46 - Damage	38-41
	Section 38-5-47 - Inspection and Testing	38-41
	Section 38-5-48 - Liability of City	38-41
	Section 38-5-47 - Private Property Inspections	38-42
	Section 38-5-48 - 38-5-50 Reserved	
	<i>Division VII – Extension of Collecting Wastewaters</i>	
	Section 38-5-51 - Permit Required; Authorized Personnel	38-42
	Section 38-5-52 - Extension Permits	38-42
	Section 38-5-53 - Materials	38-42
	Section 38-5-54 - Inspections of Construction	38-43
	Section 38-5-55 - Manholes Required	38-43
	Section 38-5-56 - 38-5-57 Reserved	
	<i>Division VIII – Penalties</i>	
	Section 38-5-58 - Penalty	38-43
	Section 38-5-59 - Continued Violations	38-43
	Section 38-5-60 - Liability of Person	38-43

**ARTICLE****TITLE****PAGE**

Appendix #1	- Application for Water System Service Connection	
Appendix #2	- Utility Main Extension Contract	
Appendix #3	- Private Waste Disposal Application	
Appendix #4	- Application for Sanitary Sewer Service Connection	
	Residential or Commercial Building Sewer Application	
	Industrial Sewer Connection Application	
	Receipt	
Appendix #5	- Certificate of Inspection, Approval and Permit	
Appendix #6	- Disconnect Notice	
Appendix #7	- Objectionable Material Effluent Limits	

## **CHAPTER 38**

### **UTILITIES**

#### **ARTICLE I – DEPARTMENT ESTABLISHED**

**38-1-1        DEPARTMENT ESTABLISHED.** There shall be an executive department of the City known as the **Water and Sewer Department**. It shall be assigned to and under the jurisdiction of the Department of Public Property. The designated office shall be in the City Hall.

**38-1-2        PUBLIC PROPERTY DEPARTMENT.** The Department of Public Property shall exercise a general supervision over the affairs of the Water and Sewer Utilities. It shall ascertain the condition and needs thereof, shall from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had; and generally, shall do all acts necessary to promote the efficiency of the Department.

**38-1-3        SUPERINTENDENT OF WATER AND SEWER.** The Superintendent of Water and Sewer shall be subject to the supervision of the Commissioner of Public Property. The Superintendent shall be appointed by the Mayor, by and with the advice and consent of the City Council and shall hold office until his successor shall be appointed and qualified. He shall receive such salary as may be provided by resolution of the Council at the time of his appointment.

**38-1-4        DUTIES OF THE SUPERINTENDENT.** It shall be the duty of the Superintendent to manage and control all aspects of the Water and Sewer Systems.

## ARTICLE II - RATES AND REGULATIONS

### **38-2-1      CONTRACT FOR WATER AND SEWER SERVICES.**

(A)      **Customer Accepts Service.** The rates, rules and regulations contained in this Chapter shall constitute and be considered a part of the contract with every person, company or corporation who is supplied with Water and Sewer services from the Water and Sewer Systems and every person, company or corporation, hereinafter called a "**customer**" who accepts and uses Water and Sewer services, shall be held to have consented to be bound thereby.

(B)      **Not Liable for Interrupted Service.** The Water and Sewer Department shall endeavor at all times to provide a regular and uninterrupted supply of service, but in case the supply of service shall be interrupted or irregular or defective, or fail from causes beyond its control, or through ordinary negligence of employees, servants or agents, the Water and Sewer Department shall not be liable therefor.

(C)      **Using Water and Sewer Without Paying.** Any person using Water and Sewer services from the City without paying therefor, or who shall be found guilty of breaking any meter or appurtenance or by-passing any water meter shall be guilty of violating this Code, and upon conviction, shall be fined a sum as is provided in **Section 1-1-20** of this Code.

(D)      **Destroying or Obstructing Property.** Any person found guilty of defacing, obstructing, tampering, injuring or destroying, or in any manner, limiting the use or availability of any fixture, meter or any property of the Water and Sewer Department, or erecting signs on the property without permission, shall, upon conviction of such act, be fined as provided in **Section 1-1-20** of this Code.

(E)      **Service Obtained By Fraud.** All contracts for Water and Sewer services must be made in the name of the head of the household, firm or corporation, using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of nonpayment of bills or any unpaid obligation, and service again has been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the advanced payment, as may be necessary to satisfy the unpaid obligation, shall be retained by the City and credited to the proper account.

(F)      **Failure to Receive Bill.** Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the Department be unable to bill a customer for services used during any month, the billing next made shall include the charges for services used during the unbilled month. A month shall be considered as that period of approximately **thirty (30) days.** (**Ord. No. 1046**)

#### (G)      **Billing; Shut-off; Hearing.**

- (1) Bills for utility services shall be mailed by the **first (1<sup>st</sup>)** of each month. If a bill is not paid on or before the **fifteenth (15<sup>th</sup>) day** of the month, a penalty equal to **ten percent (10%)** of the amount due on said bill shall be added thereto. This penalty shall be in addition to the charges heretofore established for utility services. If the last day for payment without penalty falls on a Saturday, Sunday, or holiday, payment may be made on the following business day.
- (2) If a delinquent water or sewer bill is not paid by the **fifteenth (15<sup>th</sup>) day** of the month, then the City shall notify the customer of such failure to pay by first-class mail. The notice to the consumer shall state:
  - (a) Name and address of the customer and amount of the bill.
  - (b) The date, time, and location of the hearing to be held.
  - (c) That the customer has a right to be heard and to present evidence in his behalf.
  - (d) That if the customer fails to appear at the hearing, the consumer's water or sewer service shall be terminated without further proceedings.

(e) The date of termination.



**[See Memphis Light, Gas & Water v. Craft 98 S.Ct 1554 (1978).]**

- (3) The time, date and location of the hearing shall be determined by the Mayor, the City Clerk or designee of the Mayor. The Mayor, City Clerk or designee shall preside over the hearing. The Mayor, City Clerk or designee of the Mayor shall make a final determination as to the rights of the consumer and the City based on the information received at the hearing. **(See Appendix #6)**
- (4) The customer shall be notified within **two (2) working days** of the decision rendered by the hearing officer. If the service is to be discontinued, it shall be disconnected on the date designated on the disconnect notice.
- (5) If the hearing officer decides in favor of the City, the City shall have the right to discontinue the customer's water or sewer services. Should the customer fail to appear at the hearing, or should the notice be returned non-accepted, then the City shall also have the right to terminate the customer's water or sewer services without further proceedings.
- (6) If the hearing officer so decides, the customer can be placed on a payment plan. Payments each month must be at least all of the current charges, plus **ten percent (10%)** of the past due amount or **Ten Dollars (\$10.00)** (whichever is the largest amount) on or before the due date. If the customer doesn't live up to the agreement, the penalty shall be added to the bill and shall be disconnected. If the customer faithfully keeps payments up, at the end of **six (6) months**, he shall have remaining penalties cleared from the account. If he defaults at any time while on the payment plan, he shall be sent a disconnect notice and his water shall be disconnected. He shall have to pay the entire amount of the billing, plus the reconnect fee before being reconnected. A customer may be set up for the payment plan only once during any calendar year. **(Ord. No. 1339; 06-28-93)**
- (7) Where a delinquent water bill is determined to be a "hardship case", which includes families with children, elderly people, serious illness and others with limited financial resources. The Finance Commissioner, Mayor and Hearing Officer, may review the circumstances and in such a "hardship case", delay payment to a certain date, adjust the payment plan to relieve cutoff or make such arrangements necessary for payment as to keep said cases from being disconnected. **(Ord. No. 1359; 01-24-94)**
- (8) Once water and sewer services have been disconnected [terminated], the same shall not be again connected or used until all delinquent accounts and bills of service are paid in full, including a fee of **One Hundred Dollars (\$100.00)** for each connection of such water or sewer services, plus expenses incurred in the reconnecting of the water or sewer services. **(Ord. No. 03-16; 08-15-03)**

(H) **Lien - Notice of Delinquency.** Whenever a bill for utility service remains unpaid for **thirty (30) days** after it has been rendered, the City shall file with the County Recorder of Deeds a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the City claims a lien for this amount as well as for all charges subsequent to the period covered by the bill. If the user whose bill is unpaid is not the owner of the premises and the City has notice of this, notice shall be mailed to the owner of the premises if his address is known to the City; whenever such bill remains unpaid for a period of **forty-five (45) days** after it has been rendered. The failure of the City to record such lien or to mail such notice or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid utility bills as mentioned in the foregoing section. **(Ord. No. 1363; 02-23-93)**

(I) **Foreclosure of Lien.** Property subject to a lien for unpaid charges shall be sold for non-payment of the same, and the proceeds of the sale shall be applied to pay the charges, after

deducting costs, as is the case in the foreclosure of statutory liens. The City Attorney is hereby authorized and directed to institute such proceedings in the name of the City in any Court having jurisdiction over such matters against any property for which the bill has remained unpaid **forty-five (45) days** after it has been rendered. **(Ord. No. 1363; 02-23-93)**

(J) **Removal of Meters.** All meters shall remain the property of the Department and may be removed from the customer's premises at any time, without notice, for the purpose of testing and repairing the same, or upon discontinuance of service. Upon discovery of any unlawful act by any customer, his agent or employee herein prohibited, or upon failure to comply with any other rules and regulations of the Department, such service shall be disconnected.

(K) **Request to Disconnect Service; Notice.** Water and Sewer services shall be deemed to have been supplied to any property connected to the Water and Sewer Systems during any month, unless the consumer, prior to the **first (1<sup>st</sup>) day** of the month has given written notice to the Water Department that service should be disconnected on or prior to the **first (1<sup>st</sup>) day** of such month. Upon receipt of such written notice, the Water and Sewer Services shall be disconnected and shall not be resumed until a request for resumption of Water and Sewer Services shall be made. **(Ord. No. 1118; 06-27-83)**

(L) **Return of Check for Insufficient Funds.** Any check, used to pay for any utility service provided by the City or its agent(s), which is returned for insufficient funds or any other reason fail to be accepted by a financial institution, shall be considered a failure to pay such bill. This insufficient funds payment will trigger any and all procedures in Part (G) Billing; Shut-off; Hearing of this Section. The period of delinquency will revert back to the date the payment was due.  
**(See 65 ILCS 5/11-139-8)**

**38-2-2      LIABILITY FOR CHARGES.** The **owner** of the premises, the **occupant** thereof and the **user** of the utility services shall be jointly and severally liable to pay for the services to such premises and the utility services are furnished to the premises by the City only upon the condition that such owner of the premises, occupant **and** user are jointly and severally liable therefor to the City.

**38-2-3      ESTIMATED CHARGE.** Whenever any meter, by reason of its being out of repair or from any cause, fails to properly register the utilities passing through the same, the consumer shall be charged the average usage charge of the **previous three (3) months usage**. If no record of the previous **three (3) months** exists, then it shall be the duty of the Superintendent to estimate the amount of water consumed during the time the meter fails to operate, and the consumer shall be charged with such estimated amount. Bills may be estimated whenever it is impossible to read the meters during inclement weather.

**38-2-4      ADJUSTMENTS FOR EXCESSIVE USE OF WATER.** No adjustment will be made for any loss due to faulty plumbing or service line leaks. Any water use recorded by meter will be billed at current rate. However, any water loss that is caused by the City and recorded on meter will be adjusted at no cost to customer for only the amount of loss attributable to the City.

(A) If a utility customer experiences a water loss that meets all of the following criteria, then an adjustment may be made to the extent provided herein.

- (1) The water loss must not have run, in whole or in part, through the City sewer system;
- (2) The claim for a sewer adjustment must be made within **forty-five (45) days** of loss.
- (3) Applicant must certify, by their signatures, that (A)(2) is true.

(B) After subparagraph (A)(2) has been satisfied, then the customer's bill for the period in question may be readjusted to delete the sewer charge only less the normal monthly sewer usage.

(C) Recognizing that a loss may span more than one billing cycle, the adjustment may be made and prorated for up to and including a **six (6) weeks** billing cycle.

(D) No customer is entitled to more than one adjustment hereunder in any calendar year.  
**(Ord. No. 04-10; 04-12-04) (Ord. No. 07-61; 10-08-07)**

**38-2-5 CONSUMER LISTS.** It is hereby made the City Water and Sewer Collectors' duty, or his designated representative's duty to prepare or cause to be prepared a complete and accurate list of all premises and properties receiving Water and Sewer Services, showing the name and address of the occupant and the owner of the same. The list shall be kept up-to-date, and shall be corrected from time to time to allow changes in the occupancy or ownership of any such property or premises.

**38-2-6 NO FREE SERVICE.** No free service shall be furnished to any person, firm, organization or corporation, public or private, and all rates and charges shall be non-discriminatory, provided that the Mayor and City Council reserve the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust.

**38-2-7 WATER AND SEWER DEPOSITS.**  
(A) **Residential.** When any application is made for Water and Sewer Service in accordance with the provisions of this Chapter, all applications of the property for which service is requested shall deposit with the application the sum of **One Hundred Fifty Dollars (\$150.00)** for water and sewer service, unless said applicant is the owner of said property, in which event ownership of the real estate shall be sufficient deposit and no additional cash deposit shall be required.

In addition, any current customer whose deposit amount is less than **One Hundred Dollars (\$100.00)**, shall deposit a sufficient amount to equal **One Hundred Dollars (\$100.00)** when any change is made in the status of current service or change of address of service. **(Ord. No. 04-09; 04-13-04)**

(B) **Commercial.** In the case of a commercial or industrial user, the advanced payment shall be a minimum of **One Hundred Fifty Dollars (\$150.00)**, or an amount equal to **one (1) month** of estimated charges for utilities, based upon the history of similar establishments.

Where the amount of the deposit provided for above is not sufficient to adequately protect the Water and Sewer Department, a greater amount than stated above may be required, based on the consumer's estimated bill for a customary billing period. **(Ord. No. 02-02; 02-11-02)**

**38-2-8 DAMAGE TO STREETS, ALLEYS OR ANY PUBLIC WAY.** Where any damaged utility service line causes damage to any public street, alley or any other public way, the owner of the premises shall repair immediately at his expense upon notice from the City. If the owner fails to repair within a reasonable time after notice, the City shall repair any damage causing a public hazard and the cost of same shall be charged to the owner of the premises.

If the charges remain unpaid for **sixty (60) days** the premises shall be subject to the lien provisions of **Chapter 38-2-1(H) and (I)**. **(Ord. No. 1310; 04-27-92)**

## ARTICLE III - WATER SYSTEM

### DIVISION I - GENERAL REGULATIONS

**38-3-1**      **DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as follows:

(A)      **Federal Government.**

(1)      **"Federal Act"** means the federal 1996 Safe Drinking Water Acts Amendments.

(2)      **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B)      **State Government.**

(1)      **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.

(2)      **"Director"** means the Director of the Illinois Environmental Protection Agency.

(3)      **"State Loan"** shall mean the State of Illinois participation in the financing of the construction of water works as provided for by the Illinois Anti-Pollution Bond Act and for making such loans as filed with the Secretary of State of the State of Illinois.

(C)      **Local Government.**

(1)      **"Approving Authority"** means the City Council of the City of Benton, Illinois or where such authority is specifically delegated, the Superintendent of the Water and Sewer Department.

(D)      **"Person"** shall mean any and all persons, natural or artificial, including any individual, firm or company, municipal, or private corporation, association, society, institution, enterprise, governmental agency or other entity.

(E)      **Clarification of Word Usage.** **"Shall"** is mandatory; **"may"** is permissible.

(F)      **Water and Its Characteristics.**

(1)      **"ppm"** shall mean parts per million by weight.

(2)      **"milligrams per liter"** shall mean a unit of the concentration of water constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water analysis.

(3)      **"PH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(G)

(1)      **"Curb Cock"** shall mean a shutoff valve attached to a water service pipe from a water main to a building installed near the curb, which may be operated by a valve key to start or stop flow in the water-supply lines of a building. Also called a curb stop.

(2)      **"Easement"** shall mean an acquired legal right for the specific use of land owned by others.

(3)      **"Service Box"** shall mean a valve box used with corporation or curb cock.

(H)      **Types of Charges.**

(1)      **"Water Service Charge"** shall be the charge per quarter or month levied on all users of the Water Facilities. The service charge shall be computed as outlined in this Article, and shall consist of the total of the Basic User Charge and the Local Capital Cost if applicable.

(2)      **"User Charge"** shall mean a charge levied on users of water works for the cost of operation, maintenance and replacement.

- (3) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public water system.

- (4) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.
- (5) **"Capital Improvement Charge"** shall mean a charge levied on users to improve, extend or reconstruct the water works.
- (6) **"Local Capital Cost Charge"** shall mean charges for costs other than the operation, maintenance and replacement costs, i.e. debt service and capital improvement costs.
- (7) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the useful life of the works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (8) **"Useful Life"** shall mean the estimated period during which the water works will be operated.
- (9) **"Water and Sewer Fund"** is the principal accounting designation for all revenues received in the operation of the water system.

**38-3-2 APPLICATION FOR TAPS AND SERVICE CONNECTIONS TO THE WATERWORKS SYSTEM.** An applicant desiring a water tap or service connection with the Waterworks System of the City shall file a written application at the City Hall, signed by the owner of the property for which the tap or service connection is desired, or by the duly authorized agent of such owner. The application shall be accompanied by payment of the fee hereinafter prescribed to cover the cost of such service connection. In the event the application is made by an agent for the owner, then the application shall also be accompanied by the written authority of the owner to the agent for the making of the application. If the application is for service outside the City, then the application shall be approved by the City Council. **(See Section 38-4-10 for fees.) (See Appendix #1)**

**38-3-3 ALL SERVICE TO BE BY METER.** All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the Superintendent. Water shall not be turned on for new connections until the meter has been installed and all other requirements of this Chapter on the part of the property owner have been fully complied with.

Should concrete or any other permanent materials be constructed or placed around the meter tile, it shall be the responsibility of the owner and/or user to remove said obstruction if it is not possible to repair or replace the water meter. If a user backfills his yard, it will be his responsibility to raise the water service so as to be accessible to repair.

**38-3-4 INSPECTION.**

(A) **Access to Premises.** The City shall have access to all portions of the premises of the consumer at any reasonable time for inspection of the use of water and the consumer's pipe, fixtures, plumbing, and any other apparatus in any manner connected to the Waterworks System of the City. The City shall have the right and option to demand change or stopping of use or to require any repair, change, removal or improvement of any pipe, fixture, plumbing or other apparatus that would in any manner affect the water supply or system of the City or the supply or fixtures of other consumers.

(B) **Meters to be Open to Inspection.** All water meters and water fixtures, connections and appurtenances on private property connected with the Waterworks System of the City shall be open to the inspection of the proper officers and employees of the City at all reasonable hours.



**38-3-5      METER DAMAGED.** Whenever a meter is found to have been damaged from any cause whatsoever, except for ordinary wear and tear, the consumer shall pay the City for the actual cost of the removal, repair, or replacement of the damaged meter. Such actual cost shall be added to the regularly monthly water bill of the consumer. All previous water bills shall be corrected on an estimated basis to cover such period as it appears that the meter was out of order for such damage. **(Ord. No. 1249; 11-13-89)**

**38-3-6      DAMAGE DUE TO INTERRUPTION OF SERVICE; LIABILITY.** All connections for the water services applied for hereunder and all connections now attached to the present Waterworks System and all use or service of the system shall be upon the express condition that the City will not be liable for nor shall any claim be made against it for damages or injury caused by reason of the breaking of any main, service, pipe, apparatus or appurtenance connected with the Waterworks System or for any interruption of the supply of water by reason of the breaking of machinery or by reason of stoppages, alterations or renewals.

**38-3-7      RESALE OF WATER.** No water supplied by the waterworks system shall be resold by any user. No water user may supply water to other families or allow them to take it, except for emergencies and except for use on the premises and for the purpose specified in such user's approved application, not after water is introduced into any building or upon any premises shall any person make or employ any other person to make any tap or connection with work upon the premises for alterations, repairs, extension or attachments without written permit therefore. Resale or unauthorized use of water shall be grounds for discontinuance of water service to the user, or the premises, or both.

**38-3-8      DISCONTINUING SERVICE - DANGEROUS USAGE.** The City shall have the right to refuse water service or to discontinue water service, without notice, at any time to any consumer if the City finds any apparatus or appliances, the operation of which will be detrimental to the water system of the City or to any or all of its consumers. Standpipes, hydrants, gate valves and any other apparatus that cause water hammer or any danger to the water system or other customer's plumbing shall be immediately repaired or removed upon notice from the City or, at its option, the City may immediately discontinue service without notice and without any liability for direct or resulting damages therefrom.

**38-3-9      ELECTRIC GROUND WIRES.** All persons are strictly forbidden to attach any electric ground wire to any plumbing or water piping which is or may be connected to any water service pipe, water meter, or water main belonging to the City.

The City shall hold the owner of the premises responsible and liable for any damage to the property or injury to the employees of the City caused by such ground wire. Any and all owners and consumers shall remove any existing ground wires immediately upon written notice from the City. If not so disconnected **five (5) days** after notice, the City, through its officials, may enter the property and remove such ground wires and the consumer shall pay all costs.

**38-3-10      WATER FOR BUILDING OR CONSTRUCTION PURPOSES.** Applicants desiring to use water from the City Waterworks System for building or construction purposes shall make application therefor to the Superintendent of the Water and Sewer Department on a form provided by the Water and Sewer Department for that purpose.

Upon a permit being granted, the service pipe shall be carried at the expense of the applicant to the inside of the curb line where a service cock and meter shall be placed with pipe leading to the surface and a faucet placed at the end thereof above the surface. When the building or construction is completed, the faucet and meter shall be removed and the water shut off unless permanent connection is made in accordance with the provisions of this Chapter. Charge for the use and connection of the meter shall be prescribed by the Superintendent of the Water and Sewer Department.

**38-3-11      FIRE HYDRANTS.**

(A) All public fire hydrants with gate valves, tees, and connections from the main, inside the City Limits, shall be owned, maintained and used only by the City and shall be solely responsible for same. Use of water from fire hydrants by contractors and others shall be only upon permission by the City and after approved application to the City.

(B) The City shall not be held liable and will not assume any responsibility for the condition of any fire hydrant inside or outside of the City Limits or the pressure or amount of water obtainable therefrom or any damage either direct or resultant because of the condition, pressure or amount of water available at any fire hydrant.

(C) All public fire hydrants located outside the City Limits owned by the City shall be maintained in as good order as reasonably possible, but the City will not undertake or assume any responsibility or liability for their condition or use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fires except when the City may issue a special permit for their use to contractors who shall then be responsible for the hydrants and the use of water from them.

**38-3-12      LIMITED WATER IN EMERGENCIES.**

(A) The Mayor is hereby authorized to proclaim the existence of an emergency whenever it appears that the City water supply is inadequate for all general uses and purposes, which proclamation shall be published in a newspaper of general circulation in the community and the Mayor is further authorized to declare in similar manner the end of an emergency period.

(B) From and after the publication of a proclamation as provided for in subsection (A) of this Section, the following uses of water shall be prohibited:

- (1) the washing of cars and other vehicles;
- (2) the sprinkling of lawns and shrubbery;
- (3) the watering of gardens;
- (4) other nonessential uses;

and it shall be unlawful for any person to so use water from the City supply during such an emergency.

**38-3-13      SHORTAGE AND PURITY OF SUPPLY.** The City shall not be held responsible for or in any manner liable to any person, company, consumer or public body for any claim or damage, either direct or resultant because of any shortage of water supply, any shutoff of water for any reason, any bursting or leakage of either the consumer's or City's mains, pipes and fixtures, any pollution or impurity in water supply or any fire or water damage. **(Ord. No. 1046)**

**38-3-14      NON-COMPLIANCE WITH RULES AND REGULATIONS.** If any consumer fails to comply with any of the rules and regulations in force, the City shall notify the consumer of such failure. If the consumer does not remedy the same as the rules provide and within a reasonable time, the City shall have the right to discontinue service. Except in case of non-payment, emergency, necessity, or as otherwise provided, the City will not discontinue service for violation of any rule until **five (5) days** after notice has been given and the violation has not been remedied.

**38-3-15      EASEMENTS.** The consumer shall give such easements and rights-of-way as necessary to the City and allow access for the purpose of construction, repair, maintenance, meter reading, relocation or expansion of the water system. The necessity shall be determined by the City Council.

**38-3-16      USE OF WATER ON CONSUMER'S PREMISES.** The City shall reserve the right to use the water from the consumer's facilities at any time deemed necessary. No charge shall be made by the consumer for the use of the facilities and no charge shall be made by the City for the water used by the City.

**38-3-17      SPECIFICATIONS.** The City reserves the right to follow its own specifications for both material, construction and installation in all matters and at all locations within its jurisdiction, including the size, kind, type and condition of the Utility piping to which connection will be made, and it is the duty of the Superintendent to determine that specifications are followed before accepting or connecting to any new work.

**38-3-18      WATER LINE SIZE.** The City reserves the right, through its Superintendent, to select and specify the kind, make, type and size of any and all material and appliances used in services and meter installations, except that, in no case, shall pipe of less than **three-fourths (3/4)** of an inch inside diameter be installed for service. A service shall be considered as only that pipe which extends from connection to the main in a street or thoroughfare directly to an abutting property.

The user shall not connect any service line or any plumbing connected with the service line to any other water source. The service line shall meet all requirements of the Illinois Environmental Protection Agency's rules and regulations, the Illinois Plumbing Code, and the regulations in this Chapter. **(See Section 38-4-10 for fee.)**

**38-3-19      ALLOCATION OF MAINTENANCE COSTS BETWEEN USER AND CITY.** The City shall maintain and repair all water service pipes between the water mains and the curb stops. Any repairs to service lines or taps between the water mains and the curb stops or property line shall be the City's expense. Any repairs or renewals of water service pipes between the property line or curb stop and extending to the owner's premises shall be made at the sole expense of the consumer or owner of the premises unless the meter is moved from the inside to the outside of the premises.

**38-3-20      CITY NOT LIABLE FOR INTERRUPTION OF SUPPLY.** The City shall have the right to shut off the supply of water whenever it is necessary to make repairs, improvements, enforce rules or for any notice as circumstances allow, will be given to consumers but in emergencies, the water may be shut off without notice. All hot water faucets shall be left open during any shut-off to prevent damage to plumbing. Such necessary work will be done as rapidly as may be practical and whenever feasible at such times as will cause the least inconvenience. The City shall not be held responsible for or liable because of any shut-off of supply for any direct or resultant damages to any person, company or consumer or to any pipe, fixtures, or plumbing.

Water for steam boilers, gas engines, ice plants, or other industrial use, shall not be furnished by direct pressure from the mains, but only to tanks holding ample reserve supply. Should any equipment be supplied direct from mains, then in case of any shutoff of water, the City will not be held responsible or liable for any direct or resulting damage because of interrupted supply, insufficient pressure, or otherwise.

Whenever water mains, pipes and service connections are taken up, shut-off or interfered with by reason of any City street improvements, the City will endeavor to maintain service so far as reasonably possible, but will not be directly or indirectly liable for any interruption, poor pressure, or damage of any kind either to consumers, adjacent or to other consumers affected thereby.

The City expressly stipulates with all its consumers and other persons that it will not insure or be responsible or liable in any manner for any losses, or damages, direct or resultant by reason of any fire, and all water service furnished shall always be conditional upon acts of God, inevitable accidents, fire, strikes, riots, war, or any other cause not within the reasonable control of the City.

**38-3-21      WATER WELL PERMITS REQUIRED.** It shall be unlawful to drill a water-well in the City without the proper permits from the State of Illinois and the City Council. All wells shall comply with the Cross-Connection Code in this Chapter. No wells shall be drilled when the property is within **two hundred (200) feet** of the municipal water main.

**38-3-22      ABANDONED CONNECTION.** Whenever any connection to the waterworks system is abandoned, because the building to which the water connection is made has been abandoned, destroyed or removed, the Superintendent may remove the meter and any pipe or connections in the public right-of-way or easement, and cap, plug or otherwise seal the pipe or main. Before taking any such steps the Superintendent shall notify the owner of the real estate if the owner's name and address is known, and shall notify the person shown on the real estate tax records as having paid taxes on the property the last time taxes were paid. Such notice shall be made by mail, at least **thirty (30) days** before any action is taken under this Section. If water is leaking, the Superintendent shall take immediate action, and send the notices within **three (3) working days** of the time action was taken.

**38-3-23      ALTERNATIVE WATER SOURCE.** Any customer with critical water requirements shall have an alternate water source. Failure to provide such shall be considered a violation of customer rules and loss or damages resulting therefrom shall be the responsibility of the customer. Those customers shall include but not be limited to manufacturers, hospitals, nursing homes, schools, greenhouses, hatcheries or any other building or business which might suffer any type of loss due to interruption of water service.

The City expressly stipulates with all customers and other persons who may be affected by the discontinuance of service that it will neither insure nor be responsible or liable in any manner for any loss or damages, direct or indirect, by reason of fire or any other cause and all water service furnished shall also be conditional upon acts of God, inevitable accidents, failure of supply, fire, strikes, riots or any other causes.

**38-3-24      GROUNDWATER USE PROHIBITED.**  
(A) The use or attempt to use as a potable water supply groundwater from within the corporate limits of the City by the installation or drilling of wells or by any other method is hereby prohibited, including at points of withdrawal by the City, except for such uses or methods in existence before **June 27, 2005**.

(B) **Penalty.** Any person violating the provisions of this Section shall be subject to a fine of up to **Five Thousand Dollars (\$5,000.00)** for each violation.

(C) **Definitions.** **"Person"** is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns. **"Potable water"** is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

**[35 Illinois Administrative Code 620 or Tier 1 residential remediation objectives as set forth in 35 Illinois Administrative Code 742] (Ord. No. 05-16; 06-27-05)**

**38-3-25      UTILITY SERVICES PROTOCOL FOR NON-RESIDENTS.**  
(A) The installation, maintenance, and servicing of lines and hook-ups related to water and sewer are expensive in nature.

(B) When requested to provide services outside of the corporate limits, those services will be provided only when there is a pre-annexation agreement executed in writing to the satisfaction of corporate counsel of the City to annex into the City.

(C) By way of further explanation, but not by way of limitation, it will be required that persons sign either documentation to effectuate an immediate annexation to the City or a **twenty**

**(20) year** agreement to annex into the corporate city limits when they become contiguous to the corporate city limits, or similar documents.

(D) Additionally, at the discretion of the Council upon recommendation by the Commissioner of Public Property, all expenses of the line, expenses for legal services, surveyors' services, and other affiliated costs will be chargeable to the requesting party and must be paid before any such line is installed and before the City is obligated to act to install said line. Fees and expenses may be waived upon majority vote of the Council.

**(Ord. No. 2004-20; 07-12-04)**

**38-3-26      RULES TO BECOME PART OF CONTRACT.** All of the rules and regulations concerning the use of the facilities of the water system and the consumption of water shall be adopted and the same shall become part of the contract with every water consumer and every water consumer shall be considered to take water from the City, subject thereto and bound thereby.

**38-3-27 - 38-3-29      RESERVED.**

## **DIVISION II - CROSS-CONNECTION ADMINISTRATION**

**38-3-30      APPROVED BACKFLOW DEVICE.** All plumbing installed within the City shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Inspector, an approved backflow prevention device is necessary for the safety of the public water supply system, the Inspector shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

**38-3-31      CROSS-CONNECTION PROHIBITED; EXCEPTION.** No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply enters the supply or distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent and the Illinois Environmental Protection Agency.

**38-3-32      INVESTIGATIONS BY SUPERINTENDENT.** It shall be the duty of the Superintendent to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every **two (2) years** or as often as the Inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years.**

**38-3-33      RIGHT TO ENTER PREMISES.** The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the

public water supply or distribution system for the purpose of verifying the presence or absence of cross-

connections and that the Inspector or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the Inspector any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Inspector, be evidence of the presence of improper connections as provided in this Chapter.

**38-3-34      NOTICE TO CUSTOMER; RECONNECT FEE.**

(A)      The City Clerk is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Chapter and until a reconnection fee of **Five Hundred Dollars (\$500.00)** is paid to the Billing Clerk.

(B)      Immediate disconnection with verbal notice can be effected when the Inspector is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Inspector or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C)      The public water supply, the Inspector or the agents or assigns shall not be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this Chapter, whether or not said termination was with or without notice.

**38-3-35      CONTAMINATIONS COST AND THE CONSUMER.**      The consumer responsible for back siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

**(Ord. No. 7-13-87)**

**38-3-36 - 38-3-37      RESERVED.**

**DIVISION III - CROSS-CONNECTION CONTROL CODE**

**38-3-38      PURPOSE.**      The purpose of these Rules and Regulations is:

(A)      To protect the public water supply system from contamination or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.

(B)      To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable safety.

(C) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

**38-3-39 APPLICATION.** These Rules and Regulations shall apply to all premises served by the public potable water supply system of the City.

**38-3-40 RESPONSIBILITY OF OWNER.** The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customer's water service connection. If, in the judgment of the Superintendent or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense; failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in **Section 38-4-37(D)** below for a period of at least **five (5) years**. The Superintendent of Water may require the consumer to submit a cross-connection inspection report to the City to assist in determining whether or not service line protection will be required. All cross-connection inspections shall be conducted by a Cross-Connection Control Device Inspector certified by the Illinois Environmental Protection Agency.

**38-3-41 DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of these regulations:

**"Fixed Proper Air Gap"** means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

**"Agency"** means Illinois Environmental Protection Agency.

**"Approved"** means backflow prevention devices or methods approved by the Research Foundation for Cross-Connection Control of the University of Southern California, Association of State Sanitary Engineers, American Water Works Association, American National Standards Institute or certified by the National Sanitation Foundation.

**"Auxiliary Water System"** means any water source or system on or available to the premises other than the public water supply system and includes the water supplied by the system. These auxiliary waters may include water from another purveyor's public water supply system; or water from a source such as wells, lakes, or streams or process fluids; or used water. These waters may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

**"Backflow"** means the backflow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

**"Backflow Prevention Device"** means any device, method, or type of construction intended to prevent backflow into a potable water system. All devices used for backflow prevention in Illinois must meet the standards of the Illinois Plumbing Code and the Illinois Environmental Protection Agency.



**"Consumer" or "Customer"** means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

**"Consumer's Water System"** means any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

**"Contamination"** means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

**"Cross-Connection"** means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other a substance of unknown or questionable safety or quality, whereby there may be a flow from one system into the other.

**"Direct Cross-Connection"** means a cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

**"Indirect Cross-Connection"** means a cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

**"Double Check Valve Assembly"** means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly and suitable connections for testing the water-tightness of each check valve.

**"Health Hazard"** means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

**"Inspection"** means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admn. Code 890.

**"Non-potable Water"** means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

**"Plumbing"** means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems, from the source of a private water supply on the premises or from the main in the street, alley or at the curb to, within and about any building or buildings where a person or persons live, work or assemble. Plumbing includes all piping, from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances, and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system **five (5) feet** beyond the foundation walls.

**"Pollution"** means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

**"Potable Water"** means water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

**"Potential Cross-Connection"** means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

**"Process fluid(s)"** means any fluid or solution which may be chemically, or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

- (A) polluted or contaminated waters;
- (B) process waters;
- (C) used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (D) cooling waters;
- (E) questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (F) chemicals in solution or suspension;
- (G) oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

**"Public Water Supply"** means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

**"Reduced Pressure Principle Backflow Prevention Device"** means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closed shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

**"Service Connection"** means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

**"Survey"** means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

**"System Hazard"** means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or a consumer's potable water system.

**"Used Water"** means any water supplied by a public water supply system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water supply official custodian.

**"Water Purveyor"** means the owner or official custodian of a public water system.

### **38-3-42      WATER SYSTEM.**

- (A) The water system shall be considered as made up of two parts: the public water supply system and the consumer's water system.

(B) The public water supply system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Superintendent of Water up to the point where the consumer's water system begins.

(C) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D) The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E) The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

**38-3-43      CROSS-CONNECTION PROHIBITED.**

(A) Connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to insure proper operation on a continuing basis.

(B) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

(C) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

**38-3-44      SURVEY AND INVESTIGATIONS.**

(A) The consumer's premises shall be open at all reasonable times to the approved cross-connection control device inspector for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

(B) On request of the Superintendent, or his authorized representative, the consumer shall furnish information regarding the piping system or systems or water use within the customer's premises. The consumer's premises shall be open at all reasonable times to the Superintendent of Water for the verification of information submitted by the inspection consumer to the public water supply custodian regarding cross-connection inspection results.

(C) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with **III. Comp. Stat., Ch. 225, Sec. 320/3.**

(D) It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

(1) All cross-connections are removed; or approved cross-connection control devices are installed for control of backflow and back-siphonage.

(2) Cross-connection control devices shall be installed in accordance with the manufacturer's instructions.

(3) Cross-connection control devices shall be inspected at the time of installation and at least annually by a person approved by the Agency as a cross-connection control device inspector (CCCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.

(4) Testing and Records

(a) Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.

- (b) Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with **Ill. Comp. Stat., Ch. 415, Sec. 5/4(e)**.
- (c) Each device shall have a tag attached listing the date of most recent test, name of CCCDI, and type and date of repairs.
- (d) A maintenance log shall be maintained and include:
  - 1. date of each test;
  - 2. name and approval number of person performing the test;
  - 3. test results;
  - 4. repairs or servicing required;
  - 5. repairs and date completed; and
  - 6. servicing performed and date completed.

**38-3-45      WHERE PROTECTION IS REQUIRED.**

(A) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 680. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises, where in the judgment of the Superintendent, actual or potential hazards to the public water supply system exist.

(B) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist:

- (1) Premises having an auxiliary water supply, unless such auxiliary supply is accepted as an additional source by the Superintendent of Water and the source is approved by the Illinois Environmental Protection Agency.
- (2) Premises on which any substance is handled which can create an actual or potential hazard to the public water supply system. This shall include premises having sources or system containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the Superintendent of Water.
- (3) Premises having internal cross-connections that, in the judgment of the Superintendent of Water, are not correctable or intricate plumbing arrangements it make which impractical to determine whether or not cross-connections exist.
- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
- (5) Premises having a repeated history or cross-connections being established or reestablished.

(C) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Superintendent of Water determines that no actual or potential hazard to the public water supply system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.
- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- (5) Food or beverages processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.

(8) Petroleum processing or storage plants.

- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.
- (11) Pesticide, or herbicide or extermination plants and trucks.
- (12) Farm service and fertilizer plants and trucks.

**38-3-46      TYPE OF PROTECTION REQUIRED.**

(A) The type of protection required under **Section 38-3-45** of these regulations shall depend on the degree of hazard which exists as follows:

- (1) An approved fixed proper air gap separation shall be installed where the public water supply system may be contaminated with substances that could cause a severe health hazard.
- (2) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly shall be installed where the public water supply system may be contaminated with a substance that could cause a system or health hazard.
- (3) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly or a double check valve assembly shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(B) The type of protection required under **Section 38-3-45** of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention connected to the public water supply when:

(C) Where a public water supply or an auxiliary water supply is used for a fire protection system, reduced pressure principle backflow preventers shall be installed on fire safety systems connected to the public water supply when:

- (1) The fire safety system contains antifreeze, fire retardant or other chemicals;
- (2) water is pumped into the system from another source; or
- (3) water flows by gravity from a non-potable source; or water can be pumped into the fire safety system from any other source;
- (4) there is a connection whereby another source can be introduced into the fire safety system.

(D) All other fire safety systems connected to the potable water supply shall be protected by a double check valve assembly on metered service lines and a double detector check valve assembly on unmetered service lines.

**38-3-47      BACKFLOW PREVENTION DEVICES.**

(A) All backflow prevention devices or methods required by these rules and regulations shall be approved by the Research Foundation for Cross-Connection Control of the University of Southern California, American Water Works Association, American Society of Sanitary Engineering, or American National Standards Institute or certified by the National Sanitation Foundation to be in compliance with applicable industry specification.

(B) Installation of approved devices shall be made in accordance with the manufacturer's instructions. Maintenance as recommended by the manufacturer of the device shall be performed. Manufacturer's maintenance manual shall be available on-site.

**38-3-48      INSPECTION AND MAINTENANCE.**

(A) It shall be the duty of the consumer at any premises on which backflow prevention devices required by these regulations are installed to have inspection, tests, maintenance and

repair made in accordance with the following schedule or more often where inspections indicate a need or are specified in manufacturer's instructions.



- (1) Fixed proper air gap separations shall be inspected to document that a proper vertical distance is maintained between the discharge point of the service line and the flood level rim of the receptacle at the time of installation and at least annually thereafter. Corrections to improper or by passed air gaps shall be made within 24 hours.
  - (2) Double check valve assemblies shall be inspected and tested at time of installation and at least annually thereafter, and required service performed within **five (5) days**.
  - (3) Reduced pressure principle backflow prevention assemblies shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer, and required service performed within **five (5) days**.
- (B) Testing shall be performed by a person who has been approved by the Agency as competent to service the device. Proof of approval shall be in writing.
- (C) Each device shall have a tag attached listing the date of most recent test or visual inspection, name of tester, and type and date of repairs.
- (D) A maintenance log shall be maintained and include:
- (1) date of each test or visual inspection;
  - (2) name and approval number of person performing the test or visual inspection;
  - (3) test results;
  - (4) repairs or servicing required;
  - (5) repairs and date completed; and
  - (6) servicing performed and date completed.
- (E) Whenever backflow prevention devices required by these regulations are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay as required by **Section 38-3-48(A)**.
- (F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent.

### **38-3-49      BOOSTER PUMPS.**

- (A) Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low pressure cut-off device designed to shut-off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 psi or less.
- (B) It shall be the duty of the water consumer to maintain the low pressure cut-off device in proper working order and to certify to the Superintendent, at least once a year, that the device is operable.

### **38-3-50      VIOLATIONS AND PENALTIES.**

- (A) The Superintendent shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by these regulations is not installed, tested, maintained and repaired in a manner acceptable to the Superintendent, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cut-off required by these regulations is not installed and maintained in working order.
- (B) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Superintendent, and the required reconnection fee is paid.
- (C) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects on conformance with these Regulations and to the satisfaction of the Superintendent.

(D) Neither the City, the Superintendent, or its agents or assigns, shall be liable to any customers of the City for any injury, damages or lost revenues which may result from termination.

**38-3-51 - 38-3-54 RESERVED.**

**DIVISION IV - EXTENSION OF MAINS**

**38-3-55 DETERMINATION OF WHO PAYS EXPENSE OF EXTENSION.** The City Council shall first determine if an extension of water main is economically feasible based on the estimated cost of the extension and the number of existing potential users that will use water along the extension. If the extension is economically feasible then the City may install and pay the cost of the extension at the discretion of the City Council. If the City elects not to pay the cost of extending the water main then the person or persons desiring water service shall install the extension at their own personal expense upon written consent by the City Council. The City shall not pay for any extensions to an undeveloped area, such as a subdivision being developed, unless there are sufficient existing residents or businesses to make the extension economically feasible. **(See Appendix #2)**

**38-3-56 EASEMENTS.** Applicants for main extensions shall deliver, without cost to the City, permanent easements or right-of-way when necessary for the installation and maintenance of the extensions or subsequent additions thereto. The City shall not be obligated to authorize any construction until all requirements of this Chapter have been met.

**38-3-57 SIZE AND TYPE.** The City reserves the right to determine and specify the diameter and type of pipe required to provide the service requested, and subject to the requirements of municipal authorities, its location within or without the limits of a street. The City further reserves the right to install a main larger in diameter than the main required to render the service requested, in which case, the City will pay the difference in cost.

**38-3-58 TITLE.** Title to all main extensions shall be vested in the City and the City shall have the right to further extend any main installed in and to other streets or premises without repayment or refund to any applicant. However, the City reserves the right to consider extensions made at the applicant's expense and without written agreement as to service lines. Upon such lines, the City will set a meter at the beginning of the extension to measure all water used and title to the line beyond the meter will be vested in the customer who shall be responsible for maintenance and replacement, when necessary.

**38-3-59 MAINTENANCE AND REPLACEMENT.** The City, at its own expense, shall maintain and when necessary, replace the City-owned mains used to supply water to its customers, and if adequate service requires the reconstruction or replacement of such mains, the mains shall be reconstructed or replaced by the City at its expense.

## ARTICLE IV - UTILITY RATES

### DIVISION I - GENERAL

**38-4-1 BUILDING UNIT DEFINED.** All persons or families residing in a building under **one (1) roof**, be it an apartment or homes converted into more than **one (1) dwelling place**, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least **one (1)** minimum water and/or sewer account according to the number of families or individual residents residing therein. When **two (2)** or more families live in **one (1) dwelling**, **one (1)** minimum per dwelling shall be charged. If more than the minimum is used, the owner or occupant of such dwelling shall pay the additional over such minimum as provided.

**38-4-2 REVENUES.** All revenues and moneys derived from the operation of the water and sewer systems shall be deposited in the Combined Water and Sewage Fund. All such revenues and moneys shall be held by the City Treasurer separate and apart from his private funds and separate and apart from all other funds of the City and all of said sum, without any deductions whatever, shall be delivered to the Water, Sewer Revenue Collector, Billing Clerk not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may, from time to time, be directed by the City Council.

The Water, Sewer Revenue Collector, Billing Clerk shall receive all such revenues from the water and sewer systems and all other funds and moneys incident to the operation of such systems as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewage Fund of the City". The Water, Sewer Revenue Collector, Billing Clerk shall administer such fund in every respect in the manner provided by the **Illinois Compiled Statutes, Chapter 65. (See Chapter I; Art. II) (Ord. No. 1363; 02-23-93)**

**38-4-3 ACCOUNTS.** The Water, Sewer Revenue Collector, Billing Clerk shall establish a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the water and sewer systems and at regular annual intervals, he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water and sewer systems.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the wastewater facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do, in fact, meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

- (A) Flow data showing total gallons received at the wastewater plant for the current fiscal year.
- (B) Billing data to show total number of gallons billed.
- (C) Debt service for the next succeeding fiscal year.
- (D) Number of users connected to the system.
- (E) Number of non-metered users.
- (F) A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged. **(Ord. No. 1363; 02-23-93)**

**38-4-4 NOTICE OF RATES.** A copy of this Article, properly certified by the City Clerk, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the water and sewer systems of the City on their properties. Each user shall

be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services. **(Ord. No. 1363; 02-23-93)**

**38-4-5      ACCESS TO RECORDS.** The Illinois Environmental Protection Agency, United States Environmental Protection Agency, or its authorized representative shall have access to any books, documents, papers and records of the City which are applicable to the City's system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the Special and General Conditions to any Federal Grant. **(Ord. No. 1363; 02-23-93)**

**38-4-6 - 38-4-9      RESERVED.**

## **DIVISION II - WATER RATES**

**38-4-10      WATER TAP-ON FEES: INSIDE CITY.** Water tap-on fee per building unit as defined in **Section 38-4-1** shall be **Seven Hundred Fifty Dollars (\$750.00)**, which shall be paid prior to installation of water service. The water tap-on fee shall cover the cost of all material, labor, and equipment incurred by the City for installation for the water service from the water main through the water meter. The normal installation material shall include **three-fourths (3/4) inch** meter, meter tile, **eighteen (18) inch** lid and ring, curb box, corporation stop, curb valve, meter yoke, **three-fourths (3/4) inch** tapping saddle, **two (2) three-fourths (3/4) inch** compression coupling, and up to **sixty (60) feet of three-fourths (3/4) inch** rolled plastic. The Water Superintendent shall have authority to impose an additional charge for labor, material, or equipment for industrial, commercial, and outside City limit installation. **(Ord. No. 08-06; 05-14-08)**

**38-4-11      ILLINOIS PLUMBING CODE.** All water tap and service connections made to the mains of the Waterworks System of the City shall conform to the regulations of this Code and of the Illinois Plumbing Code. All connections and installations shall be made by the City's water and sewer department.

**38-4-12      MAINTENANCE OF WATER LINES.** **The City shall replace all water mains when it has been deemed necessary to do so in order to maintain service in the City. The City shall limit its responsibility to maintaining water lines to the water mains and to the service lines up to the curb stop. The property owner shall be responsible for the service line from the meter into the premises served.**

**38-4-13      WATER RATES.** There shall be and there is hereby established rates and charges for the use of and for the water supplied and furnished by the Waterworks System of the City, based on the amount of water consumed, as shown by the water meters, as follows:

(A) **PROPERTY LOCATED INSIDE CORPORATE LIMITS.** Minimum rate per month: \$14.31.

First	2,000 gallons per month	\$14.31	MINIMUM CHARGE
Next	2,000 gallons per month	\$ 7.33	per 1,000 gallons
Next	11,000 gallons per month	\$ 7.02	per 1,000 gallons
Next	25,000 gallons per month	\$ 6.20	per 1,000 gallons
Next	35,000 gallons per month	\$ 6.04	per 1,000 gallons
Over	75,000 gallons per month	\$ 5.53	per 1,000 gallons

**(Ord. No. 2017-04; 03-13-17)**

(B)	<b><u>PROPERTY LOCATED OUTSIDE CORPORATE LIMITS.</u></b> Minimum rate per		
month:		\$18.06.	
First	2,000 gallons per month	\$18.06	MINIMUM CHARGE
Next	2,000 gallons per month	\$ 9.24	per 1,000 gallons
Next	11,000 gallons per month	\$ 8.82	per 1,000 gallons
Next	25,000 gallons per month	\$ 7.85	per 1,000 gallons
Next	35,000 gallons per month	\$ 7.28	per 1,000 gallons
Over	75,000 gallons per month	\$ 6.46	per 1,000 gallons

**(Ord. No. 2017-04; 03-13-17)**

**(C) MULTI-UNIT BUILDINGS, RESIDENTS (INCLUDING MOBILE HOMES),  
BUSINESSES OR BOTH WITH MORE THAN ONE (1) UNIT ON THE WATER METER.**

	(1) <b><u>Inside City Rate.</u></b>		
First	2,000 gallons per month	\$14.46	MINIMUM CHARGE
Next	8,000 gallons per month	\$ 7.33	per 1,000 gallons
Over	11,000 gallons per month	\$ 7.02	per 1,000 gallons
	(2) <b><u>Outside City Rate.</u></b>		
First	2,000 gallons per month	\$18.06	MINIMUM CHARGE
Next	8,000 gallons per month	\$ 9.29	per 1,000 gallons
Over	11,000 gallons per month	\$ 8.93	per 1,000 gallons

A **Three Dollar (\$3.00)** surcharge shall be applied to out of town customers for improvements to water infrastructure out of the City limits. **(Ord. No. 2018-08; 07-23-18)**  
**(Ord. No. 2017-04; 03-13-17)**

**38-4-14 - 38-4-16 RESERVED.**

**DIVISION III - WASTEWATER SERVICE CHARGES**

**38-4-17 BASIS FOR WASTEWATER SERVICE CHARGES.** The wastewater service charge for the use of and for service supplied by the wastewater facilities of the City of Benton shall consist of a basic user charge, a debt service charge, a capital improvement charge and applicable surcharges.

**38-4-18 BASIC USER CHARGE.** The basic user charge is levied on all users to recover the operation, maintenance plus replacement (O, M & R) costs and shall be based on water usage as recorded by water meters or sewage meters for wastes having the following normal domestic concentrations:

- (A) A **five (5) day twenty degree centigrade (20°C)** biochemical oxygen demand **BOD of 300 mg/l.**
- (B) A suspended solids (SS) content of **350 mg/l.**

**38-4-19 COMPUTATION OF BASIC USER CHARGE.** The basic user charge shall be computed as follows:

- (A) Estimate the annual wastewater volume, pounds of SS and pounds of BOD to be treated.
- (B) Estimate the projected annual revenue required to operate and maintain the wastewater facilities, including a replacement fund for the year, for all work categories.
- (C) Proportion the estimated operation, maintenance and replacement (OM&R) costs to each user class by volume, BOD, and SS.

(D) Proportion the estimated operation, maintenance and replacement costs to wastewater facility categories by Volume, Suspended Solids and BOD.

- (E) Compute costs per 1000 gal. for normal domestic sewage strength.
- (F) Compute surcharge costs per pound for BOD and SS concentrations in excess of normal domestic strengths.

**38-4-20      DEBT SERVICE CHARGE.** The debt service charge is computed by apportioning the annual debt service as a charge per **one thousand (1,000) gallons**.

**38-4-21      CAPITAL IMPROVEMENT CHARGE.** The capital improvement charge is levied on users to provide for capital improvements, extensions or reconstruction of the sewage treatment works. The capital improvement charge is computed by apportioning the annual amount to be accrued as a charge per **one thousand (1,000) gallons**.

**38-4-22      SURCHARGE ON EXCESSIVE CONCENTRATIONS.** A surcharge will be levied to all users whose waters exceed the normal domestic concentrations of **BOD 300 mg/l** and **SS 350 mg/l**. The surcharge will be based on water usage as recorded by water meters or sewage meters for all wastes which exceed the **300 mg/l** and **350 mg/l** concentration for BOD and SS respectively.

The concentration of wastes used for computing surcharges shall be established by waste sampling. Waste sampling shall be performed as often as may be deemed necessary by the Superintendent and shall be binding as a basis for surcharges.

**38-4-23      REVIEW OF SERVICE CHARGES.** The adequacy of the wastewater service charge shall be reviewed, not less often than annually, by Certified Public Accountants for the City in their annual audit report. The wastewater service charge shall be revised periodically to reflect a change in local capital costs or OM&R costs.

**38-4-24      NOTIFICATION OF USERS.** The users of the wastewater treatment services shall be notified monthly, on their regular bill, their usage and that portion of the user charges which are attributable to the wastewater operation, maintenance and replacement.

**34-4-25      MEASUREMENT OF FLOW.** The volume of flow used for computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of **one thousand (1,000) gallons**.

(A) If the person discharging wastes into the public sewers procures any part, or all, of his water from sources other than the Public Waterworks System, all or a part of which is discharged into the public sewers, the person shall install and maintain, at his expense, water meters of a type approved by the Superintendent for the purpose of determining the volume of water obtained from these other sources.

(B) Devices for measuring the volume of waste discharged may be required by the Superintendent if these volumes cannot otherwise be determined from the metered water consumption records.

(C) Metering devices for determining the volume of waste shall be installed, owned and maintained by the person. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the Superintendent.

**38-4-26      BASIC USER CHARGE.** There shall be and there is hereby established a basic user charge of **Two Dollars Twenty-Five Cents (\$2.25)** per **one thousand (1,000) gallons** to each user of the wastewater facility.



**38-4-27      DEBT SERVICE CHARGE.** There shall be and there is hereby established a debt service charge of **One Dollar Twenty-Seven Cents (\$1.27)** per **one thousand (1,000) gallons** to each user of the wastewater facility.

**38-4-28      CAPITAL IMPROVEMENT CHARGE.** There shall be and there is hereby established a capital improvement charge of **Forty-Eight Cents (\$0.48)** per **one thousand (1,000) gallons** to each user of the wastewater facility.

**38-4-29      RATES.** Minimum rate per month: \$20.00.

First	2,000 gallons per month	\$20.00	MINIMUM CHARGE
Next	13,000 gallons per month	\$ 8.00	per 1,000 gallons
Over	15,000 gallons per month	\$ 5.00	per 1,000 gallons

There shall remain a **Two Dollar (\$2.00)** surcharge placed upon every sewer bill, said funds to be collected and used exclusively for sewer and wastewater treatment plant upgrades and construction. **(Ord. No. 18-04; 06-25-18)**

**38-4-30      MULTI-UNIT BUILDINGS.** Minimum rate per month: \$12.65.

First	2,000 gallons per month	\$12.65	MINIMUM CHARGE
Next	13,000 gallons per month	\$ 6.35	per 1,000 gallons
Over	15,000 gallons per month	\$ 3.67	per 1,000 gallons

There shall remain a **Two Dollar (\$2.00)** surcharge placed upon every sewer bill, said funds to be collected and used exclusively for sewer and wastewater treatment plant upgrades and construction. **(Ord. No. 18-04; 06-25-18)**

**38-4-31      SURCHARGE RATES.** The rates of surcharges for BOD and SS shall be as follows:

per lb. of BOD:	<u>\$0.10</u>
per lb. of SS:	<u>\$0.08</u>

**38-4-32      COMPUTATION OF WASTEWATER SERVICE CHARGE.** The wastewater service charge shall be computed by the following formula:

$$CW = *VU (CU + CD) + CS + (Vu - 12,000) CU$$

Where	CW	=	Amount of wastewater service charge (\$) per billing period.
	CD	=	Debt Service Charge <b>(Section 38-4-27)</b> .
	CM	=	Minimum Charge for Operation, Maintenance and Replacement <b>(Section 38-4-29)</b> .
	Vu	=	Wastewater Volume for the billing period.
	X	=	Allowable consumption in gallons for the minimum charge <b>(Section 38-4-29)</b> .
	CU	=	Basic User Charge for Operation, Maintenance and Replacement <b>(Section 38-4-26)</b> .
	CS	=	Surcharge, if applicable. <b>(Section 38-4-31)</b> .

**(Ord. No. 1363; 02-23-94)**

**38-4-33      MATERIALS AND LABOR.** The owner of the premises shall be responsible for furnishing all materials and labor for the installation, maintenance and repair of the sewer service lines from the main sewer line to the service location. All materials necessary for sewer service from the sewer mains to the property line must have approval of the Superintendent of the Department. **(Ord. No. 1190; 09-29-87)**

**38-4-34      TAPPING OF THE MAINS.** (See Section 38-5-18)

## ARTICLE V - SEWER SYSTEM

### DIVISION I - DEFINITIONS

**38-5-1**        **DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

**"GOVERNMENT, FEDERAL".**

(A)            **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B)            **"Federal Act"** means the Federal Water Pollution Control Act (**33 U.S.C. 1251 et seq**) as amended by the Federal Water Pollution Control Act of Amendments of 1972 (**Pub. L. 92-500**) and (**Pub. L. 93-243**).

(C)            **"Federal Grant"** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

**"GOVERNMENT, LOCAL".**

(A)            **"Approving Authority"** means the City Council.

(B)            **"NPDES Permit"** means any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Water Pollution Control Amendments of 1972, to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

(C)            **"Person"** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private cooperation, association, society, institution, enterprise, governmental agency or other entity.

**"GOVERNMENT, STATE".**

(A)            **"Director"** means the Director of the Illinois Environmental Protection Agency.

(B)            **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.

(C)            **"State Grant"** shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of State of Illinois.

**"CLARIFICATION OF WORD USAGE".** "Shall" is mandatory; "may" is permissible.

**"MISCELLANEOUS"**

(A)            **"Authority"** means the City of Benton, Illinois.

(B)            **"Building Drain - Sanitary"** shall mean a building drain which conveys sanitary or industrial sewage only.

(C)            **"Building Drain - Storm"** shall mean a building drain which conveys stormwater or other clearwater drainage, but no wastewater.

(D)            **"Building Sewer - Sanitary"** shall mean a building sewer which conveys sanitary or industrial sewage only.

(E)            **"Building Sewer - Storm"** shall mean a building sewer which conveys stormwater or other clearwater drainage, but no sanitary or industrial sewage.

(F)            **"Compatible Pollutant"** shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES Permit if the treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of **eighty percent (80%)** or greater. Minor incidental removals in the order of **ten percent (10%)** to **thirty percent (30%)** are not considered substantial. Examples of the additional pollutant which may be considered compatible include:

- (1) chemical oxygen demand,
- (2) total organic carbon,
- (3) phosphorus compounds,
- (4) nitrogen and nitrogen compounds, and
- (5) fats, oils, and greases of animal or vegetable origin (except as prohibited which these materials would interfere with the operation of the treatment works).

(G) **"Depreciation"** shall mean an annual operating cost reflecting capital consumption and obsolescence (reduction of future service potential) of the treatment works.

(H) **"Easement"** shall mean an acquired legal right for the specific use of land owned by others.

(I) **"Fecal Coliform"** means any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.

(J) **"Incompatible Pollutant"** shall mean any pollutant that is not defined as a compatible pollutant, including non-biodegradable solids.

(K) **"Industrial Cost Recovery"** shall mean recovery from the industrial users of a treatment works of the grant amounts allocable to treatment of wastes from such users pursuant to Section 204(b) of PL 92-500 and 40 CFR Part 35.928(1) and (2).

(L) **"Industrial Sewage"** shall mean a combination of liquid and water-carried wastes, discharged from any industrial establishment, and resulting from any trade or process carried on in that establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).

(M) **"Infiltration"** shall mean the water entering a sewer system, including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls, (infiltration does not include and is distinguished from inflow).

(N) **"Infiltration/Inflow"** shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.

(O) **"Inflow"** shall mean the water discharge into a sewer system, including building drains and sewers, from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, unpolluted cooling water discharged, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm waters, surface runoff, street wash waters or drainage, (inflow does not include, and is distinguished from infiltration).

(P) **"Operation and Maintenance Costs"** shall mean all costs, direct and indirect, (other than debt service) necessary to insure adequate wastewater treatment on a continuing basis, conform with at related Federal, State and local requirements, and assure optimal long term facility management, (these costs include depreciation and replacement).

(Q) **"Person"** shall mean any individual, firm, company, association, society, corporation or group discharging any wastewater to WWTW.

(R) **"Pretreatment"** shall mean the treatment of industrial sewage from privately owned industrial sources prior to introduction into a public treatment works.

(S) **"Private Sewer"** shall mean a sewer which is not owned by a public authority.

(T) **"Public Authority"** shall mean any governmental agency having jurisdiction by law over construction, and use of a wastewater collection or treatment facility.

(U) **"Public Sewer"** shall mean a sewer which is owned and controlled by the public authority and will consist of the following increments:

- (1) **"Collector Sewer"** shall mean a sewer whose primary function is to collect wastewaters from individual point sources.
- (2) **"Force Main"** shall mean a pipe in which wastewater is carried under pressure.
- (3) **"Interceptor Sewer"** shall mean a sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.
- (4) **"Pumping Station"** shall mean a station positioned in the public sewer system at which wastewater is pumped to a higher level.

(V) **"Significant Industry"** shall mean any industry that will contribute greater than **ten percent (10%)** of the design flow or design pollutant loading of the treatment works.

(W) **"Storm Sewer"** shall mean a sewer for conveying water, ground water or unpolluted water from any source and to which sanitary and/or industrial wastes are not intentionally admitted.

(X) **"Total Solids"** shall mean the sum of suspended and dissolved solids.

(Y) **"Toxic Amount"** shall mean concentrations of any pollutant or combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations, and physiological manifestations, as defined in standards issued pursuant to Section 307(a) of PL 92-500.

(Z) **"Unpolluted Water"** is water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

(AA) **"Volatile Organic Matter"** shall mean the material in the sewage solids transformed to gases or vapors when heated at **five hundred fifty degrees Centigrade (500°C)** for **fifteen (15) to twenty (20) minutes**.

(BB) **"Wastewater Treatment Works"** shall mean the structures, equipment and processes required to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.

(CC) **"Water Works"** shall mean all facilities for water supply, filtration plant, storage reservoirs, water lines and services, and booster stations for obtaining, treating and distributing potable water.

(DD) **"Watercourse"** shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

**(Ord. No. 1363; 02-23-94)**

#### **"SEWER TYPES AND APPURTENANCES".**

(A) **"Building Drain"** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning **five (5) feet (1.5 meters)** outside the inner face of the building wall.

(B) **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C) **"Combined Sewer"** shall mean a sewer which is designed and intended to receive wastewater, storm, surface and groundwater drainage.

(D) **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E) **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the City. It shall also include sewers within or outside the City boundaries that serve **one (1)** or more persons and ultimately discharge into the City sanitary sewer or combined sewer system, even though those sewers may not have been constructed with City funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewer"** shall mean a pipe or conduit for conveying sewage or any other waste liquids, including storms, surface and groundwater drainage.

(H) **"Sewerage"** shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage.

(I) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewers.

#### **"TREATMENT":**

(A) **"Pretreatment"** shall mean the treatment of wastewater from sources before introduction into the wastewater treatment works.

(B) **"Wastewater Treatment Works"** shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "pollution control plant".

**"TYPES OF CHARGES":**

- (A) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public sewer system for operation, maintenance and replacement.
- (B) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding and shall be computed by dividing the annual debt service by the number of users connected to the Wastewater Facilities.
- (C) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (D) **"Sewerage Fund"** is the principal accounting designation for all revenues received in the operation of the sewerage system.
- (E) **"Surcharge"** shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than average concentration values as established by code.
- (F) **"Useful Life"** shall mean the estimated period during which the collection system and/or treatment works will be operated and shall be **twenty (20) years** from the date of start-up of any wastewater facilities constructed with a State grant.
- (G) **"User Charge"** shall mean a charge levied on users of treatment works for the cost operation and maintenance.
- (H) **"Wastewater Service Charge"** shall be the charge per quarter or month levied on all users of the Wastewater Facilities.
- (I) **"Reserve Fund Charge"** shall mean a revolving fund for expansion and construction of the sewer system.

**"USER TYPES":**

- (A) **"Control Manhole"** shall mean a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the City representative to sample and/or measure discharges.
- (B) **"Industrial User"** shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products.
- (C) **"Residential User"** shall mean all dwelling units such as houses, buildings, mobile homes, apartments, permanent multi-family dwellings, used for human occupancy.
- (D) **"User Class"** shall mean the type of user either "residential or commercial" (non-industrial) or "industrial" as defined herein.
- (E) **"Commercial User"** shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services such as offices, stores, eating, drinking, laundry, cleaning, and recreation.
- (F) **"Institutional/Governmental User"** shall include schools, churches, penal institutions, and users associated with Federal, State and local governments.

**"WASTEWATER FACILITIES"** shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

**"WATERCOURSE AND CONNECTIONS":**

- (A) **"Natural Outlet"** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**"WASTEWATER AND ITS CHARACTERISTICS":**

- (A) **"Average Domestic Waste"** shall mean a production rate of **one hundred (100) gallons** per day per person having BOD<sub>5</sub> and suspended solid concentration of 300 and 350 mg/l respectively.



(B) **"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in **five (5) days at 20 degrees centigrade (20°C)**, expressed in milligrams per liter.

(C) **"Effluent Criteria"** are defined in any applicable "NPDES Permit".

(D) **"Floatable Oil"** is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

(E) **"Garbage"** shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

(F) **"Industrial Waste"** shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

(G) **"Major Contributing Industry"** shall mean an industrial user the publicly owned treatment works that:

- (1) Has a flow of **50,000 gallons** or more per average work day; or
- (2) Has a flow greater than **ten percent (10%)** of the flow carried by the municipal system receiving the waste; or
- (3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
- (4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

(H) **"Milligrams per Liter"** (mg/l) shall mean a unit of the concentration of water or wastewater constituent. It is 0.001 gram of the constituent in 1,000 milliliter of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.

(I) **"pH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined "Standard Methods".

(J) **"Population Equivalent"** is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.22 pounds of suspended solids.

(K) **"ppm"** shall mean parts per million by weight.

(L) **"Properly Shredded Garbage"** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than **one half (1/2) inch (1.27 centimeters)** in any dimension.

(M) **"Sewage"** is used interchangeably with "wastewater".

(N) **"Slug"** shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than **fifteen (15) minutes** more than **five (5) times** the average **twenty-four (24) hour** concentration or flows during normal operation.

(O) **"Standard Methods"** shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater" published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

(P) **"Suspended Solids"** (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in "Standard Methods".

(Q) **"Unpolluted Water"** is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

(R) **"Wastewater"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(S) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

**38-5-2 - 38-5-3      RESERVED.**

**DIVISION II - USE OF PUBLIC SEWERS REQUIRED**

**38-5-4      DEPOSIT OF WASTES.** It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

**38-5-5      SEWAGE IN NATURAL OUTLET.** It shall be unlawful to discharge to any natural outlet within the City, or in area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

**38-5-6      PRIVATE SYSTEM, UNLAWFUL.** Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

**38-5-7      CONNECTION TO SYSTEM REQUIRED.** The owner of all the houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley, right-of-way in which there is now located or may in the future be located any public sanitary sewer of the City is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Code, within **ninety (90) days** after date of official notice to do so, provided that said public sewer is within **one hundred (100) feet (30.48 meters)** of the property line.

**DIVISION III - PRIVATE SEWAGE DISPOSAL**

**38-5-8      PRIVATE SEWAGE SYSTEM.** Where a public sanitary sewer is not available under the provisions of **Section 38-5-7**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Division.

**38-5-9        PRIVATE SEWER SYSTEM APPROVAL.** Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from Franklin-Williamson Health Department. The application for such permit shall be made on a form furnished by the Health Department which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Health Department. **(See Appendix #3)**

**38-5-10       PRIVATE SEWAGE SYSTEM PERMIT.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent and the Franklin-Williamson Bi-County Health Department, who shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within **sixty (60) hours** of the receipt of written notice by the Superintendent.

**38-5-11       REQUIREMENTS FOR SYSTEM.** The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency, and the Franklin-Williamson Bi-County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than **ten thousand (10,000) square feet (929.0341 square meters)**. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

**38-5-12       AVAILABILITY OF PUBLIC CONNECTION.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-5-7**, a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

**38-5-13       MAINTENANCE OF PRIVATE SYSTEM.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.

**38-5-14       ADDITIONAL RESTRICTIONS.** No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the State of Illinois.

**38-5-15       CLEANING OF PRIVATE SYSTEM.** When a public sewer becomes available, the building sewer shall be connected to said sewer within **sixty (60) days** and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

#### **DIVISION IV - BUILDING SEWERS AND CONNECTIONS**

**38-5-16       DISTURBING SYSTEM UNLAWFUL.** No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

**38-5-17      COMPLIANCE WITH REGULATING AUTHORITIES.** All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

**38-5-18      APPLICATION FOR PERMIT.**  
(A) There shall be **two (2) classes** of building sewer permits:  
    (1) for residential and commercial service, and  
    (2) for service to establishments producing industrial wastes.  
(B) In either case, the owner or his agent shall make applications on a special form furnished by the City. **(See Appendix #4 et seq.)**. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A tap-on fee of **Three Hundred Dollars (\$300.00)** for a residential or commercial building sewer permit shall be paid to the City at the time the application is filed. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

**38-5-19      CAPACITY OF SEWER.** A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

**38-5-20      COST OF INSTALLATION.** All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**38-5-21      SEPARATE SEWER: EXCEPTION.** A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

**38-5-22      OLD BUILDING SEWERS.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Code.

**38-5-23      CONSTRUCTION METHODS.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9, and **Standard Specifications for Water and Sewer Main Construction in Illinois** shall apply.

**38-5-24      ELEVATION.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted

by a means which is approved in accordance with **Section 38-5-17** and discharged to the building sewer.

**38-5-25      PROHIBITED CONNECTIONS.** No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

**38-5-26      BUILDING SEWER; PLUMBING CODE.** The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing Code, or other applicable rules and regulations of the City of the procedures set forth in the current specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9, and **Standard Specifications for Water and Sewer Main Construction in Illinois.** All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

**38-5-27      NOTIFICATION FOR INSPECTION.** The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

**38-5-28      BARRICADES AT EXCAVATIONS.** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

**38-5-29      EXCAVATION.** No person shall excavate in any public street or alley or public right-of-way for installation, repair or maintenance of a water or sewer service line without first obtaining a permit signed by the Superintendent of the Water and Sewer Department and the Superintendent of the Street and Alley Department, and a cash bond has been posted with the City Clerk in the amount of not less than **Five Hundred Dollars (\$500.00)** for each such application and **Five Hundred Dollars (\$500.00)** if a public sidewalk is involved in the excavation. The cash bond must be in the form of a cashier's check. No personal checks will be accepted. Final approval of the installation, repair or maintenance of any water or sewer service line shall be given in writing by the Superintendent of Water and Sewer Department before any such excavating is backfilled.

**38-5-30      BACKFILL.** Dirt backfill shall not be permitted in any public street or alley. Rock backfill must be used and approved by the Superintendent of the Street and Alley. The top surface must be of the same quality and thickness as the top surface so removed. All backfill must be properly tamped and settled before the finish surface is applied. All backfill must be made to the outside limits of the City right-of-way or City properties. Final approval for the excavation and backfill must be given in writing by the Superintendent of the Streets and Alleys.

**38-5-31      RETURN OF BOND.** The purpose of the bond given as outlined hereinabove shall be to insure the proper installation, excavation and backfill of the public sewer and water lines in the public streets, alleys, and sidewalks. In the event said person making the application shall fail to obtain final approval for installation, excavation and backfill from the Superintendent of the Water and Sewer Department and Street and Alley Department, the bond shall be released.

## **DIVISION V - USE OF PUBLIC WASTEWATER FACILITIES**

**38-5-32      DISCHARGE OF STORM WATER.** No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

**38-5-33      STORM WATER.** Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, or natural outlet.

**38-5-34      REGULATIONS OF WASTES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solids, or gas.

(B) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

**38-5-35      INDUSTRIAL DISCHARGES.** No industrial user may discharge sewage into any public sewer until the City has adopted an industrial cost recovery system which:

(A) Meets the requirements of Section 204(b)(1)(B) of the Federal Water Pollution Control Act Amendments of 1972 and applicable federal regulations; and

(B) Has been approved by the Agency in accordance with the conditions of any grant made to the City by the United States Environmental Protection Agency or by the State of Illinois for the construction of any part of the sewer system or sewage treatment works of the City.

**38-5-36      HARMFUL EFFECTS OF CERTAIN MATERIALS.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than **One Hundred Fifty degrees Fahrenheit (150°F), (65°C).**

(B) Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of **One Hundred (100) mg/l** or containing substances which may solidify or



become viscous at temperatures between **Thirty-Two (32) and One Hundred Fifty degrees Fahrenheit (150°F), (0 and 65°C).**

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of **three-fourths (3/4) horsepower (0.76 hp metric)** or greater shall be subject to the review and approval of the Superintendent.

(D) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solution whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc, or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

(F) Any waters or wastes containing phenols or other waste odor-producing substances, in such concentration exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

(H) Any waters or wastes having a pH in excess of 9.5.

(I) Any mercury or any of its compounds in excess of **0.0005 mg/l as Hg** at any time except as permitted by the Superintendent.

(J) Any cyanide in excess of 0.25 mg/l at any time except as permitted by the Superintendent in compliance with applicable State and Federal regulations.

(K) Materials which exert or cause:

- (1) unusual concentrations or inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
- (2) excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
- (3) unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
- (4) unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein.

(L) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

### **38-5-37      HARMFUL WASTES; APPROVAL.**

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in **Section 38-5-36** of this Division, and/or which are in violation of the standards for pretreatment provided in Chapter 1, EPA Rules and Regulations, subchapter D, Water Programs Part 128 - Pretreatment Standards, Federal Register Volume 38, No. 215, Thursday, November 8, 1973 and any amendments thereto, and which in the judgment of the the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) reject the wastes;
- (2) require pretreatment to an acceptable condition for discharge to public sewers;
- (3) require control over the quantities and rates for discharge; and/or;

- (4) require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of **Section 38-5-35**.

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, articles, and laws.

**38-5-38 INTERCEPTORS PROVIDED.**

(A) Grease, oil, and sand interceptors shall be provided in accordance with the Illinois State Plumbing Code to assure the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection. All grease interceptors shall be serviced and emptied of accumulated waste content as required or at a minimum of once every **four (4) months** in order to maintain minimum design capability or effective volume of the grease interceptor and to prevent carry over of grease into the sanitary sewer system. All fast food and sit-down restaurants shall install a grease interceptor with a capacity of at least **one thousand five hundred (1,500) gallons**, and designed in accordance with **Appendix "A"**. Food establishments that serve a minimum amount of fried foods such as deli sandwich shops, shall install a grease interceptor with a capacity of at least **one thousand (1,000) gallons**, and designed in accordance with **Appendix "B"**.

(B) Users whose operations cause or allow excessive grease to discharge or accumulate in the City wastewater collection and treatment system may be liable to the City for costs related to service calls for sewer line blockages, line cleaning, line and pump repairs, etc. including all labor, materials, and equipment. Failure to pay all service related charges may also be grounds for sewer service discontinuance.

(C) **Maintenance Log.** A grease trap cleaning/maintenance log indicating each pumping for the previous **twenty-four (24) months** shall be maintained by each Food Service Facility. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made available to the City or his representative upon request.

(D) **Submittal of Records.** Each user shall submit all cleaning and maintenance records to the City. The maintenance records shall include the following information:

- (1) Facility name, address, contact person, and phone number.
- (2) Company name, address, phone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of grease trap.
- (3) Types of maintenance performed.
- (4) Dates maintenance was performed.
- (5) Date of next scheduled maintenance.
- (6) Copies of manifests.
- (7) The user shall be required to submit maintenance records to the City on an annual basis. Records shall be submitted by **September 1<sup>st</sup>** of each year. The records shall be submitted to:  
Attn: Wastewater Superintendent

(E) The City will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the City, the user shall be required to perform the maintenance and records of said maintenance within **fourteen (14) calendar days**. Upon inspection by the City the user may be required to install, at his expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

(F) **Control Plan for Fats, Oils, Greases (FOG) and Food Waste.**

- (1) Any new construction, renovation, or expansion of Food Service Facilities shall be required to submit to the City a FOG and food waste control plan

that will effectively control the discharge of undesirable materials into the wastewater collection system.

- (2) Any existing Food Service facilities shall also be required to submit a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system. Existing facilities shall not be exempt from the requirements of this Section. There will be no "Grandfathering".

(G) **Exceptions to the Above.** Should existing facilities be hampered by space constraints or restrictions caused by unchangeable plumbing, an alternative interceptor may be approved, provided that:

- (1) Said interceptor and installation is endorsed by a licensed plumbing contractor in regard to its operability.
- (2) Said interceptor and installation is endorsed by the City Engineer.
- (3) Said interceptor and installation is approved by the Superintendent and the Water and Sewer Committee.

Such installations may be subject to more stringent inspections and maintenance schedules. be provided when, in the opinion of the Superintendent they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

**38-5-39 FLOW-EQUALIZING FACILITIES.** Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**38-5-40 INDUSTRIAL WASTES CONTROL MANHOLE.** Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safety located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

**38-5-41 INDUSTRIAL WASTE TESTING.**

(A) The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of waters and wastes to illustrate compliance with this Code and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge.

(B) The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the City, but no less than once per year the industry must supply a complete analysis of the constituents of the sewer discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the City at such times and in such a manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary the City reserves the right to take measurements and samples for analysis by an outside laboratory service.

**38-5-42      MEASUREMENTS AND TESTS.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of **IEPA Division of Laboratories Manual of Laboratory Methods**, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a **twenty-four (24) hour** composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from **twenty-four (24) hour** composites of all outfalls, whereas pH's are determined from periodic grab samples.)

**38-5-43      SPECIAL ARRANGEMENTS.** No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, in accordance with the Chapter, hereof, by the industrial concern provided such payments are in accordance with Federal and State guidelines for User Charge System and Industrial Cost Recovery System.

**38-5-44 - 38-5-45      RESERVED.**

## **DIVISION VI - INSPECTIONS**

**38-5-46      DAMAGE.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**38-5-47      INSPECTION AND TESTING.**  
(A) The Superintendent and other duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Code.  
(B) The Superintendent or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewer or waterway or facilities for waste treatment. **(See Appendix #5)**

**38-5-48      LIABILITY OF CITY.** While performing the necessary work on private properties referred to in **Section 38-5-45** above, the Superintendent or duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against liability claims and demands for personal injury or property damage asserted against

the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain conditions as required in **Section 38-5-41**.

**38-5-47      PRIVATE PROPERTY INSPECTIONS.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**38-5-48 - 38-5-50      RESERVED.**

## **DIVISION VII - EXTENSION OF COLLECTING WASTEWATERS**

**38-5-51      PERMIT REQUIRED; AUTHORIZED PERSONNEL.** No person, other than an authorized employee of the City, shall make any connection with, uncover, alter or disturb a City sewer, or open any manhole, intercepting chamber, or any appurtenance thereof without first obtaining a written permit to do so from the City, and no person shall make any connection or opening into any sewer, the flow of which is directly or indirectly discharged into any City sewer, without first obtaining a written permit to do so from the City. **(See Appendix #2)**

**38-5-52      EXTENSION PERMITS.** Issuance of sewer extension permits shall be initiated by an application for construction permit. The application shall be made on the forms provided by the IEPA, shall be fully completed by the applicable persons or parties, and shall be accompanied by a set of plans, specifications, and any other information as may be required by the City.

Plans and specifications shall be prepared by a registered professional engineer and approval thereof must be obtained from the City and IEPA.

If the application is in proper form, and the sewer extension indicated therein appears to be in accordance with this ordinance and all state and federal requirements, the City shall issue the permit for construction of the sewer. If otherwise, the application for permit shall be denied by the City. There shall be no fee charged for sewer extension application or permits.

If the application is denied by the City, they shall state the reason or reasons therefore in writing, mailed or personally delivered to the applicant. The applicant shall have the right to amend such application in conformity with the reasons given for denial, and resubmit it to the City for further consideration.

All permits issued under this Article shall have an expiration date of **two (2) years** after the date of issuance. Any sewer not constructed prior to the date of expiration shall have a new application submitted and a new permit issued prior to their construction.

The applicant for the permit shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

**38-5-53      MATERIALS.** All sewer extensions shall be constructed of the following materials:

(A) Sewer pipe with diameters **eight (8) inches** and larger shall be one of the following:

- (1) ABS composite pipe conforming to ASTM D-2680 with solvent weld joints or O-ring rubber gasket joints as referenced in ASTM D-2680.
- (2) PVC sewer pipe SDR-35 conforming to ASTM 03033 or D3034 with joints conforming to ASTM D3212.

- (B) Laterals and fittings from the sewer to the property lines shall be **six (6) inch** diameter and
- (1) of comparable material to the sewer main for VCP and PVC pipe.
  - (2) for ABS pipe use ABS solid wall pipe SDR-23.5 conforming to ASTM D-2751.

**38-5-54**      **INSPECTIONS OF CONSTRUCTION.** Construction of the sewer shall be inspected under competent supervision supplied by a registered professional engineer and upon completion of construction, accurate detailed plans as constructed ("record drawings") shall be certified and submitted by the professional engineer to the City before any applications for building sewer permits are filed; all at the expense of the Owner. These plans shall show all elevations as installed as well as accurate measurements showing the locations of service connections. The Engineer shall also submit a certified statement showing the source, place and volume of foreign waters.

All sewer shall be subjected to:

- (A) A lamp test which shall provide that from one manhole to another, at least **one-half (1/2)** of the pipe end area shall be visible.
- (B) Infiltration or exfiltration test with acceptable allowance of 200 gallons per day per inch diameter per mile;
- (C) Under special circumstances, when approved by the City, air pressure testing with allowance to be specified by the City.

When any sewer line fails to pass the infiltration test, the exfiltration test, or an air pressure test, the sewer line shall be televised in the presence of the City 's representatives to determine points of faulty construction. The Owner shall repair all defects; the method of repair shall be subject to the approval of the City. **(See Appendix #5)**

**38-5-55**      **MANHOLES REQUIRED.** Manholes shall be installed at all changes in grade and/or direction and at distances not greater than **four hundred (400) feet** apart. All manhole covers shall be watertight and self-sealing, incorporating an "O" ring gasket. All covers shall have concealed pick holes. Where manhole covers may be subjected to frequent and extreme submergence, additional watertightness shall be ensured by using bolt down covers.

**38-5-56 - 38-5-57**      **RESERVED.**

## **DIVISION VIII - PENALTIES**

**38-5-58**      **PENALTY.** Any person found to be violating any provision of this Code shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

The City may revoke any permit for sewage disposal as a result of any violation of any provision of this ordinance.

**38-5-59**      **CONTINUED VIOLATIONS.** Any person who shall continue any violation beyond the time limit provided for in **Section 38-5-58** shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

**38-5-60**      **LIABILITY OF PERSON.** Any person violating any of the provisions of this Code shall become liable to the City by reason of such violation.



**(Ord. No. 1363; 02-23-94)**  
**APPENDIX #3**

**CITY OF BENTON**

**PRIVATE WASTE DISPOSAL APPLICATION**  
**(SEPTIC TANK ETC.)**

The undersigned, being the \_\_\_\_\_ of the property  
(owner, owner's agent)  
located at \_\_\_\_\_ does hereby request a permit to install  
(Number) (Street)  
sanitary sewage disposal facilities to serve the \_\_\_\_\_ at the location.  
(residence, commercial building, etc.)

1. The proposed facilities include: \_\_\_\_\_ to be constructed in complete accordance with the plans and specifications attached hereunto as **Exhibit "A"**.
2. The area of the property is [\_\_\_\_\_] square feet or [\_\_\_\_\_] square meters.
3. The name and address of the person or firm who will perform the work is \_\_\_\_\_
4. The maximum number of persons to be served by the proposed facilities is \_\_\_\_\_
5. The location and nature of all sources of private or public water supply within **one hundred (100) feet [30.5 meters]** of any boundary of said property are shown on the plat attached hereunto as **Exhibit "B"**.

**IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:**

1. To furnish any additional information relating to the proposed work that shall be requested by the City.
2. To accept and abide by all provisions of the **Revised Code** and of all other pertinent codes or ordinances that may be adopted in the future.
3. To operate and maintain the wastewater disposal facilities covered by this application in a sanitary manner at all times, in compliance with all requirements of the City and at no expense to the City.
4. To notify the City **at least twenty-four (24) hours** to commencement of the work proposed, and again **at least twenty-four (24) hours** prior to the covering of any underground portions of the installation.

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(APPLICANT)

\_\_\_\_\_  
(ADDRESS OF APPLICANT)

-----  
**(CERTIFICATION BY CLERK)**

\$\_\_\_\_\_ (Inspection Fee Paid) DATE: \_\_\_\_\_, 20\_\_\_\_

\$\_\_\_\_\_ (Connection Fee Paid) SIGNED: \_\_\_\_\_  
(CLERK)

-----  
**(APPLICATION APPROVED AND PERMIT ISSUED)**

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

-----

**APPENDIX #4**

**CITY OF BENTON**

**RESIDENTIAL OR COMMERCIAL BUILDING SEWER APPLICATION**

The undersigned, being the \_\_\_\_\_ of the  
(owner, owner's agent)  
property located at \_\_\_\_\_ does hereby request a permit to install and  
(Number) (Street)  
connect a building sewer to serve the \_\_\_\_\_ at said location.  
(residence, commercial building, etc.)

1. The following indicated fixtures will be connected to the proposed building sewer:

<b><u>NUMBER</u></b>	<b><u>FIXTURE</u></b>	<b><u>NUMBER</u></b>	<b><u>FIXTURE</u></b>
_____	Kitchen Sinks	_____	Water Closets
_____	Lavatories	_____	Bathtubs
_____	Laundry Tubs	_____	Showers
_____	Urinals	_____	Garbage Grinders

Specify Other Fixtures: \_\_\_\_\_

2. The maximum number of persons who will use the above fixtures is \_\_\_\_\_.  
3. The name and address of the person or firm who will perform the proposed work is \_\_\_\_\_  
4. Plans and specifications for the proposed building sewer are attached hereunto as **Exhibit "A"**.

**IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:**

1. To accept and abide by all provisions of the **Revised Code**, and of all other pertinent ordinances and codes that may be adopted in the future.
2. To maintain the building sewer at no expense to the City.
3. To notify the City when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(APPLICANT)

\_\_\_\_\_  
(ADDRESS OF APPLICANT)

**(CERTIFICATION BY CLERK)**

\$ _____ (Inspection Fee Paid)	DATE: _____, 20____
\$ _____ (Connection Fee Paid)	SIGNED: _____ (CLERK)

**(APPLICATION APPROVED AND PERMIT ISSUED)**

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

## **APPENDIX #4**

### **CITY OF BENTON**

#### **INDUSTRIAL SEWER CONNECTION APPLICATION**

The undersigned, being the \_\_\_\_\_ of the  
(owner, owner's agent)  
property located at \_\_\_\_\_ does hereby request a permit to \_\_\_\_\_  
(Number) (Street) (install, use)  
an industrial sewer connection serving the \_\_\_\_\_. which company is engaged in  
\_\_\_\_\_ at said location.

1. A plan of the property showing accurately all sewers and drains now existing is attached hereunto as **Exhibit "A"**.
2. Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as **Exhibit "B"**.
3. A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge and representative analyses is attached hereunto as **Exhibit "C"**.
4. The name and address of the person or firm who will perform the work covered by this permit is \_\_\_\_\_

#### **IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:**

1. To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the City.
2. To accept and abide by all provisions of the **Revised Code**, and of all other pertinent ordinances or codes that may be adopted in the future.
3. To operate and maintain a control manhole and any waste pretreatment facilities, as may be required as a condition of the acceptance into the public sewer of the industrial wastes involved in an efficient manner at all times, and at no expense to the City.
4. To cooperate at all times with the City and its representative(s) in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.
5. To notify the City immediately in the event of any accident, negligence, or other occurrence that occasions discharge to the public sewers of any wastes or process waters not covered by this permit.

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(APPLICANT)

\_\_\_\_\_  
(ADDRESS OF APPLICANT)

---

#### **(CERTIFICATION BY CLERK)**

\$ \_\_\_\_\_ (Inspection Fee Paid) DATE: \_\_\_\_\_, 20\_\_\_\_  
\$ \_\_\_\_\_ (Connection Fee Paid) SIGNED: \_\_\_\_\_  
(CLERK)

---

#### **(APPLICATION APPROVED AND PERMIT ISSUED)**

DATE: \_\_\_\_\_, 20\_\_\_\_ SIGNED: \_\_\_\_\_  
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

---

**APPENDIX #1**

**CITY OF BENTON**

**APPLICATION FOR WATER SYSTEM SERVICE CONNECTION**

The undersigned, representing himself as owner of the property located at \_\_\_\_\_, hereby makes application for connection to the Water System of the City for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or enacted and passed from time to time providing for the regulation of service furnished by the City, it is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and water usage which shall become due as the result of the connecting of the water mains and the furnishing of water service to the above property, and that all such charges and fees for water service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable within **fifteen (15) days** following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ \_\_\_\_\_ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the Water System.

**CONNECTION MUST BE INSPECTED BEFORE BACKFILLING:**

SIGNATURE: \_\_\_\_\_

\_\_\_\_\_  
(STREET NUMBER AND NAME OF STREET)

\_\_\_\_\_  
(CITY, STATE AND ZIP CODE)

\_\_\_\_\_  
(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

-----  
(  
(  
(NAME)  
(  
(STREET NUMBER AND NAME OF STREET)  
(  
(  
(CITY, STATE AND ZIP CODE)  
-----

**APPENDIX #4**

**CITY OF BENTON**

**APPLICATION FOR SANITARY SEWER SERVICE CONNECTION**

The undersigned, representing himself as owner of the property located at \_\_\_\_\_, hereby makes application for Sanitary Sewerage Service for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or ordinances enacted and passed from time to time providing for the regulation of the sanitary sewer system or specifying fees and rates to be charged for connection and sanitary sewer service furnished by the City. It is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and sewer usage which shall become due as the result of the connecting of the sewerage mains and the furnishing of sanitary sewerage service to the above property, and that all such charges and fees for sanitary sewerage service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable on or before the due date following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ \_\_\_\_\_ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the sewerage outlets, pipes and mains.

\_\_\_\_\_  
(APPLICANT'S SIGNATURE)

\_\_\_\_\_  
(STREET NUMBER AND NAME OF STREET)

\_\_\_\_\_  
(OWNER'S SIGNATURE, IF NOT APPLICANT)

\_\_\_\_\_  
(CITY, STATE AND ZIP CODE)

\_\_\_\_\_  
(TELEPHONE NUMBER)

\_\_\_\_\_  
(DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

-----  
(  
(  
(NAME)  
(  
(STREET NUMBER AND NAME OF STREET)  
(  
(  
(CITY, STATE AND ZIP CODE)  
-----

**APPENDIX #4**  
**CITY OF BENTON**  
**R E C E I P T**

Receipt is hereby acknowledged of the executed Application for Sanitary Sewer Service Connection from the person and for the property indicated below.

This receipt does not authorize service connection is made, inspection and approval of the customer service line by an authorized representative of the City is required, and approval of such connection and issuance of a Certificate of Inspection and Approval and Permit is conditioned upon compliance with all the Ordinances, Codes, Rules and Regulations of the **City**.

**NOTE:**

1. In the event the location of the sewer service connection is unknown, the Superintendent is to be contacted.
2. This office is to be notified the day before the work is to be done so that inspection may be arranged in accordance with specifications furnished. For example, if you desire inspection on Tuesday, contact us on Monday. If you desire inspection on Monday, contact us on Friday, etc.
3. If the sewer line is deep enough to drain your basement, if you have one, then the wastes from the basement as well as the other floor(s) of the property must go into the sanitary sewers. Downspout and surface drainage are prohibited inasmuch as this is not a storm sewer system.

**WARNING!** In order to coordinate our inspections, we must be advised a day in advance before the work is done. The inspection must be made before the trench is backfilled. If trench is backfilled before the inspection is made, it will have to be reopened to permit inspection.

NO. \_\_\_\_\_

**CITY OF BENTON  
COUNTY OF FRANKLIN**

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

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

OWNER(S): \_\_\_\_\_

\_\_\_\_\_

**APPENDIX #5**

**CITY OF BENTON**

**CERTIFICATE OF INSPECTION, APPROVAL AND PERMIT**

**IT IS HEREBY CERTIFIED THAT** inspection has been made of the individually-owned sewer mains and sanitary service connection for the property described below, and said installation is hereby approved as in compliance with the Specifications, Rules and Regulations established by the Revised Code (Ch. 38) of this Municipality.

Permission is hereby granted to complete the construction of said individually-owned sewer main to the City Sanitary Sewerage System and to utilize the same for waste disposal in compliance at all times, with the Revised Code of this City.

NO. \_\_\_\_\_

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

TYPE OF CONNECTION:

\_\_\_\_\_ Single-Family Residence  
\_\_\_\_\_ Multiple dwelling or trailer court  
\_\_\_\_\_ Commercial  
\_\_\_\_\_ Industrial  
\_\_\_\_\_ Institutional  
\_\_\_\_\_ Governmental

INSTALLATION BY: \_\_\_\_\_

THE SERVICE IS IN OPERATION AS OF THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

**CITY OF BENTON  
COUNTY OF FRANKLIN**

**SIGNED:** \_\_\_\_\_

**APPENDIX #2**

**CITY OF BENTON**

**UTILITY MAIN EXTENSION CONTRACT**

**AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_,  
by and between the Utility System of the **City of Benton, Illinois**, hereinafter called the  
"Utility Department" and \_\_\_\_\_, hereinafter called  
the "Depositor".

**FIRST:** That the Utility Department contracts and agrees to have installed by contract in  
accordance with its rules, utility mains as shown on the plat thereof, and the  
specifications are attached hereto and made a part hereof.

**SECOND:** Bids having been taken and the lowest responsible bid having been in the  
amount of \$\_\_\_\_\_, the Depositor agrees to deposit and does  
deposit herewith the cost thereof.

- (A) The lowest responsible bid \$\_\_\_\_\_.
- (B) Engineering and Inspection Charge \$\_\_\_\_\_.
- (C) TOTAL: \$\_\_\_\_\_.

**THIRD:** Final costs to be adjusted up or down according to completed job cost.

**FOURTH:** The ownership of the utility mains laid herein shall be at all times in the Utility  
Department, its successors and assigns.

**FIFTH:** This Agreement shall be valid and binding on the Utility Department only when  
signed by the Mayor and Clerk.

**SIXTH:** This Agreement shall be binding upon the heirs, executors, administrators,  
successors or assigns of the respective parties.

**EXECUTED** in duplicate by the parties hereto on the date first above written.

**UTILITY DEPARTMENT  
CITY OF BENTON**

**BY:** \_\_\_\_\_  
**PUBLIC WORKS DIRECTOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**DEPOSITOR**

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**APPENDIX #6**

**CITY OF BENTON**

**DISCONNECT NOTICE**

If this bill cannot be PAID IN FULL by the DUE DATE printed on the attached bill, you will either have to make arrangements to go on the City's payment plan or be disconnected.

If you choose to go on the payment plan, you will need to come to the Water Department on the hearing date. If you have been on the payment plan within the past twelve (12) months, or if you are currently on the plan and have missed your scheduled payments, the bill must be PAID IN FULL to avoid disconnection.

If payments or arrangements have not been made and your water service is disconnected, the TOTAL bill, plus a \$20.00 reconnect fee must be PAID IN FULL before service will be resumed.

The due date to avoid disconnection is on the RED disconnect bill. The due date on subsequent bills apply only to those bills.

THE BENTON WATER AND SEWER DEPARTMENT

**APPENDIX #7**

**CITY OF BENTON**

**OBJECTIONABLE MATERIAL EFFLUENT LIMITS**

<b><u>Waste or Chemical</u></b>	<b><u>Concentration mg/l</u></b>
Boron	1.0
Chromium (Hexavalent)	5.0
Chromium (Trivalent)	10.0
Copper	3.0
Cyanide	0.005
Iron	15.0
Lead	0.1
Mercury or its compounds	0.005
Nickel	3.0
Oil & Grease, etc. (carbon tetrachloride extraction)	100.0
Temperature not over 150° F. (65° C.)	
Acid iron pickling waste or concentrated plating waste	Zero
Free acids and alkalis pH	Between 5.5 and 9.5
Zinc	2.0
Cadmium	2.0
Chlorine Demand	30.0
Phenols	0.5

**CHAPTER 40**

**ZONING CODE**

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b><i>I</i></b>	<b><i>GENERALLY</i></b>	
	Section 40-1-1 - Territorial Limits	40-1
	Section 40-1-2 - Definitions	40-1
<b><i>II</i></b>	<b><i>DISTRICTS ESTABLISHED</i></b>	
	Section 40-2-1 - Official Zoning Map	40-17
	Section 40-2-2 - Zoning Districts	40-17
	Section 40-2-3 - Replacement of Official Zoning Map	40-18
	Section 40-2-4 - Annual Publication	40-18
	Section 40-2-5 - Rules for Interpretation of District Boundaries	40-18
	Section 40-2-6 - Application of District Regulations	40-19
	Section 40-2-7 - Schedule of District Regulations Adopted	40-19
	Section 40-2-8 - Supplementary District Regulations	40-20
	Section 40-2-9 - Airport Height Regulations – Adoption of Height Controls by Reference	40-20
<b><i>III</i></b>	<b><i>ZONE DISTRICTS ESTABLISHED</i></b>	
	Division I – Generally	
	Section 40-3-1 - Schedule of District Regulations	40-21
	Section 40-3-2 - General Statement of Intent	40-21
	Section 40-3-3 - 40-3-4 Reserved	
	Division II – Forestry District (A-4)	
	Section 40-3-5 - Permitted Uses	40-21
	Section 40-3-6 - Prohibited Uses	40-22
	Section 40-3-7 - 40-3-9 Reserved	
	Division III – Agricultural – General (A-1)	
	Section 40-3-10 - District Description	40-22
	Section 40-3-11 - Lot Requirements	40-22
	Section 40-3-12 - Permitted Uses	40-23
	Section 40-3-13 - Prohibited Uses	40-23
	Section 40-3-14 - Reserved	
	Division IV – Limited Agricultural District (A-2)	
	Section 40-3-15 - District Description	40-24
	Section 40-3-16 - Lot Requirements	40-24
	Section 40-3-17 - Permitted Uses	40-25
	Section 40-3-18 - Prohibited Uses	40-26
	Section 40-3-19 - Reserved	
	Division V – Agricultural Flood Plain (A-3)	
	Section 40-3-20 - District Description	40-26
	Section 40-3-21 - Lot Requirements	40-27

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>ZONE DISTRICTS ESTABLISHED (CONTINUED)</b>	
	<i>Division V – Agricultural Flood Plain (A-3) (Continued)</i>	
	Section 40-3-22 - Permitted Uses	40-27
	Section 40-3-23 - Prohibited Uses	40-28
	Section 40-3-24 - Reserved	
	<i>Division VI – Rural Estates (R-5)</i>	
	Section 40-3-25 - District Description	40-28
	Section 40-3-26 - Lot Requirements	40-28
	Section 40-3-27 - Permitted Uses	40-29
	Section 40-3-28 - Prohibited Uses	40-29
	Section 40-3-29 - Reserved	
	<i>Division VII – Residential District – Low Density (R-1)</i>	
	Section 40-3-30 - District Description	40-30
	Section 40-3-31 - Lot Requirements	40-30
	Section 40-3-32 - Permitted Uses	40-30
	Section 40-3-33 - Prohibited Uses	40-31
	Section 40-3-34 - Reserved	
	<i>Division VIII – Residential District – Low-Medium Density (R-2)</i>	
	Section 40-3-35 - District Description	40-31
	Section 40-3-36 - Lot Requirements	40-31
	Section 40-3-37 - Permitted Uses	40-32
	Section 40-3-38 - Prohibited Uses	40-32
	Section 40-3-39 - Reserved	
	<i>Division IX – Residential District – Medium Density (R-3)</i>	
	Section 40-3-40 - District Description	40-33
	Section 40-3-41 - Lot Requirements	40-33
	Section 40-3-42 - Permitted Uses	40-34
	Section 40-3-43 - Prohibited Uses	40-34
	Section 40-3-44 - Reserved	
	<i>Division X – Residential District – High Density (R-4)</i>	
	Section 40-3-45 - District Description	40-35
	Section 40-3-46 - Lot Requirements	40-35
	Section 40-3-47 - Permitted Uses	40-36
	Section 40-3-48 - Prohibited Uses	40-37
	Section 40-3-49 - Reserved	
	<i>Division XI – Planned Manufactured Housing District (M-1)</i>	
	Section 40-3-50 - District Description	40-37
	Section 40-3-51 - Lot Requirements	40-37
	Section 40-3-52 - Permitted Uses	40-38
	Section 40-3-53 - Prohibited Uses	40-38
	Section 40-3-54 - Reserved	
	<i>Division XII – Planned Travel Trailer District (M-2)</i>	
	Section 40-3-55 - District Description	40-38
	Section 40-3-56 - Lot Requirements	40-39

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>ZONE DISTRICTS ESTABLISHED (CONTINUED)</b>	
	<i>Division XII – Planned Travel Trailer District (M-2)</i>	
	Section 40-3-57 - Permitted Uses	40-39
	Section 40-3-58 - Prohibited Uses	40-39
	Section 40-3-59 - Reserved	
	<i>Division XIII – Planned Business District (M-3)</i>	
	Section 40-3-60 - District Description	40-40
	Section 40-3-61 - Lot Requirements	40-40
	Section 40-3-62 - Permitted Uses	40-40
	Section 40-3-63 - Prohibited Uses	40-41
	Section 40-3-64 - Reserved	
	<i>Division XIV – Professional Administrative Office District (B-3)</i>	
	Section 40-3-65 - District Description	40-41
	Section 40-3-66 - Lot Requirements	40-41
	Section 40-3-67 - Permitted, Prohibited, Accessory and Special Uses	40-42
	Section 40-3-68 - 40-3-69 Reserved	
	<i>Division XV – Secondary Business District (B-2)</i>	
	Section 40-3-70 - District Description	40-42
	Section 40-3-71 - Lot Requirements	40-43
	Section 40-3-72 - Permitted, Prohibited, Accessory and Special Uses	40-43
	Section 40-3-73 - 40-3-74 Reserved	
	<i>Division XVI – Limited Secondary Business District (B-6)</i>	
	Section 40-3-75 - District Description	40-44
	Section 40-3-76 - Lot Requirements	40-44
	Section 40-3-77 - Permitted, Prohibited, Accessory and Special Uses	40-45
	Section 40-3-78 - 40-3-79 Reserved	
	<i>Division XVII – Neighborhood Business District (B-4)</i>	
	Section 40-3-80 - District Description	40-45
	Section 40-3-81 - Lot Requirements	40-45
	Section 40-3-82 - 40-3-84 Reserved	
	<i>Division XVIII – Central Business District (B-1)</i>	
	Section 40-3-85 - District Description	40-46
	Section 40-3-86 - Lot Requirements	40-46
	Section 40-3-87 - 40-3-89 Reserved	
	<i>Division XIX – Interstate Interchange Business District (B-5)</i>	
	Section 40-3-90 - District Description	40-47
	Section 40-3-91 - Lot Requirements	40-47
	Section 40-3-92 - 40-3-94 Reserved	
	<i>Division XX – Schedules</i>	
	Section 40-3-95 - Business Activity/Use Schedule	40-48
	Section 40-3-96 - 40-3-99 Reserved	

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>III</b>	<b>ZONE DISTRICTS ESTABLISHED (CONTINUED)</b>	
	<i>Division XXI – Light Industrial District (I-1)</i>	
	<i>Section 40-3-100 - District Description</i>	40-53
	<i>Section 40-3-101 - Lot Requirements</i>	40-54
	<i>Section 40-3-102 - 40-3-104 Reserved</i>	
	<i>Division XXII – Restricted Industrial District (I-2)</i>	
	<i>Section 40-3-105 - District Description</i>	40-54
	<i>Section 40-3-106 - Lot Requirements</i>	40-55
	<i>Section 40-3-107 - 40-3-109 Reserved</i>	
	<i>Division XXIII – General Industrial District (I-3)</i>	
	<i>Section 40-3-110 - District Description</i>	40-55
	<i>Section 40-3-111 - Lot Requirements</i>	40-55
	<i>Section 40-3-112 - 40-3-114 Reserved</i>	
	<i>Division XXIV – Industrial Isolated District (I-4)</i>	
	<i>Section 40-3-115 - District Description</i>	40-56
	<i>Section 40-3-116 - Lot Requirements</i>	40-56
	<i>Section 40-3-117 - Business Activity/Use Schedule</i>	40-57
	<i>Section 40-3-118 - 40-3-119 Reserved</i>	
<b>IV</b>	<b>SIGN DEFINITIONS AND ILLUSTRATIONS</b>	
	<i>Section 40-4-1 - Sign Definitions</i>	40-65
	<i>Section 40-4-2 - Sign Regulations</i>	40-66
	<i>Section 40-4-3 - Schedule of Sign Regulations</i>	40-67
<b>V</b>	<b>PERFORMANCE STANDARDS</b>	
	<i>Section 40-5-1 - Mobile (Manufactured) Homes</i>	40-69
	<i>Section 40-5-2 - Planned Unit Developments</i>	40-69
	<i>Section 40-5-3 - Industrial</i>	40-75
<b>VI</b>	<b>NONCONFORMING USES</b>	
	<i>Section 40-6-1 - Intent</i>	40-78
	<i>Section 40-6-2 - Nonconforming Lots of Record</i>	40-78
	<i>Section 40-6-3 - Termination of Nonconforming Use of Land</i>	40-79
	<i>Section 40-6-4 - Nonconforming Structures</i>	40-79
	<i>Section 40-6-5 - Nonconforming Uses of Structures or of Structure and Premises in Combination</i>	40-79
	<i>Section 40-6-6 - Special Use Shall Not Be Nonconforming Uses</i>	40-80
<b>VII</b>	<b>ADMINISTRATION AND ENFORCEMENT</b>	
	<i>Section 40-7-1 - Administration and Enforcement</i>	40-81
	<i>Section 40-7-2 - Building Permits Required</i>	40-81
	<i>Section 40-7-3 - Application for Building Permit</i>	40-81
	<i>Section 40-7-4 - Certificates of Zoning Compliance</i>	40-82
	<i>Section 40-7-5 - Expiration of Building Permit</i>	40-82

<b><u>ARTICLE</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>VII</b>	<b>ADMINISTRATION AND ENFORCEMENT (CONTINUED)</b>	
	Section 40-7-6 - Construction and Use to be as Provided in Applications, Plans, Permits and Certificates of Zoning Compliance	40-82
<b>VIII</b>	<b>ADMINISTRATIVE RESPONSIBILITIES</b>	
	Division I – Board of Appeals	
	Section 40-8-1 - Establishment, Membership, Terms	40-83
	Section 40-8-2 - Proceedings of the Board of Appeals	40-83
	Section 40-8-3 - Hearings, Appeals, Decisions, Notice	40-83
	Section 40-8-4 - Stay of Proceedings	40-84
	Section 40-8-5 - Reserved	
	Division II – The Board of Appeals; Powers and Duties	
	Section 40-8-6 - Board of Appeals	40-84
	Section 40-8-7 - Secretary	40-87
	Section 40-8-8 - 40-8-9 Reserved	
	Division III – Generally	
	Section 40-8-10 - Appeals From the Board of Appeals, City Council	40-87
	Section 40-8-11 - Duties of Zoning Administrator, Board of Appeals, and City Council	40-88
	Section 40-8-12 - Schedule of Fees, Charges and Expenses	40-88
<b>IX</b>	<b>MISCELLANEOUS</b>	
	Section 40-9-1 - Complaints Regarding Violations	40-89
	Section 40-9-2 - Penalties for Violation	40-89
	Section 40-9-3 - Provisions of Code Declared to be Minimum Requirements	40-89
	Section 40-9-4 - Amendments	40-89
	Section 40-9-5 - Annexation Agreements	40-90
	Section 40-9-6 - Separability Clause	40-90
	Section 40-9-7 - Repeal of Conflicting Ordinances; Effective Date	40-90
	Section 40-9-8 - Comprehensive Plan and Official Map	40-90
	Schedule "A" - Miscellaneous Permit Fees	40-92
	Appendix "A" - Illustrations	
	Appendix "B" - Footnotes for the Forestry, Agriculture, Residential, and Planned Zoning Districts	
	Appendix "C" - Business Zoning Districts Footnotes	
	Appendix "D" - Footnotes for Industrial Zoning Districts	
	Appendix "E" - Schedule of District Sign Regulations	

## CHAPTER 40

### ZONING CODE

#### ARTICLE I – GENERALLY

**40-1-1      TERRITORIAL LIMITS.** The provisions of this Code shall apply to that land located within the corporate limits of the City of Benton, Illinois and the land lying within contiguous territory not more than **one and one-half (1 ½) miles** beyond the corporate limits and not included within any municipality as indicated on the official zoning map but only if the County has not adopted a Zoning Code. **(See 65 ILCS 5/11-13-1) (Sec. 1)**

**40-1-2      DEFINITIONS.** For the purposes of this Code, certain terms or words used herein shall be interpreted as follows:

- (A)            The word **"person"** includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (B)            The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (C)            The word **"shall"** is mandatory, the word **"may"** is permissive.
- (D)            The words **"used"** or **"occupied"** include the words intended, designed, or arranged to be used or occupied.
- (E)            The word **"lot"** includes the words **"plot"** or **"parcel"**, and refers to lots of record.

**Abandon:** The continuation of use is interrupted by the voluntary overt act of the user or owner.

**Accessory Use or Structure:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**Acre(s), Gross:** The total acreage of:

- (A)            a subdivision;
- (B)            a contiguous zoning district; or
- (C)            a planned development.

Computations shall include public right-of-way except: (1) boundary streets of which only **one-half (1/2)** of the right-of-way shall be used in any computation; and (2) publicly owned land used for community facilities such as parks, schools, libraries, etc.

**Acre(s), Net:** Same as Gross Acres but, excluding all public right-of-way and publicly owned land utilized for community facilities.

**Agriculture:** The use of land for agricultural purposes. This includes necessary buildings and structures which shall be used for agriculture, including, but not limited to farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for parking, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. Buildings occupied as residences shall not be considered to be used for agricultural purposes. **(See #8) (Ord. No. 1157; 06-20-86)**



**Airport:** Any area of land or water which is used or intended for use for the landing and taking off of aircraft; and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or right-of-way, together with all airport buildings and facilities located thereon.

**Alley:** A narrow service way providing a secondary public means of access to abutting properties, and not more than **twenty (20) feet** wide.

**Alterations:** As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another, or by change in use from that of one district classification to another.

**Alterations, Structural:** Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

**Animal Hospital:** Any building or portions thereof, designated or used for the care, observation, or treatment of domestic animals.

**Automobile, Abandoned:** Any motor vehicle, or portion thereof, which when operated on a highway is required to be registered by the State of Illinois, whose registration has been expired for a period of **ninety (90) days** or more. Notwithstanding the foregoing definition, a motor vehicle or portion thereof stored within a permitted building or structure shall not be considered to be an abandoned automobile.

**Automobile Repair, Major:** Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; and overall painting of vehicles, as well as other services as listed under ***Filling Station***.

**Automobile Repair, Minor:** Incidental repairs, replacement of parts, and motor service to automobiles, but not including any operation specified under "Automobile Repair, Major," except those other services listed under ***Filling Station***.

**Automobile Service Station:** See ***Filling Station***.

**Automobile Wrecking:** The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

**Basement:** Any floor below the first story of a building unless construed to be a ***Story*** as defined herein.

**Billboard:** See ***Sign-Off-Site***.

**Boarding House:** Any dwelling which provides sleeping and/or cooking and/or eating facilities for more than **three (3)** but less than **ten (10)** unrelated individuals. A rooming house or furnished rooming house shall be deemed to be a boarding house. Sleeping rooms shall not be used for more than **two (2) persons** per room. Such dwelling shall not be open to transients.

**Buildable Area:** The portion of a lot remaining after required yards have been provided.

**Building:** A structure enclosed within exterior walls or fire walls, built, erected, and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals, or property of any kind. For structure definition refer to ***Structure***.

**Building Line(s):** The lines, nearest and parallel with the lot lines establishing the minimum yards to be provided between the building or structure and the lot lines.

**Cellar:** See ***Basement***.

**Child Care Centers:** Day care centers which receive preschool or school age children, or both, for short term or extended hours of care, or out of school hours, and which provide essential personal care, protection, supervision, training and programs to meet the needs of the children served.

**Condominium:** Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, such as yards, foundations, basements, floors, walls, hallways, stairways, elevators and all other related common elements, together with individual ownership in fee of a particular unit or apartment in such building. It is not confined to ownership of a residential unit such as an apartment, but its use also extends to offices and other types of space in commercial buildings.

**Corner Lot:** See ***Lots***.

**Court:** An open, unoccupied and unobstructed space other than a yard on the same lot with a building.

**Day Care Center:** Any child care facility receiving more than **four (4)** children for daytime care during all or part of a day. The term "day care center" includes facilities commonly called "child care centers," "day nurseries," "nursery schools," "kindergarten," "play group," and "centers or workshops for mentally or physically handicapped" with or without stated educational purposes. The term does not include (a) kindergartens or nursery schools or other daytime programs operated by public or private elementary school systems or secondary level school units or institutions of higher learning; (b) facilities operated in connection with a shopping center or service, or other similar facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises, or are in the immediate vicinity and readily available; (c) any type of day care center that is conducted on federal government premises; or (d) special activities programs, including athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations.

**Day Nurseries:** Day care centers which receive preschool age children for short-term or extended hours of care, and which provide essential personal care, protection, supervision, training and programs to meet the needs of the individual children served.

**Density:** Pertaining to the number of dwelling units per net acre or gross acre as indicated for the appropriate zoning district in the Schedule of District Regulations. Residential District density shall not be exceeded for new subdivision or exceeded for re-subdivision of existing platted land.

**District:** A section or sections of the City of Benton and the territorial limits of this Code for which uniform regulations governing the use, height, area, and intensity of use by buildings and land, and open spaces about buildings, are herein established.

**Dormitory:** A building, not open to transients, where lodging and/or meals are provided for more than **ten (10) persons**. Kitchen facilities shall not be included for each unit. If kitchen facilities are included in any unit other than for management personnel, then the building shall be defined as a multiple family dwelling. A dormitory may have a central kitchen facility to provide means for inhabitants of the dormitory.

**Drive-In Restaurant:** Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automotive vehicles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

**Dwelling:** A residential building designed or used exclusively as the living quarters for one or more families.

**Dwelling, Attached:** A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

**Dwelling, Detached:** A dwelling which is entirely surrounded by open space on the same lot.

**Dwelling, Group:** A group of **two (2)** or more one-family, two-family, or multiple dwellings occupying a lot in one (1) ownership and having any yard in common.

**Dwelling, Mobile Home:** A "manufactured home" which is defined as a structure, transportable in one or more sections, which, in the traveling mode is **twelve (12) body feet** or more in width or **sixty (60) body feet** or more in length, or when erected on site, is **seven hundred twenty (720)** or more square feet, and which is built on a permanent chassis, and designed to be used as a dwelling with permanent pier foundation (except when placed in a mobile home park), when connected to required utilities, and includes plumbing, heating, air conditioning, and electrical systems contained therein. The construction of which is regulated by the Federal Department of Housing and Urban Development (HUD). The structure must have an exterior condition rating of "very good", and have an "on site" value of **Five Thousand Dollars (\$5,000.00)** or more as per N.A.D.A. Manufacturing Guide. "Value does not include any additions, accessories, accessory structures or the location (ground or lot) where on the structure is or is to be located". **(Ord. No. 97-04; 02-24-97)**

**Dwelling, Modular Housing:** A building assembly or system of building sub-assemblies, designed for habitation as a dwelling for one or more persons, including the necessary electrical, plumbing, heating, ventilating, and other service systems, which is closed or open construction and which is made or assembled by a manufacturer, on or off the building site for installation, or assembly and installation on the building site with a permanent foundation. A permanent foundation means a closed perimeter formation consisting of materials such as concrete or concrete block which extends in the ground below the frost line. Modular units typically come from the factory in **two (2)** or more sections (box-like configurations complete with the plumbing, electrical, mechanical, wall, floor and ceiling coverings and cabinets). **(Ord. No. 97-04; 02-24-97)**

**Dwelling, Multiple Family:** A residential building designed for or occupied by **three (3)** or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, Single-Family:** A residential dwelling unit other than a mobile home, designed for and occupied by one family only.

**Dwelling, Two-Family:** A detached residential building other than a mobile home containing two dwelling units, designed for occupancy by not more than **two (2) families**, living independently of one another.

**Dwelling Unit:** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom, and sleeping facilities.

**Employee(s):** In regard to off-street parking requirements, employees mean all who work in the enterprise including owners (other than purely stockholders), partners, management and office personnel.

**Essential Services:** The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam, water transmission or distribution systems, collection, communication, supply or disposal systems, elevated and underground water storage tanks, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals and signs, hydrants and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings, except by special use, or Public Utility Substations as hereinafter defined. Underground use is encouraged, overhead discouraged.

**Fair Market Value:** The highest price which property will bring contemplating the consummation of a sale and the passing of full title from seller to buyer by deed, under conditions whereby: buyer and seller are free of undue stimulus and are motivated by no more than the reactions of typical participants; both parties are well informed, are well advised and act prudently, each for what he considers his best interest; a reasonable exposure is given in the open market and payment is made in case or on terms reasonably equivalent to cash assuming typical financing terms available in the community for similar property.

**Family:** An individual or **two (2)** or more persons, related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit, in each instance with no more than **two (2)** non-related people being housed in the same dwelling unit. The word "family" shall not include groups occupying nursing homes, group houses, fraternity houses, sorority houses, dormitories, barracks; however, a portion of a building in this category may consist of one or more dwelling units occupied by a "family" or "families".

**Filling (Service) Station:** Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, and no other:

- (A) Sale and servicing of spark plugs, batteries, and distributor parts;

- (B) Tire sales, servicing and repair, but not recapping or regrooving;
- (C) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
- (D) Radiator cleaning and flushing;
- (E) Washing and polishing, and sale of automotive washing and polishing materials;
- (F) Greasing and lubrication;
- (G) Providing and repairing fuel pumps, oil pumps, and lines;
- (H) Minor servicing and repair of carburetors;
- (I) Emergency wiring repairs;
- (J) Adjusting and repairing brakes;
- (K) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- (L) Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation;
- (M) Provision of road maps and other informational material to customers; provision of restroom facilities.

Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop, but does include automobile service to include primary business of gasoline, oil and lubricant sales at retail plus service to customers in air conditioning, electrical, engine repair, and/or any necessary repair in maintaining customer cars, limited only by capabilities of equipment and space.

**Flood Plain:** The channel of a stream and adjacent land areas below the elevation of the regulatory flood (100 year flood). **(See Chapter 14)**

**Floor Area:** The total usable horizontal area enclosed by the exterior walls of a building exclusive of basements, cellars, attics and crawl spaces. The floor area of a residence is the total horizontal area of living space enclosed by the exterior walls measured at the outside of such exterior walls, including partitions, closets, bath and utility rooms, but not including cellars, basements, unfinished attics, garages, breezeways, porches, and patios and other spaces not used ordinarily for living, eating, and sleeping purposes. Unfinished areas above the ground floor living spaces may be included provided that subflooring is laid and windows and stairways are installed.

**Floor Area Ratio (F.A.R.):** A number indicative of the intensity of use of a lot determined by dividing the floor area of any principal building plus the floor area of all accessory buildings by the area of the lot upon which they are located.

$$\text{F.A.R.} = \frac{\text{FLOOR AREA}}{\text{LOT AREA}}$$

**Front Lot Line:** In the case of an interior lot, a line separating the lot from the street. In the case of a corner lot, a line separating the most narrow frontage of the lot from the street.

**Front Yard:** A yard extending across the full width of the lot, unoccupied other than by driveways, fences, poles, posts, steps, terraces, walks, walls, and other customary yard accessories, ornaments and furniture not exceeding applicable height and vision obstruction limitations of this Article. The depth of a Front Yard is the least distance between the front lot line and the building line. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yard shall be provided on all frontages. Where one of the front yards which would normally be required on a through lot, is not in keeping with the prevailing yard pattern, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefor, a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots, a front yard of the required depth shall be provided on either front yard, but where possible in accordance with the prevailing yard pattern; and a second front yard on one-half the depth required generally for front yards for the district shall be required on the other frontage.

In the case of corner lots with more than **two (2)** frontages, the Zoning Administrator shall determine the front yard requirements, subject to the following requirements: (1) at least one front yard shall be provided having the full depth required generally in the district; (2) no other front yard on such lot shall have less than one-half the full depth required generally.

**Garage, Private:** A detached accessory building or portion of a principal building used for the storage of self-propelled passenger vehicles or trailers of the occupants of the premises.

**Garage, Public:** Any building or site where automotive vehicles are stored for compensation.

**Garage, Repair:** Any building where automotive vehicles are painted, rebuilt, reconstructed and/or stored for compensation.

**Grade:** Grade is the average of the finished ground level at the center of all walls of a building. In case building walls are parallel to and within **five (5) feet** of sidewalk(s), the grade shall be the average finished elevation of such sidewalk(s) between side lot lines. See also: ***Height*** and ***Story***, and illustration at end of this Section.

**Height:** Building height, as permitted in each district, shall be determined from ***Grade*** as herein defined. See also ***Story*** and illustration at end of this Section.

**Highway or Primary Thoroughfare:** An officially designated federal or state numbered highway or other road designated as a highway or primary thoroughfare on the Thoroughfare Plan as officially adopted and amended from time to time by the Zoning and Planning Commission.

**Home Occupation, Residential District:** An occupation or profession engaged in by the occupant(s) of a dwelling unit at or from such unit provided that:

(A) No one other than members of the family residing on the premises and one other person may engage in such occupations.

(B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

(C) Occupies not more than **forty percent (40%)** of the total floor area of such dwelling unit and in no event more than **seven hundred (700) square feet** of the floor area.

(D) There shall be no visible evidence of the conduct of such occupation beyond the lot other than a permitted sign.

(E) No traffic shall be generated by such home occupation in volumes that would infringe upon the safety and welfare of the residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met off the street other than in a required front yard.

(F) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the lot. In the case of electrical interference no equipment or process shall be used which creates visual or audible interferences in any radio or television receivers or home entertainment equipment off the premises, or causes fluctuations in line voltage off the premises.

(G) Permissible home occupations include and are limited to the following:

- (1) Professional office;
- (2) Non-professional office used as secondary office – not for the general practice of an occupation;
- (3) Instruction by a professional, not exceeding two pupils at one time;
- (4) Barbers and beauticians limited to a total of one operator.
- (5) The work of an individual artisan or craftsman.

(H) Retail sales prohibited, except for items produced on site.

**(Ord. No. 1407; 09-11-95)**

**Immobilized Manufactured Housing:** Any manufactured home structure served by individual utilities and resting on a permanent foundation. The perimeter foundation shall conform to B.O.C.A. Specifications. The wheels, axle, tongue, and hitch shall be permanently removed. The structure shall be properly secured within **thirty (30) days** in compliance with the Illinois Manufactured Housing and Mobile Home Safety Act and/or the Illinois Mobile Home Tiedown Act and the Department's regulations for the Mobile Home Tiedown Act, and in accordance with the following criteria: The foundation shall extend into the ground below the frost line so as to attach and become part of the real estate. Materials such as concrete, mortared concrete block, or mortared brick shall be used as supporting piers shall be no more than **eight (8) feet** apart. Roofing and siding shall be of conventional housing material and structure. **(Ord. No. 97-04; 02-24-97)**

**Intensive Care Home:** (See *Nursing Home*).

**Interior Lot:** (See *Lots*).

**Junk Yards:** The use of more than **seven hundred fifty (750) cubic feet** of open storage on any lot, portion of a lot or tract of land for the sale, storage, keeping or abandonment of junk, scrap metals or salvageable materials, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

**Kennel:** Any lot, structure or premises where **four (4) or more dogs** and/or cats over **four (4) months** of age are kept.

**Loading Space, Off-Street:** Adequate space, logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used such as trucks, tractors, trailers, etc., and accessible to such vehicles at all times. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

**Lot:** For purposes of this Code, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- (A) A single lot of record;
- (B) A portion of a lot of record;
- (C) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
- (D) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Code.

**Lot Area:** The horizontal area within the lot lines of the lot, except in the case of a corner lot. On a corner lot for the purpose of determining the lot area per family, **one-half (1/2)** of the width of the abutting side street may be included in computing the area of the lot, provided that the area gained thereby should not exceed **twenty-five percent (25%)** of the lot itself.

**Lot Depth:** The mean horizontal distance between the front and rear lot lines.

**Lot Frontage:** The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under **Yards** as defined herein.

**Lot, Interior:** See **Interior Lot**.

**Lot Line, Front:** That boundary of a lot which is along an existing or dedicated street or road. The owner of a corner lot will have **two (2)** front lot lines.

**Lot Line, Rear:** That boundary of a lot which is most distant from, and is, or most nearly, parallel to, the front lot line.

**Lot Line, Side:** Any boundary of a lot which is not a front or rear lot line.

**Lot Measurements:**

(A) **Depth** of a lot shall be considered to be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(B) **Width** of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points (where they intersect with the street lot line) shall not be less than **eighty percent (80%)** of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the **eighty percent (80%)** requirement shall not apply.

**Lot of Record:** A lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.



**Lot Types:** Any lot within the jurisdiction of this Code shall be one of the three following types:

(A) ***Corner Lot***, defined as a lot located at the intersection of **two (2)** or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than **one hundred thirty-five (135) degrees**.

(B) ***Interior Lot***, defined as a lot other than a corner lot with only **one (1)** frontage on a street.

(C) ***Through Lot***, defined as a lot other than a corner lot with frontage or more than **one (1) street**. Through lots abutting **two (2) streets** may be referred to as double frontage lots.

See illustration at end of this Section.

**Mobile Home:** See *Dwelling, Mobile Home*.

**Nonconforming Buildings:** A building lawfully existing at the time of passage of this Code, but which fails to comply with all applicable zoning regulations after said passage.

**Nonconforming Use:** A use of a structure, building or land lawfully existing at the time of passage of this Code but which fails to comply with all applicable zoning regulations after said passage.

**Nursery Schools:** Day care centers which receive children between the ages of **two (2)** and **six (6) years** and which are established and professionally operated primarily for educational purposes to meet the developmental needs of the children.

**Nursing Home:** A building or portion thereof for the aged and infirmed, chronically ill, or incurable persons in which **three (3)** or more persons not of the immediate family are provided food and shelter care for compensation, but not including hospitals, clinics, or similar institutions.

**Parking Space, Off-Street:** For the purposes of this Code, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley (included to mean forward motion as opposed to backing out) and maneuvering room. Required off-street parking areas for **three (3)** or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at **four hundred (400) square feet**, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case.

If appropriate, curbs (or stops) shall be installed each off-street parking space to regulate traffic flow; adequate lighting facilities shall be provided.

Design for off-street parking areas shall be approved by the Zoning Administrator prior to the issuance of a Building Permit.

**Planned Unit Development:** A means of developing or redeveloping existing larger parcels or combinations of smaller parcels of land within the jurisdiction of this Code, by allowing more

flexibility in design to produce a more aesthetic and/or efficient environment, such as provision for common open and recreational space, and which through safeguards incorporated elsewhere in this Code will assure that any such planned development will be in harmony and compatible with the intent of this Code and the appropriate zoning district of this Code.

More specifically, a planned development is land which is under:

- (A) Single ownership, or
- (B) Unified control, and wherein such land is to be utilized for ultimate use by:
  - (1) Single ownership, or
  - (2) Unified control, or
  - (3) Separate ownership and unified control, or
  - (4) Separate ownership without unified control, and whereon such land is designed for use as one building or a group of buildings and whereon such land there may or may not be provisions for multiple purpose uses. Standards and requirements within the various zoning districts permitting a planned development are indicated in the Schedule of District Regulations, and in **Article IX** of this Code.

Any such Planned Development shall be compatible to the Comprehensive Plan for the City. Provided further, if the proposed development is only for a portion of the contiguous landholdings of the applicant(s), then a simple schematic plan showing anticipated uses, densities, and circulation (traffic or thoroughfare) patterns shall be submitted with application for any planned development.

**Principal Building:** A building in which a principal use is conducted.

**Principal Use:** The main purpose or function that a lot serves or is intended to serve.

**Professional Office:** Office of a member or members of a recognized profession as defined by the U.S. Bureau of Census.

**Professional, Technical, and Kindred Workers** as defined by the U.S. Bureau of Census.

(A) **Engineers** – Includes aeronautical and astronautical, chemical, civil, electrical and electronic, industrial, mechanical, metallurgical and materials, mining, petroleum, and sales engineers.

(B) **Physicians, dentists, and related practitioners** – Includes chiropractors, dentists, optometrists, pharmacists, medical and osteopathic physicians, podiatrists, and veterinarians.

(C) **Health workers, except practitioners** – Includes dietitians, registered nurses, therapists, clinical laboratory technologists and technicians, dental hygienists, health record technologists and technicians, radiologic technologists and technicians, and therapy assistants.

(D) **Teachers, elementary and secondary schools** – Includes pre-kindergarten, kindergarten, elementary and secondary school teachers, but excludes principals and supervisors.

(E) **Technicians, except health** – Includes agricultural, biological, chemical, electrical and electronic, and industrial engineering; mathematical, and mechanical engineering technicians; draftsmen; surveyors; airplane pilots; air traffic controllers; embalmers; flight engineers; radio operators; and tool programmers, numerical control.

(F) **Other professional workers** – Includes accountants, architects, computer programmers, computer systems analysts, farm management advisors, foresters and

conservationists, home management advisors, judges, lawyers, librarians, archivists and curators, actuaries, mathematicians, statisticians, agricultural scientists, atmospherical and space scientists, biological scientists, chemists, geologists, marine scientists, physicists and astronomers, operations and systems researchers and analysts, personnel and labor relations workers, clergymen and other religious workers, economists, political scientists, psychologists, sociologists, urban and regional planners, social workers, recreation workers, teachers, vocational and educational counselors, actors, athletes, authors, dancers, designers, editors and reporters, musicians and composers, painters and sculptors, photographers, public relations men and publicity writers, radio and television announcers, and research workers not specifying subject.

**Public Utility Substation:** An area where facilities are provided for the distribution of telephone, radio communications, water, gas and electricity. These facilities shall be permitted as a special use in the various zoning districts subject to conditions which will assure their harmony, especially aesthetically, with the nature of the respective district.

**Rear Lot Line:** A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line of **ten (10) feet** in length within the lot, parallel with and at the maximum distance from the front lot line.

**Rear Yard:** A yard extending across the full width of the lot, unoccupied other than by driveways, fences, poles, posts, steps, terraces, walks, walls, and other customary yard accessories, ornaments and furniture not exceeding applicable height and vision obstruction limitations of this Article. The depth of a rear yard is the least distance between the rear lot line and the building line.

**Recreational Equipment, Major:** For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up truck campers not mounted on such pick-up truck, motorized dwellings exceeding **twenty (20) feet** in length, tent trailers, utility trailers, and the like, tents, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

**Rooming House:** See ***Boarding House***

**Service Station:** See ***Filling Station*** and ***Automotive Service Station***.

**Setback Line:** The minimum horizontal distance permitted between the front or side of a structure and the nearest street line.

**Side Lot Line:** Any lot boundary line not a front lot line or a rear lot line.

**Side Yard:** A yard between the building line and a side lot line, unoccupied other than by driveways, fences, poles, post steps, terraces, walks, walls and other customary yard accessories, ornaments and furniture not exceeding applicable height and vision obstruction limitations of this Article. The width of a side yard is the least distance between the side lot line and the building line. A side yard extends from the front yard, or from the front lot line where no front yard is required, to the rear yard or to the rear lot line where no rear yard is required.

**Sign:** Any device designed to inform or attract the attention of persons not on the premises on which the sign is located. For definitions and restrictions see **Article IV** of this Code.

**Sign, Temporary:** See **Article IV** of this Code.

**Special Use:** Legal authorization to undertake a special use issued by the Zoning Administration pursuant to authorization by the Zoning and Planning Commission and the City Council in compliance with procedures specified herein.

The special use permit is issued to the property and is transferable with the property except for a mobile home which is issued to the owner of the use and is not transferable with the property.  
**(Ord. No. 1157; 06-20-86)**

**Special Use Permit:** Legal authorization to undertake a special use, issued by the Zoning Administrator pursuant to authorization by the Zoning and Planning Commission and in compliance with procedures specified herein. The Special Use Permit is issued to the owner of the use and is not transferable with the property.

**Story:** That portion of a building between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused underfloor space is more than **six (6) feet** above **Grade** as defined herein, such basement, cellar, or unused underfloor area shall be considered as a story. See also: **Grade** and **Height**, and illustration at end of this Section.

**Street:** A public or private way which affords the principal means of access to abutting properties.

**Street Line:** The lot line abutting street right-of-way line.

**Structure:** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, wall, fences, signs, billboards, and poster panels.

**Structural Alteration:** Any change in the supporting members of a building including but not limited to bearing walls, load-bearing partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

**Town House Development:** A group of single family dwelling units, each dwelling unit structure having the following characteristics:

(A) May or may not be part of a planned development, but each zoning lot used for single family town houses shall have a distinct area which shall be described and recordable as a separate lot, or as a unit pursuant to a declaration of condominium ownership.

(B) Containing **one (1)** or more stories.

(C) Having at least **two (2)** exterior entrances.

(D) Attached to **one (1)** or more adjoining town houses by a vertical party wall extending from the footing(s) to the roof line without passageway or access between town houses, - or - Unattached, but abutting **one (1)** or more adjoining town houses and with a separate but complete vertical wall from footing to roof line without passageway or access between town houses.

(E) A minimum of **one (1)** off-street parking space.

(F) Area, yard, height, and F.A.R. requirements as indicated in Schedule of District Regulations.

**Trailer (Mobile Home):** Any vehicle, house car, camp car, or any portable or mobile vehicle on wheels, skids, rollers, or blocks, either self-propelled or propelled by other means, which is designated to be used for living, sleeping, or commercial purposes.

**Travel Trailer:** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding **eight (8) feet**.

**Truck or Equipment Terminal:** Any lot, structure or premises used for the parking or storage of capital equipment such as trucks, trailers, or other like equipment, over **three-fourths (3/4) ton** capacity.

**Unified Control:**

- (A) An agreement with respect to one or more parcels of land and its development and/or maintenance;
- (B) To be recorded and the covenants to run with the land;
- (C) The terms of the agreement (or covenants) to be disclosed to persons benefited or burdened thereby;
- (D) Public or common ownership of all or portions of land bound by the agreement to be in accordance with such conditions and requirements as have been approved by the appropriate local government.

**Utility Substation:** See ***Public Utility Substations***.

**Variance:** A variance is a relaxation of the terms of the zoning code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code would result in unnecessary and undue hardship. As used in this Code, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. This is not to be confused with a special use, as per State statutes.

**Yard:** A required open space other than a court, unoccupied and unobstructed by any structure or portion of a structure from **thirty (30) inches** above the grade of the lot upward, provided, however, the fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**Yard, Front:** A yard extending between side lot lines across the front of a lot adjoining a public street.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots, a front yard of the required depth shall be provided on either front yard, but where possible in accordance with the prevailing yard pattern and a second front

yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than **two (2)** frontages, the Zoning Administrator shall determine the front yard requirements, subject to the prevailing yard pattern and the following limitations: (1) at least one front yard shall be provided having the full depth required generally in the district; (2) no other front yard on such lot shall have less than half the full depth required generally.

***Depth of Required Front Yards Shall be Measured*** at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property owners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. See illustration at end of this Section.

***Yard, Side:*** A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In case of ***Through Lots***, side yards shall extend from the rear lines of front yards required. In the case of ***Corner Lots***, yards remaining after full and half-depth front yards have been established shall be considered side yards.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

See illustration at end of this Section.

***Yard, Rear:*** A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

See illustration at end of this Section.

***Yard, Special:*** A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the Zoning Administrator shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

See illustrations at end of this Article in **Appendix "A"**.

**(Sec. 2)**

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## ARTICLE II – DISTRICTS ESTABLISHED

**40-2-1      OFFICIAL ZONING MAP.** The City is hereby divided into districts, including a Special Airport Height Control District, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Code.

(A) The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in **Section 40-1-1** of this Code of the City", together with the date of the adoption of this Code.

(B) If, in accordance with the provisions of this Code and the Illinois Municipal Code, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows: "On (date), by official action of the City, the following (change) changes were made in the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the Mayor and attested by the City Clerk. No amendment to this Code which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

(C) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code and punishable as provided under **Section 40-8-2**.

(D) Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the City Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

**(Sec. 3)**

**40-2-2      ZONING DISTRICTS.** The zoning districts are established as follows:

<b><u>DISTRICT</u></b>	<b><u>DESIGNATION</u></b>
Agricultural - General	A-1
Agricultural - Limited	A-2
Agricultural – Flood Plain	A-3
Forestry	A-4
Residential – Low Density	R-1
Residential – Low-Medium Density	R-2
Residential – Medium Density	R-3
Residential – High Density	R-4
Residential – Rural Estates	R-5
Planned – Mobile Home	M-1
Planned – Travel Trailer	M-2
Planned – Business	M-3



Business – Central Business District	B-1
Business – Secondary Business District	B-2
Business – Professional Administrative	B-3
Business – Neighborhood Business	B-4
Business – Interstate Interchange	B-5
Business – Limited Secondary	B-6
Industrial – Light	I-1
Industrial – Restricted	I-2
Industrial – General	I-3
Industrial – Isolated	I-4

**40-2-3      REPLACEMENT OF OFFICIAL ZONING MAP.** In the event there have been any changes in the Official Zoning Map in any calendar year, or if the Official Zoning Map becomes destroyed, damaged, lost, or difficult to interpret, the Zoning Administrator hereinafter provided for shall prepare and publish a new map incorporating changes during the previous calendar year prior to the last regularly scheduled meeting of the City Council in March of the succeeding year. At the last regularly scheduled City meeting in March, the City shall by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map as part of this Code of the City.

Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

**40-2-4      ANNUAL PUBLICATION.** In accordance with State Law, if any changes are made in the zoning districts or regulations during a calendar year, the Zoning Administrator shall publish the revised official zoning map of the Village not later than **March 31<sup>st</sup>** of the following year. The map shall be published if there are any annexations. **(See 65 ILCS 5/11-13-19)**

**40-2-5      RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (A) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- (B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (C) Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- (D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(E) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore lines; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines;

(F) Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (E) above shall be construed. Distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(G) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (A) through (F) above, the Board of Appeals shall interpret the district boundaries.

(H) Where a district boundary line divides a lot which was in single ownership at the time of application, the Board of Appeals may permit the extension of the boundary to include the entire lot. **(Ord. No. 1243; 10-09-89)**

**(Sec. 4)**

**40-2-6 APPLICATION OF DISTRICT REGULATIONS.** The regulations set by this Code within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

(A) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all regulations herein specified for the district in which it is located.

(B) No building or other structure shall hereafter be erected or altered:

- (1) to exceed the height or bulk;
- (2) to accommodate or house a greater number of families;
- (3) to occupy a greater percentage of lot area;
- (4) to have narrower or smaller rear yards, front yards, side yards, or other open spaces

than herein provided; or in any other manner contrary to the provisions of this Code.

(C) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Code, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building or any other lot.

(D) No yard or lot existing at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.

(E) All territory which may hereafter be annexed to the City shall be considered to be in the General Agriculture District unless and/or until otherwise classified.

**(Sec. 5)**

**40-2-7 SCHEDULE OF DISTRICT REGULATIONS ADOPTED.** District regulations shall be as set forth in the Schedule of District Regulations, hereby adopted by reference and declared to be a part of this Code, and in **Section 40-3-6** of this Code, entitled, "Supplementary District Regulations." **(Sec. 6)**

**40-2-8            SUPPLEMENTARY DISTRICT REGULATIONS.**

(A)            **Visibility at Intersections in Residential Districts.** On corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of **two and one-half (2 ½)** and **ten (10) feet** above the centerline grades of the intersecting streets in the area bounded by the lot lines of such corner lots and a line joining points along said lot lines **fifteen (15) feet** from the point of the intersection of the lot lines.

(B)            **Fences, Walls, and Hedges.** Notwithstanding other provisions of this Code, fences, walls and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall or hedge along the sides or front edge of any front yard shall conflict with the provisions of **Section 40-7-1** of this Code.

(C)            **Accessory Structure.** Minimum side yard and rear yard depth requirements in each residential district shall apply to the principal building, any accessory building can be built within **three (3) feet** of side lot line if no closer than **ten (10) feet** to an existing building; however with a Special Use Permit an accessory building can be built on the side yard lot line or rear yard lot line that abuts a public alley, or permitting accessory or principal buildings on or across side lot lines in a common development. **(Ord. No. 1157; 06-20-86)**

(D)            **Erection of More than One (1) Principal Structure on a Lot.** In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Code shall be met for each structure as though it were on an individual lot.

(E)            **Exceptions to Height Regulations.** The height limitations contained in the Schedule of District Regulations do not apply to spires, elevator penthouses, belfries, cupolas, antennas, water tanks, ventilators, chimneys, farm silos in agricultural district or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(F)            **Structures to Have Access.** Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

(G)            **Parking, Storage, or Use of Major Recreational Equipment.** No major recreational equipment shall be parked except in accordance to parking regulations. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a lot, street or alley or in any location not approved for such parking.

(H)            **Parking Abandoned Vehicles.** Automotive vehicles, trucks, or trailers of any kind or type without current license plates, shall not be parked or stored on any residentially zoned property other than in completely closed buildings.

**(Sec. 7)**

**40-2-9            AIRPORT HEIGHT REGULATIONS – ADOPTION OF HEIGHT CONTROLS BY REFERENCE.** In addition to those zoning districts established in the Schedule of District Regulations, an Airport Height Control District as regulated by the Benton Airport Authority (or appropriate authorized agency) and as delineated on the Official Zoning Map, is hereby adopted by reference. **(Sec. 8)**

## **ARTICLE III – ZONE DISTRICTS ESTABLISHED**

### **DIVISION I - GENERALLY**

**40-3-1      SCHEDULE OF DISTRICT REGULATIONS.** The column headings in this Schedule of District Regulations are self-explanatory. However, prior to any reference to this Schedule, it would be prudent to refer to the following General Statement of Intent which is to be used as a guide in any interpretation of the various Statements of Intent and Regulations for Land Use Districts established by this Code.

**40-3-2      GENERAL STATEMENT OF INTENT.** The zoning districts hereby established are to effect a plan of land use which will:

- (A) Create order out of chaos.
- (B) Be based upon existing land use.
- (C) Provide a pleasant and economical living environment for inhabitants of the community through the establishment of a variety of districts to meet individual preferences and overall community needs.
- (D) Utilize governmental and public utilities facilities in the most economical manner possible which in turn should provide the most service for the least cost.
- (E) Preserve and enhance property values throughout the community by keeping like and compatible uses together, and to separate incompatible uses from each other by designation on the Zoning District Map which is an integral part of this Code.
- (F) Discourage the perpetuation of nonconformities to the various Land Use Districts in the administration and interpretation of this Code.

**40-3-3 - 40-3-4      RESERVED.**

### **DIVISION II – FORESTRY DISTRICT (A-4)**

**40-3-5      PERMITTED USES.**

(A) **Principal Uses and Structures.**

- (1) Forests
- (2) Woodlands
- (3) Parks

(B) **Accessory Uses and Structures.**

- (1) None

(C) **Special Uses by Permit.**

- (1) Recreational uses not incompatible with the statement of intent for this district.
- (2) Temporary food and entertainment concessions.

**40-3-6      PROHIBITED USES.**

- (A)      Residential
- (B)      Commercial
- (C)      Industrial

**40-3-7 - 40-3-9      RESERVED.**

**DIVISION III – AGRICULTURAL – GENERAL (A-1)**

**40-3-10      DISTRICT DESCRIPTION.** To provide land for purposes devoted primarily to the production of agricultural products such as field crops, livestock, fowl, and other conventional agricultural pursuits. This district is also created to assist in the conservation of the natural resources within the jurisdiction of this Code by encouraging practices which will conserve soil, soil resources, water, water resources, and prevent soil erosion and floodwater damages. Utilities other than electricity and telephone should be provided by the land user, thereby discouraging the uneconomical extension of public water supply and sewage disposal facilities. Uses not related to Agriculture are discouraged. When the public interest will be served and only when a contribution will be made to orderly growth, portions of this district may be rezoned for alternative uses.

**40-3-11      LOT REQUIREMENTS.**

(A)      **Minimum Lot Area.** Ten (10) acres, except for: churches, and cemeteries in which case two (2) acres; and special uses as determined by the Zoning and Planning Commission.

(B)      **Minimum Lot Width.** Three hundred (300) feet.

(C)      **Minimum Front Yard Depth.** Eighty (80) feet along Federal Highway, sixty (60) feet along other public roads.

(D)      **Minimum Rear Yard Depth.** One hundred (100) feet.

(E)      **Minimum Floor Area.** One thousand (1,000) square feet.

(F)      **Maximum Height.** Forty (40) feet except barns and silos.

(G)      **Maximum Stories.** Three (3).

(H)      **Maximum Floor Area Ratio.** Not applicable.

(I)      **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Dwelling Unit	2	0
Home occupation	+1	0
Churches per 4 seats in main auditorium	1	0
Sanitary landfill or other qualified disposal		
Plant per 3 employees	1	0
All remaining permitted uses and special		
Uses permitted	Subject to Zoning and Planning Commission	

**40-3-12****PERMITTED USES.**

(A)

**Principal Uses and Structures.**

- (1) Agriculture and agriculture buildings in connection with a bona fide farm operation (1)
- (2) Cemeteries
- (3) Churches (3)
- (4) Essential services
- (5) Forest preserves
- (6) Single family dwellings

(B)

**Accessory Uses and Structures.**

- (1) Accessory uses and structures customarily incidental to permitted principal uses and on the same parcel including:
  - (a) Residential garages
  - (b) Private swimming pools
  - (c) Living quarters of persons employed on the premises
  - (d) Home occupations (6)
  - (e) Truck or equipment terminal
  - (f) Roadside produce stands in conjunction with a bona fide farm operation on the premises
  - (g) One artificial lake of **three (3) acres** or less
  - (h) Kennel

(C)

**Special Uses by Permit.**

- (1) Sale of greenhouse products grown on premises
- (2) Riding stables (1)
- (3) Penal or correctional institution (2)
- (4) Airport or heliport (5)
- (5) More than 1 artificial lake of **three (3) or more acres** with recommendation of qualified engineer
- (6) Commercial agricultural storage operations
- (7) Public utility substation
- (8) Public sewage disposal or Public Water Plant (4)
- (9) Mineral extractive operations including, but not limited to coal, oil, rock, gravel, sand, and the related processing operations storing and sale of such minerals (4)
- (10) Sanitary landfill or other qualified disposal system (7)
- (11) Commercial radio or television station
- (12) Commercial radio or television tower (12)
- (13) Mobile Homes (8)
- (14) Raising, breeding, and boarding of non-farm fowl and animals (1)
- (15) Seasonal fishing, hunting lodge, gun club, and related operations
- (16) Railroad
- (17) Horse or auto race track stadium or coliseum (1)(4)

**40-3-13****PROHIBITED USES.**

Any use more appropriate to another zone or zones including, but not limited to:

- (A) Travel trailers
- (B) Junk yard
- (C) Abandoned automobile

- (D) Automobile wrecking
- (E) Mobile home parks

**[NOTE: See Appendix "B" at the end of this Code.]**

**40-3-14      RESERVED.**

**DIVISION IV – LIMITED AGRICULTURAL DISTRICT (A-2)**

**40-3-15      DISTRICT DESCRIPTION.** To provide for small farm agricultural and residential purposes, and other, but limited compatible uses. To discourage commercial, industrial, and small lot residential uses, thereby encouraging the development of vacant land which is presently platted and/or within the corporate limits of the community. **One (1) large animal or three (3) small animals** will be permitted for each **one-half (1/2) acres** of free roaming area. Conservation of natural resources is encouraged through practices which will conserve soil erosion and floodwater damages. Utilities other than electricity and telephone should be provided by the land user thereby discouraging the uneconomical extension of public water supply and sewage disposal facilities. When the public interest will be served, and only when a contribution will be made to orderly growth, portions of this district may be rezoned for alternative uses.

**40-3-16      LOT REQUIREMENTS.**

- (A) **Minimum Lot Area. Three-fourths (3/4) acre** for permitted uses. As determined by Zoning and Planning Commission for special uses.
- (B) **Minimum Lot Width. One hundred fifty (150) feet.**
- (C) **Minimum Front Yard Depth. Eighty (80) feet** along Federal Highway, **sixty (60) feet** along other public roads.
- (D) **Minimum Rear Yard Depth. Sixty (60) feet.**
- (E) **Minimum Side Yard Width. Thirty (30) feet.**
- (F) **Minimum Floor Area. One thousand (1,000) square feet.**
- (G) **Maximum Height. Forty (40) feet** except barns and silos.
- (H) **Maximum Stories. Three (3).**
- (I) **Maximum Floor Area Ratio.** Not applicable.
- (J) **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Kindergarten or day nursery per 5 students	1	0
Hospital or nursing home per 3 beds	1	1 – up to 200 beds 2 – 201 to 500 beds 3 – over 500 beds
Radio & television stations per 2 employees Per shift	1	0

Schools, funeral homes per 4 seats in main		
Auditorium	1	0
Dwelling Unit	1	0
Home occupation	+1	0
Churches per 4 seats in main auditorium	1	0
Sanitary landfill or other qualified disposal		
Plant per 3 employees	1	0
All remaining permitted uses and special		
Uses permitted	Subject to Zoning and Planning Commission	

#### **40-3-17**

#### **PERMITTED USES.**

##### **(A)**

#### **Principal Uses and Structures.**

- (1) Agriculture and agriculture buildings in connection with a bona fide farm operation (1)
- (2) Cemeteries
- (3) Churches (3)
- (4) Essential services
- (5) Forest preserves
- (6) Single family dwellings (8) **(Ord. No. 1157)**
- (7) Parks and playgrounds
- (8) Country clubs, conventional golf courses, swimming clubs, and similar recreational uses
- (9) Public and private schools and closely related subordinate uses
- (10) Veterinarian
- (11) Agriculture uses include, but not necessarily limited to:
  - (a) Seed farms – flower or stock nursery
  - (b) Berry farms
  - (c) Worm farms
  - (d) Commercial chicken or turkey farms (1)
  - (e) Raising and/or breeding and/or training and/or boarding of farm and/or non-farm fowl and/or animals (1)
  - (f) Orchards

##### **(B)**

#### **Accessory Uses and Structures.**

- (1) Accessory uses and structures customarily incidental to permitted principal uses and on the same parcel including:
  - (a) Residential garages
  - (b) Private swimming pools
  - (c) Living quarters of persons employed on the premises
  - (d) Home occupations (6)
  - (e) Truck or equipment terminal
  - (f) Roadside produce stands in conjunction with a bona fide farm operation on the premises
  - (g) One artificial lake of **three (3) acres** or less
  - (h) Kennel

##### **(C)**

#### **Special Uses by Permit.**

- (1) Sale of greenhouse products grown on premises
- (2) Riding stables (1)
- (3) Seasonal fishing, hunting lodge, gun club, and related operations



- (4) Penal or correctional institution (2)
- (5) Airport or heliport (5)
- (6) More than 1 artificial lake of **three (3) or more acres** with recommendation of a qualified engineer
- (7) Railroad
- (8) Horse or auto race track stadium or coliseum (1)(4)
- (9) Commercial agricultural storage operations
- (10) Public utility substation
- (11) Public sewage disposal or Public Water Plant (4)
- (12) Mineral extractive operations including, but not limited to coal, oil, rock, gravel, sand, and the related processing operations storing and sale of such minerals (4)
- (13) Sanitary landfill or other qualified disposal system (7)
- (14) Commercial radio or television station
- (15) Commercial radio or television tower (12)
- (16) Mobile Homes (8)
- (17) Drive-in Theater
- (18) Veterinary Hospital (1)
- (19) Kindergartens or day nurseries (2)
- (20) Medical Clinics
- (21) Funeral Homes
- (22) Modular Homes (**Ord. No. 97-04; 02-24-97**)

**40-3-18      PROHIBITED USES.** Any use more appropriate to another zone or zones including, but not limited to:

- (A) Travel trailers
- (B) Junk yard
- (C) Abandoned automobile
- (D) Automobile wrecking
- (E) Mobile home parks

**[NOTE: See Appendix "B" at the end of this Code.]**

**40-3-19      RESERVED.**

## **DIVISION V – AGRICULTURAL FLOOD PLAIN (A-3)**

**40-3-20      DISTRICT DESCRIPTION.** To delineate reasonable high water marks within the jurisdiction of this Code. For reasons of health, safety, and the general welfare of the public, it is in the public interest to permit only limited types of uses within this (these) area(s) which is (are) subject to flooding and require(s) emergency services. A factor recognized in determining reasonable high water marks is that as urban land use increases, storm water runoff will also tend to increase, consequently taxing the water carrying capacity of certain low lying areas within the jurisdiction of this Code. The development of roads, streets, highways, water

and sewer lines are discouraged in this district, as such improvements would tend to encourage further developments. **(See Chapter 14)**

**40-3-21      LOT REQUIREMENTS.**

- (A) **Minimum Lot Area.** Four (4) acres except for: parks and playgrounds in which case one (1) acre; heliports, two (2) acres.
- (B) **Minimum Lot Width.** Two hundred (200) feet.
- (C) **Minimum Front Yard Depth.** Sixty (60) feet.
- (D) **Minimum Rear Yard Depth.** Sixty (60) feet.
- (E) **Minimum Side Yard Depth.** Thirty (30) feet.
- (F) **Minimum Floor Area.** One thousand (1,000) square feet.
- (G) **Maximum Height.** Forty (40) feet.
- (H) **Maximum Stories.** Three (3).
- (I) **Maximum Floor Area Ratio.** Not applicable.
- (J) **Minimum Off-Street Parking and Loading.**

Parking Spaces

Loading Spaces

Permitted uses and special uses permitted      Subject to Zoning and Planning Commission

**40-3-22      PERMITTED USES.**

(A) **Principal Uses and Structures.**

- (1) Agriculture and customary agricultural buildings and structures (1)
- (2) Parks and playgrounds
- (3) Airport or heliport (5)
- (4) Stadium or coliseum (2)
- (5) Horse or auto race track (1)
- (6) Essential services
- (7) One artificial lake of **three (3) acres** or less

(B) **Accessory Uses and Structures.**

- (1) Accessory uses and structures incidental to permitted principal uses and structures and on the same parcel
- (2) One artificial lake of **three (3) acres** or less

(C) **Special Uses by Permit.**

- (1) Accessory uses of permitted principal uses in adjoining districts (such as parking lots, golf courses, etc.) and which are compatible with the statement of intent for this district.
- (2) Mineral extractive operations, including, but not limited to coal, oil, rock, gravel, and the related processing operations, storing and sale of such minerals (2)
- (3) May be used to meet area requirements of adjoining districts if on the same parcel.
- (4) Drive-in theater
- (5) More than one artificial lake of **three (3) acres** or less
- (6) Artificial lake of **three (3)** or more acres depending on recommendation of qualified agricultural engineer

- (7) If it can be demonstrated to the Zoning and Planning Commission that such land is or may be adequately drained and that the water table elevation will permit successful utilization of the land, a permit may be granted for a use which is compatible, contiguous, and subject to the regulations governing the adjoining district(s). Adequate drainage and necessary supporting structures shall be installed prior to the use and occupancy of the land

**40-3-23**

**PROHIBITED USES.**

- (A) All residential dwelling
- (B) Commercial structures
- (C) Industrial structures except mineral extractions
- (D) Railroads
- (E) Mobile homes
- (F) Travel trailers

**[NOTE: See Appendix "B" at the end of this Code.]**

**40-3-24**

**RESERVED.**

**DIVISION VI – RURAL ESTATES (R-5)**

**40-3-25** **DISTRICT DESCRIPTION.** To provide land outside and/or inside existing City limits for extremely large lot single family residential purposes wherein utilities other than electricity may be provided by the land user. To discourage small lot development of any type thereby encouraging the development of vacant land which is already platted and/or within the corporate limits of the community and is more likely to have the services of all utilities. Any land designated for this use shall have a minimum of **twenty (20)** contiguous and relatively compact acres which shall also include any public right-of-way for each R-5 district so established. Until such time that an R-5 district is subdivided, principal and accessory land uses as permitted under Limited Agriculture (A-2) may continue. **(Ord. No. 1157; 06-20-86)**

**40-3-26**

**LOT REQUIREMENTS.**

- (A) **Minimum Lot Area.** One (1) acre.
- (B) **Minimum Lot Width.** One hundred fifty (150) feet.
- (C) **Minimum Front Yard Depth.** Sixty (60) feet.
- (D) **Minimum Rear Yard Depth.** Sixty (60) feet.
- (E) **Minimum Side Yard Depth.** Forty (40) feet.
- (F) **Minimum Floor Area.** One thousand five hundred (1,500) square feet exclusive of garages.
- (G) **Maximum Height.** Thirty (30) feet.
- (H) **Maximum Stories.** Three (3).
- (I) **Maximum Floor Area Ratio.** Not applicable.

(J) **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Schools, per 4 seats in main auditorium	1	0
Churches, per 4 seats in main auditorium	1	0
Dwelling unit	2	0

**40-3-27** **PERMITTED USES.**

(A) **Principal Uses and Structures.**

- (1) Single family residential units
- (2) Parks and playgrounds
- (3) Essential services

(B) **Accessory Uses and Structures.**

- (1) Accessory uses and structures customarily incidental to permitted principal uses and on the same parcel including:
  - (a) Residential garages
  - (b) Private swimming pools
  - (c) Living quarters of persons employed on the premises
  - (d) One artificial lake of **three (3) acres** or less
  - (e) Kennel

(C) **Special Uses by Permit.**

- (1) Churches, public or private schools and subordinate uses related thereto
- (2) Planned unit developments
- (3) Limited Agriculture, principal and accessory uses shall be permitted in undeveloped portions of an R-5 district **(Ord. No. 1157; 06-20-86)**

**40-3-28** **PROHIBITED USES.** Any use more appropriate in another zone or zones including, but not limited to:

- (A) Mobile homes
- (B) Junk yard
- (C) Industrial uses
- (D) Commercial uses
- (E) Mineral extractive operation
- (F) Abandoned automobile
- (G) Automobile wrecking
- (H) Truck or equipment terminal
- (I) Manufactured Housing **(Ord. No. 97-04; 02-24-97)**

**40-3-29** **RESERVED.**

## **DIVISION VII – RESIDENTIAL DISTRICT – LOW DENSITY (R-1)**

**40-3-30      DISTRICT DESCRIPTION.** To provide land within and in some cases adjacent to the corporate limits of the community for single family residential purposes. Persons residing in this district prefer and are entitled to maximum protection from the encroachment of other types of uses which are not appropriate to residential areas. Other reasons for the establishment of this district are: to maintain a quiet atmosphere within the district: to discourage incompatible uses within the district. Care has been taken and shall be taken in the delineation and expansion of this district to assure that adequate water is available and that individual sewage disposal systems will, when required, be adequate.

- 40-3-31      LOT REQUIREMENTS.**
- (A) **Maximum Density. Three (3) dwelling units per gross acre.**
  - (B) **Minimum Lot Area. Seventeen thousand (17,000)<sup>9</sup> square feet; twelve thousand (12,000)<sup>10</sup> square feet.**
  - (C) **Minimum Lot Width. Seventy-five (75) feet.**
  - (D) **Minimum Front Yard. Thirty-five (35) feet.**
  - (E) **Minimum Side Yard. Ten percent (10%) of lot width on each side but shall not be less than twelve (12) feet and need not be more than fifteen (15) feet.**
  - (F) **Minimum Rear Yard. Twenty (20) feet.**
  - (G) **Minimum Floor Area. One thousand two hundred (1,200) square feet exclusive of garage.**
  - (H) **Maximum Height. Thirty (30) feet.**
  - (I) **Maximum Stories. Two (2).**
  - (J) **Maximum Floor Area Ratio. Not applicable.**
  - (K) **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Residential dwellings on neighborhood streets	2	
If lots face on a secondary or primary street	4	
Fire station per 2 employees on maximum shift	1	
Schools, per 4 seats in main auditorium	1	0
All remaining permitted uses and special uses		
Permitted	Subject to Zoning and Planning Commission	

### **40-3-32      PERMITTED USES.**

- (A) **Principal Uses and Structures.**
  - (1) Single family residential units
  - (2) Parks, public schools and recreational buildings; libraries and public buildings
- (B) **Accessory Uses and Structures.**
  - (1) Accessory uses and structures customarily incidental to permitted uses and on the same parcel
  - (2) Private swimming pools
  - (3) Residential garages

(C)

**Special Uses by Permit.**

- (1) Planned unit developments with minimum tracts of **ten (10) acres**
- (2) Planned unit developments shall meet performance standards of **Section 40-5-2(A)** of this Code.
- (3) Parking lots when abutting a permitted use in the commercial or manufacturing zones, when incidental to such permitted uses
- (4) Public utility facilities
- (5) Churches or private schools and subordinate uses related thereto
- (6) Kindergarten or day nursery
- (7) Fire stations
- (8) Home occupation

**40-3-33      PROHIBITED USES.** Any use more appropriate in another zone or zones including, but not limited to:

- (A) Mobile homes
- (B) Commercial uses
- (C) Industrial uses
- (D) Mineral extractive operation
- (E) Abandoned automobile
- (F) Automobile wrecking
- (G) Truck or equipment terminal
- (H) Kennel
- (I) Sign off-site
- (J) Manufactured Housing **(Ord. No. 97-04; 02-24-97)**

**40-3-34      RESERVED.**

**DIVISION VIII – RESIDENTIAL DISTRICT – LOW-MEDIUM DENSITY (R-2)**

**40-3-35      DISTRICT DESCRIPTION.** To provide land within and in some cases adjacent to the corporate limits of the community for single family residential purposes. Persons residing in this district prefer and are entitled to maximum protection from the encroachment of other types of uses which are not appropriate to residential areas. Other reasons for the establishment of this district are: to maintain a quiet atmosphere within the district: to discourage incompatible uses within the district. Care has been taken and shall be taken in the delineation and expansion of this district to assure that adequate water is available and that individual sewage disposal systems will not be required.

**40-3-36      LOT REQUIREMENTS.**

- (A) **Maximum Density. Five (5) dwelling units per gross acre.**
- (B) **Minimum Lot Area. Seven thousand (7,000) square feet.**
- (C) **Minimum Lot Width. Sixty-five (65) feet except existing lots of record, fifty (50) feet.**

- (D) **Minimum Front Yard. Twenty-five (25) feet.**
- (E) **Minimum Side Yard. Eight (8) feet** for principal building and **five (5) feet** for garage and accessory building, **three (3) feet** if not closer than **ten (10) feet** to an existing building. **(Ord. No. 1157; 06-20-86)**
- (F) **Minimum Rear Yard. Twenty (20) feet.**
- (G) **Minimum Floor Area. Nine hundred (900) square feet** single family; **six hundred (600) square feet** two family exclusive of garage.
- (H) **Maximum Height. Thirty (30) feet.**
- (I) **Maximum Stories. Two (2).**
- (J) **Maximum Floor Area Ratio.** Not applicable.
- (K) **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Residential dwellings on neighborhood streets 2		0
If lots face on a secondary or primary street	4	0
Fire station per 2 employees on maximum shift	1	0
Schools, per 4 seats in main auditorium	1	0
All remaining permitted uses and special uses		
Permitted	Subject to Zoning and Planning Commission	

#### **40-3-37**

##### **PERMITTED USES.**

##### **(A)**

##### **Principal Uses and Structures.**

- (1) Single family residential units
- (2) Parks, public schools and recreation buildings; libraries and public buildings

##### **(B)**

##### **Accessory Uses and Structures.**

- (1) Accessory uses and structures customarily incidental to permitted principal uses and on the same parcel
- (2) Private swimming pools
- (3) Residential garages

##### **(C)**

##### **Special Uses by Permit.**

- (1) Planned unit developments with minimum tracts of **ten (10) acres**
- (2) Planned unit developments shall meet performance standards of **Section 40-5-2(A)** of this Code.
- (3) Parking lots when abutting a permitted use in the commercial or manufacturing zones, when incidental to such permitted uses
- (4) Public utility facilities
- (5) Churches or private schools and subordinate uses related thereto
- (6) Kindergarten or day nursery
- (7) Fire stations
- (8) Two family residential units
- (9) Home occupation
- (10) Modular Housing **(Ord. No. 97-04; 02-24-97)**

**40-3-38** **PROHIBITED USES.** Any use more appropriate in another zone or zones including, but not limited to:

- (A) Mobile homes
- (B) Commercial uses
- (C) Industrial uses
- (D) Mineral extractive operation
- (E) Abandoned automobile
- (F) Automobile wrecking
- (G) Truck or equipment terminal
- (H) Kennel
- (I) Sign off-site

**40-3-39      RESERVED.**

**DIVISION IX – RESIDENTIAL DISTRICT – MEDIUM DENSITY (R-3)**

**40-3-40      DISTRICT DESCRIPTION.** To provide land within the corporate limits of the community for single and multiple family residential purposes. Persons and families residing in this district are entitled to protection from the encroachment of other types of uses which are not appropriate to medium density residential areas. In relation to R-1 districts (low density residential) to provide for higher traffic flow; maintain a relatively quiet atmosphere; discourage incompatible uses; provide less but adequate open space. Care has been taken and shall be taken in the delineation and expansion of this district to assure that adequate public water is available and that individual sewage disposal systems will not be required.

**40-3-41      LOT REQUIREMENTS.**

(A) **Maximum Density.** Six and one-half (6.5) dwelling units per gross acre.

(B) **Minimum Lot Area.** Seven thousand (7,000) square feet per single family dwelling unit and boarding houses; three thousand three hundred (3,300) square feet per dwelling unit in multiple family structures; seven thousand (7,000) square feet for uses other than residential.

(C) **Minimum Lot Width.** Fifty (50) feet.

(D) **Minimum Front Yard.** Fifteen (15) feet or the average front yard of parcels where structures exist, in the same block, on the same side of the street at the time a building permit is issued.

(E) **Minimum Rear Yard.** Fifteen (15) feet.

(F) **Minimum Side Yard Width.** Eight (8) feet for principal building and five (5) feet for garage and accessory buildings, three (3) feet if not closer than ten (10) feet to an existing building. (Ord. No. 1157; 06-20-86)

(G) **Minimum Floor Area.** Residential per dwelling unit exclusive of garages: (1) 1 family, seven hundred twenty (720) each; (2) 2, 3 & 4 family - six hundred (600) each; (3) boarding houses – eight hundred (800) plus two hundred fifty (250) per lodging room. Non-residential: one hundred (100) square feet. (Ord. No. 1157; 06-20-86)

(H) **Maximum Height.** Thirty-five (35) feet.

(I) **Maximum Stories.** Three (3).



(J) **Maximum Floor Area Ratio.** Not applicable.

(K) **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Each dwelling unit of 900 sq. ft. or more	2	
Each dwelling unit under 900 sq. ft.	1.5	
Boarding house, plus 1 per each lodging room or Fraction thereof	2	
Fire station per 2 employees on maximum shift	1	
Libraries per 2 employees plus 1 per 6 reading or Study chairs	1	
Schools, per 4 seats in main auditorium	1	0
All remaining permitted uses and special uses Permitted	Subject to Zoning and Planning Commission	

**40-3-42 PERMITTED USES.**

(A) **Principal Uses and Structures.**

- (1) Single family residential units, two family dwelling units, or three family dwelling units
- (2) Parks, public schools, and recreation buildings; libraries and public buildings

(B) **Accessory Uses and Structures.**

- (1) Accessory uses and structures customarily incidental to permitted principal uses and on the same parcel
- (2) Private swimming pools
- (3) Residential garages

(C) **Special Uses by Permit.**

- (1) Planned unit developments with minimum tracts of **four (4) acres**
- (2) Planned unit developments shall meet performance standards of **Section 40-5-2(A)** of this Code.
- (3) Parking lots when abutting a permitted use in the commercial or manufacturing zones, when incidental to such permitted uses
- (4) Public utility facilities
- (5) Churches or private schools and subordinate uses related thereto
- (6) Kindergarten or day nursery
- (7) Fire stations
- (8) Hospital or nursing home
- (9) Funeral homes
- (10) Boarding houses
- (11) Four-plex, four family dwelling
- (12) Home occupation
- (13) Modular Homes **(Ord. No. 97-04; 02-24-97)**

**(Ord. No. 00-24)**

**40-3-43 PROHIBITED USES.** Any use more appropriate in another zone or zones including, but not limited to:

- (A) Commercial uses
- (B) Industrial uses
- (C) Mineral extractive operation
- (D) Abandoned automobile
- (E) Automobile wrecking
- (F) Truck or equipment terminal
- (G) Kennel

**40-3-44      RESERVED.**

**DIVISION X – RESIDENTIAL DISTRICT – HIGH DENSITY (R-4)**

**40-3-45      DISTRICT DESCRIPTION.** This district is created to allow the most intensive residential development in the community, but also to provide for adequate off-street parking and open space. To permit a larger variety of uses which are not inconsistent with the aims of this district which shall be dominantly residential in character. Adequate public water and sewer are available to meet the needs of this high density residential area, and shall be available in any additional area proposed for this district.

**40-3-46      LOT REQUIREMENTS.**

(A) **Maximum Density.** Forty (40) dwelling units per gross acre.

(B) **Minimum Lot Area.** There shall not be less than **five thousand (5,000) square feet** of lot area. Lot size shall be determined according to the type of dwelling unit, the number of dwelling units, and the location of required off-street parking.

Parking within the structure			Parking not within the structure		
Effic.	750 sq. ft.	) Lot area	Effic.	800 sq. ft.	) Lot area per
1 bedrm	1,000 sq. ft.	) per dwelling	1 bedrm	1,100 sq. ft.	) dwelling unit
2 bedrm	1,150 sq. ft.	) unit	2 bedrm	1,300 sq. ft.	)
3 bedrm	1,400 sq. ft.	)	3 bedrm	1,600 sq. ft.	)

(C) **Minimum Lot Width.** Fifty (50) feet; twenty-five (25) feet for townhouses.

(D) **Minimum Front Yard Depth.** Fifteen (15) feet.

(E) **Minimum Rear Yard Depth.** Fifteen (15) feet.

(F) **Minimum Side Yard Depth.** Ten (10) feet plus two (2) feet for each story over **three (3) stories.**

(G) **Minimum Floor Area.** Residential per dwelling unit exclusive of garages: (1) 1 family, **seven hundred twenty (720)**; (2) 2 family or more - **six hundred (600)** each; (3) boarding houses, fraternities, sororities or dorms – **eight hundred (800)** plus **two hundred (200)** per bed. Non-residential: **eight hundred (800) square feet.** (Ord. No. 1157; 06-20-86)

(H) **Maximum Height.** Two hundred (200) feet.

(I) **Maximum Stories. Twenty (20)** providing any structure over **three (3) stories** shall have an integral passenger elevator.

(J) **Maximum Floor Area Ratio. .75** for one story structure; **1.00** for two story; **1.5** for 3 or 4 stories; **2.0** for 5 or 6 stories; **3.0** for 7 to 10; **4.0** for 11 stories

(K) **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Each dwelling unit of 900 sq. ft. or more	2	
Each dwelling unit under 900 sq. ft.	1.5	
Fraternities, sororities, dorms, boarding houses,		
Plus 1 per each lodging room or fraction thereof	2	
Fire station per 2 employees on working shift	1	
Kindergarten or day nursery per 5 students	1	0
Hospital or nursing home per 3 beds	1	1 – up to 200 beds 2 – 201 to 500 beds 3 – over 500 beds
Churches, schools, funeral homes per 4 seats in		
The main auditorium	1	0
Libraries per 2 employees plus 1 per 6 reading or		
Study chairs	1	
Private clubs or lodges	Subject to Zoning and Planning Commission	

#### **40-3-47**

##### **PERMITTED USES.**

(A)

##### **Principal Uses and Structures.**

- (1) Single family dwelling units
- (2) Two family dwelling units
- (3) Multi-family dwelling units
- (4) Dormitories
- (5) Fraternity and sorority houses
- (6) Public libraries
- (7) Parks and playgrounds
- (8) Essential services
- (9) Boarding houses
- (10) Town house developments of 5 or less units

(B)

##### **Accessory Uses and Structures.**

- (1) Accessory uses and structures customarily incidental to permitted principal uses and on the same parcel including:
  - (a) Residential garages
  - (b) Living quarters of persons employed on the premises
  - (c) Private swimming pools

(C)

##### **Special Uses by Permit.**

- (1) Churches, or private schools and subordinate uses related thereto
- (2) Kindergarten or day nursery
- (3) Fire stations
- (4) Hospital or nursing home
- (5) Parking areas for uses in adjoining less restricted district(s)

- (6) Planned unit developments with minimum tracts of **two (2) acres** in accordance with the provisions for planned unit developments in **Section 40-5-2(A)**.
- (7) Private clubs and lodges
- (8) Dining or drinking facilities in clubs or lodges restricted to members and/or guests of members, and not operated as a public facility
- (9) Funeral home
- (10) Town house developments of **six (6)** or more units
- (11) Mobile homes
- (12) Home occupation
- (13) Modular Housing **(Ord. No. 97-04; 02-24-97)**

**40-3-48      PROHIBITED USES.**

- (A) Open storage of construction equipment
- (B) Kennel
- (C) Industrial uses
- (D) Commercial uses
- (E) Mineral extractive operation
- (F) Abandoned automobile
- (G) Automobile wrecking
- (H) Truck or equipment terminal

**40-3-49      RESERVED.**

**DIVISION XI – PLANNED MANUFACTURED HOUSING DISTRICT (M-1)**

**40-3-50      DISTRICT DESCRIPTION.** This district is created to preserve and enhance property values in the community by providing designated, distinctive areas in which mobile homes may be situated for residential dwelling purposes. It is the intent that this district be a desirable permanent area providing adequate open space, and essentially the same considerations given to residents of R-1 and R-2 districts. Any land so designated must necessarily be through the rezoning process, and thus will require amendment to the Zoning Code official Zoning District Map. All M-1 district shall comply with the performance standards indicated in **Section 40-5-2(C)** of this Code.

**40-3-51      LOT REQUIREMENTS.**

- (A) **Minimum Lot Area. Ten (10) acres.**
- (B) **Minimum Lot Width. Two hundred (200) feet.**
- (C) **Minimum Front Yard Depth.** Refer to Performance Standards **Section 40-5-2(C).**
- (D) **Minimum Rear Yard Depth.** Refer to Performance Standards **Section 40-5-2(C).**

- (E) **Minimum Side Yard Width.** Refer to Performance Standards **Section**  
**40-5-2(C).**  
(F) **Minimum Floor Area.** Five hundred (500) square feet.  
(G) **Maximum Height.** Twenty (20) feet.  
(H) **Maximum Stories.** One (1).  
(I) **Maximum Floor Area Ratio.** Not applicable  
(J) **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Per mobile home	2	0
Per total all washing machines and dry Cleaning machines divided by 3	1	0

**40-3-52 PERMITTED USES.**

(A) **Principal Uses and Structures.**

- (1) Mobile home dwelling
- (2) Laundromats – including facilities for coin operated dry cleaning machines
- (3) Parks and playgrounds
- (4) Essential services

(B) **Accessory Uses and Structures.**

- (1) Only those accessory uses and structures customarily incidental to principal uses and structures

**40-3-53 PROHIBITED USES.**

- (A) Agriculture, conventional dwelling units, industrial use, mobile homes not having access to public water and sanitary sewers
- (B) Commercial uses unless part of a planned development
- (C) Abandoned automobile
- (D) Automobile wrecking
- (E) Kennel
- (F) Truck or equipment terminal

**40-3-54 RESERVED.**

**DIVISION XII – PLANNED TRAVEL TRAILER DISTRICT (M-2)**

**40-3-55 DISTRICT DESCRIPTION.** This district is created to provide space for the temporary (not to exceed **thirty (30) days**) location of travel trailers, mobile homes, pickup truck mounted camper type units or the like. It is intended that this district be located in relative proximity to interregional highways, and/or service type establishments as described in Districts B-5, B-2 and M-3.

This district is discouraged in the basically residential areas of the community. Any land so designated must be through the rezoning process, and this will require amendment to this Code and the official Zoning District Map.

- 40-3-56**      **LOT REQUIREMENTS.**  
 (A)      **Minimum Lot Area.** Two (2) acres.  
 (B)      **Minimum Lot Width.** One hundred (100) feet.  
 (C)      **Minimum Front Yard Depth.** Refer to Performance Standards **Section**  
**40-5-2(D).**      **Minimum Rear Yard Depth.** Refer to Performance Standards **Section**  
**40-5-2(D).**      **Minimum Side Yard Width.** Refer to Performance Standards **Section**  
 (E)      **Minimum Floor Area.** Not applicable.  
 (F)      **Maximum Height.** Twenty (20) feet.  
 (G)      **Maximum Stories.** One (1).  
 (H)      **Maximum Floor Area Ratio.** Not applicable  
 (I)      **Minimum Off-Street Parking and Loading.**  
 (J)

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Per mobile home	1	0
Per total all washing machines and dry Cleaning machines divided by 3	1	0
Pickup truck units, etc.	1	0
Kindergarten or day nursery per 5 children	1	0

- 40-3-57**      **PERMITTED USES.**  
 (A)      **Principal Uses and Structures.**  
             (1) Mobile homes  
             (2) Laundromats – including facilities for coin operated dry cleaning machines  
             (3) Parks and playgrounds  
             (4) Essential services  
             (5) Travel trailers, pickup truck, camper type units, and the like  
             (6) Swimming pools as part of a planned trailer development  
             (7) Kindergarten or day nursery  
 (B)      **Accessory Uses and Structures.**  
             (1) Only those accessory uses and structures customarily incidental to principal uses and structures  
 (C)      **Special Use by Permit.**  
             (1) Mobile home sales and service  
             (2) Travel trailer sales and service

- 40-3-58**      **PROHIBITED USES.**  
 (A)      All except permitted uses

**40-3-59      RESERVED.**

**DIVISION XIII – PLANNED BUSINESS DISTRICT (M-3)**

**40-3-60      DISTRICT DESCRIPTION.** This district is created to provide for the construction of a planned shopping center offering a wide variety of goods and services, and which caters to the auto oriented shopper. This district is similar to the Secondary Business District, but the differentiation between these districts is primarily in the minimum size tract of land involved. Any land so designated must necessarily be through the rezoning process and this will require amendment to this Code and the official Zoning District Map.

- 40-3-61      LOT REQUIREMENTS.**
- (A) **Minimum Lot Area.** Minimum tract of **five (5) acres** for entire development.
- (B) **Minimum Lot Width.** **Three hundred (300) feet** for entire development. For individual uses as determined by the planned development.
- (C) **Minimum Front, Rear and Side Yards.** As determined by development plan.
- (D) **Minimum Floor Area.** **Fifty thousand (50,000) square feet** for entire development.
- (E) **Maximum Height.** **Thirty (30) feet.**
- (F) **Maximum Stories.** **Three (3).**
- (G) **Maximum Floor Area Ratio.** Not applicable (See Footnote (11) in Appendix "C")
- (H) **Minimum Off-Street Parking and Loading.**
- (1) **Parking.** A common parking lot (or lots) is (are) permitted but provisions for parking spaces per used required shall be governed by the requirements of B-2 district.
- (2) **Loading.** Off-street loading facilities and space shall be provided as distinctly separate from parking lots and designed so as there will be a minimum or no conflict with parking lot(s).

**40-3-62      PERMITTED USES.**

(A) **Principal Uses and Structures.**

- (1) Planned unit developments only, but which may include any use as permitted in B-2 or B-5 Districts

(B) **Accessory Uses and Structures.**

- (1) Only those accessory uses and structures customarily incidental to principal uses and structures

(C) **Special Use by Permit.**

- (1) The following manufacturing operations providing they are of a limited nature, in conjunction with a permitted use and in harmony with other activities in this district:
- (a) Bakery manufacturing

- (b) Candy manufacturing
- (c) Drapery manufacturing
- (d) Jewelry manufacturing
- (2) The following uses providing the location, nature and extent of proposed operations are compatible with other uses in the district, and that any proposed development plan provides consideration for integration with the thoroughfare system of the neighborhood and community:
  - (a) Newspaper printing plants
  - (b) Lumber yards
  - (c) Agricultural implement stores
  - (d) Truck terminals
  - (e) Warehouses
  - (f) Moving and storage operations conducted within a building
  - (g) Drive-in theaters

**40-3-63      PROHIBITED USES.**

- (A) Residential dwelling units
- (B) Mobile homes
- (C) Travel trailers
- (D) Agriculture
- (E) Industrial or manufacturing operations except as permitted by Zoning and Planning Commission
- (F) Abandoned automobile
- (G) Automobile wrecking
- (H) Kennel

**40-3-64      RESERVED.**

**DIVISION XIV – PROFESSIONAL ADMINISTRATIVE OFFICE DISTRICT (B-3)**

**40-3-65      DISTRICT DESCRIPTION.** To reserve appropriately located areas for harmonious intermediate uses to serve as buffers between residential districts and non-residential districts. To create a suitable environment for professional office buildings, specially designated for such purposes and located on sites large enough to provide room for landscaping, open space, and off-street parking facilities. To minimize traffic congestion and to avoid the overloading of utilities.

**40-3-66      LOT REQUIREMENTS.**

- (A) **Minimum Lot Area. Five thousand (5,000) square feet.**
- (B) **Minimum Lot Width. Fifty (50) feet.**
- (C) **Minimum Front Yard Depth. Five (5) feet.**



- (D) **Minimum Rear Yard Depth.** None. For structures over **three (3) stories: two (2) feet** at grade for each story added.
- (E) **Minimum Side Yard Width.** None. For structures over **three (3) stories: two (2) feet** at grade for each story added.
- (F) **Minimum Floor Area.** Not applicable.
- (G) **Maximum Height.** **Two hundred (200) feet.**
- (H) **Maximum Stories.** **Twenty (20)** provided any structure over **three (3) stories** shall have an integral passenger elevator.
- (I) **Maximum Floor Area Ratio.** **.75** for one (1) story; **1.5** for 2; **2.0** for 3 or 4; **3.0** for 5 to 10; **4.0** for 11 or more
- (J) **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Human care medical centers or medical offices		
Per employee	1	1
Per physical or dentist	1	
And/or per 5 beds	1	
Other permitted professional and administrative offices		
Per employee	1	
Plus per 500 sq. ft. gross floor area	1	
Private clubs and lodges		
Per table, booth, or 6 seats at bar or		
Main meeting room	3	1

All remaining uses unclassifiable herein shall be as reasonably determined by the Zoning and Planning Commission, based upon anticipated numbers of employees and gross floor area. Dwellings shall have the same required parking as the lowest density adjoining residential zoning district.

**40-3-67 PERMITTED, PROHIBITED, ACCESSORY AND SPECIAL USES.**  
Specified in Business Activity/Use Schedule.

**40-3-68 - 40-3-69 RESERVED.**

## **DIVISION XV – SECONDARY BUSINESS DISTRICT (B-2)**

**40-3-70 DISTRICT DESCRIPTION.** This zone is created primarily as a result of the ever increasing space demands of the auto-oriented shopper, and to provide space for continued growth of such commercial facilities adjacent to or near major thoroughfares.

The most important factor in this district is to promote a more efficient land use and thoroughfare plan for the community and the provision of off-street parking and loading space. It is intended that all land uses (including accessory or supplemental uses) in this district provide an appropriate amount of off-street parking and loading facilities.

**40-3-71      LOT REQUIREMENTS.**

- (A)      **Minimum Lot Area.** Ten thousand (10,000) square feet.  
 (B)      **Minimum Lot Width.** Eighty (80) feet.  
 (C)      **Minimum Front Yard Depth.** Twenty-five (25) feet.  
 (D)      **Minimum Side Yard.** Setbacks are to be **six (6) feet** if a lot is not a corner lot and **twenty (20) feet** on a side street on a corner lot. **(Ord. No. 1157; 06-20-86)**  
 (E)      **Maximum Height.** Thirty-five (35) feet.  
 (F)      **Maximum Stories.** Two (2).  
 (G)      **Maximum Floor Area Ratio.** .6  
 (H)      **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Banks, other financial institutions, business, and		
Professional offices per 400 sq. ft. gross floor area	2	(*)
Beauty shops, per hair dryer, barber shops per chair	3	(*)
Hotel and motel per guest room	1.5	(*)
Retail stores, supermarkets, department stores,		
And personal service shops per 600 sq. ft.		
Gross floor area	1	(*)
Laundromat per 4 coin operated machines	1	(*)
Filling stations per employee	1	(*)
Bowling alleys per lane	3	(*)
Restaurants, night clubs, taverns, lounges per		
Table, booth, or 2 seats at counter or bar	1	(*)
Furniture and appliance stores per 800 sq. ft. of		
Gross floor area	1	(*)
Plus employee parking	1	(*)
Theaters, auditoriums, and places of assembly per		
4 seats of designed capacity	1	(*)

All remaining uses unclassifiable herein shall be as reasonably determined by the Zoning and Planning Commission, based upon anticipated employees and gross floor area.

(\*) None – if any permitted principal use has access to public alley. Any permitted principal use not having access to a public alley or special uses, off-street loading facilities shall be provided or not provided as determined by the Zoning and Planning Commission.

**40-3-72      PERMITTED, PROHIBITED, ACCESSORY AND SPECIAL USES.**  
 Specified in Business Activity/Use Schedule.

**40-3-73 - 40-3-74      RESERVED.**

## **DIVISION XVI – LIMITED SECONDARY BUSINESS DISTRICT (B-6)**

**40-3-75      DISTRICT DESCRIPTION.** This district is created to provide space for continued growth of certain commercial facilities, for the automobile oriented shopper, that are adjacent to thoroughfares and which are also adjoining Low to Medium Residential Zoning districts (R-5, R-1 and R-2).

The most important factors in this district are to limit the land use to those commercial operations which would not infringe upon the safety, morals, or general welfare of the adjoining residential districts, while also promoting the more efficient land use and thoroughfare plan for the community, including the provision of appropriate amounts of off-street parking and loading facilities.

Commercial facilities whose inventories include quantities of solid substances ranging from free or active burning and liquids which produce flammable vapors or gases shall not be permitted within this district.

- 40-3-76      LOT REQUIREMENTS.**
- (A)      **Minimum Lot Area. Ten thousand (10,000) square feet.**
  - (B)      **Minimum Lot Width. Eighty (80) feet.**
  - (C)      **Minimum Front Yard Depth. Twenty-five (25) feet.**
  - (D)      **Minimum Side Yard. Setbacks are to be **six (6) feet** if a lot is not a corner lot and **twenty (20) feet** on a side street on a corner lot. (Ord. No. 1157; 06-20-86)**
  - (E)      **Maximum Height. Thirty-five (35) feet.**
  - (F)      **Maximum Stories. Two (2).**
  - (G)      **Maximum Floor Area Ratio. .6**
  - (H)      **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Banks, other financial institutions, business, and		
Professional offices per 400 sq. ft. gross floor area	2	(*)
Beauty shops, per hair dryer, barber shops per chair	3	(*)
Hotel and motel per guest room	1.5	(*)
Retail stores, supermarkets, department stores,		
And personal service shops per 600 sq. ft.		
Gross floor area	1	(*)
Laundromat per 4 coin operated machines	1	(*)
Restaurants, per table, booth, or 2 seats at counter or bar	1	(*)
Furniture and appliance stores per 800 sq. ft. of		
Gross floor area	1	(*)
Plus employee parking	1	(*)
Theaters, auditoriums, and places of assembly per		
4 seats of designed capacity	1	(*)

All remaining uses unclassifiable herein shall be as reasonably determined by the Zoning and Planning Commission, based upon anticipated employees and gross floor area.

(\*) None – if any permitted principal use has access to public alley. Any permitted principal use not having access to a public alley or special uses, off-street loading facilities shall be provided or not provided as determined by the Zoning and Planning Commission.

\*\* Where a B-6 Zoning District lot adjoins a Residential Zoning District lot, yard requirements shall be the same as requirements of the adjoining residential district. Adjoining shall be interpreted to include across any street or alley.

**40-3-77 PERMITTED, PROHIBITED, ACCESSORY AND SPECIAL USES.**  
Specified in Business Activity/Use Schedule.

**40-3-78 - 40-3-79 RESERVED.**

## **DIVISION XVII – NEIGHBORHOOD BUSINESS DISTRICT (B-4)**

**40-3-80 DISTRICT DESCRIPTION.** This district is created to provide areas for commercial and service uses within residential neighborhoods. This district is (to be) restricted in size and function so as to be compatible with adjoining residential districts. It is intended that the uses permitted be of a neighborhood character rather than of broad community appeal. It is intended that no neighborhood business district be closer than **one thousand three hundred (1,300) feet** of any other business district of any use, and that no neighborhood business district be closer than **two thousand six hundred (2,600) feet** of another business district comprised of the same use. It is further intended that the neighborhood business district be compact and not divided.

**40-3-81 LOT REQUIREMENTS.**

(A) **Maximum Size of District. One-half (1/2) net acre.**

(B) **Minimum Lot Area.** These standards shall be the same as the lowest residential zoning district adjoining the neighborhood business district. Adjoining shall be interpreted to include across any street or alley.

(C) **Minimum Lot Width.** These standards shall be the same as the lowest residential zoning district adjoining the neighborhood business district. Adjoining shall be interpreted to include across any street or alley.

(D) **Minimum Front Yard Depth\*.** These standards shall be the same as the lowest residential zoning district adjoining the neighborhood business district. Adjoining shall be interpreted to include across any street or alley.

(E) **Minimum Side Yard Depth.** These standards shall be the same as the lowest residential zoning district adjoining the neighborhood business district. Adjoining shall be interpreted to include across any street or alley.

(F) **Minimum Rear Yard Depth.** These standards shall be the same as the lowest residential zoning district adjoining the neighborhood business district. Adjoining shall be interpreted to include across any street or alley.

(G) **Maximum Height.** These standards shall be the same as the lowest residential zoning district adjoining the neighborhood business district. Adjoining shall be interpreted to include across any street or alley.

(H) **Maximum Floor Area Ratio.** These standards shall be the same as the lowest residential zoning district adjoining the neighborhood business district. Adjoining shall be interpreted to include across any street or alley.

(I) **Maximum Gross Floor Area of any Single Retail Establishment.**  
**Three thousand (3,000) square feet.**

(J) **Permitted, Prohibited, Accessory and Special Uses.** Specified in Business Activity/Use Schedule.

(K) **Off-Street Parking Requirements.** Same as specific uses in B-2.

\* At least **ten percent (10%)** of the required front yard must be landscaped in natural ground cover.

#### **40-3-82 - 40-3-84 RESERVED.**

### **DIVISION XVIII – CENTRAL BUSINESS DISTRICT (B-1)**

**40-3-85 DISTRICT DESCRIPTION.** This district is the location of the most valuable land in the community, and in its establishment the aims are to protect this community, and in its establishment the aims are to protect this community created value by: restricting uses to primarily pedestrian oriented traffic; discouraging uses requiring large areas of land in proportion to pedestrian traffic generated; encouraging intense land development. Uses in this district should be: predominantly retail; public or private offices; appropriate types of personal and business services. Residential uses are discouraged in this district except for hotels.

Off-street parking in this district except in special uses is encouraged through the development of private and/or public parking facilities which are consolidated and/or of adequate size and lend themselves to better traffic control and more efficient use of land.

The provisions for off-street loading facilities are intended to avoid congestion in the streets which would otherwise hamper the normal flow of traffic resulting from trucks and delivery vehicles double parking. Consequently, off-street loading requirements are encouraged but not required in this district when access to public alley exists.

As a result of this statement of intent and due to the complexities of the central business district, it is in the public interest to develop a plan for the existing Central Business District which will serve as a guide to best implement this statement of intent.

#### **40-3-86 LOT REQUIREMENTS.**

(A) **Minimum Lot Area.** Not applicable.

(B) **Minimum Front, Side and Rear Yards.** None except as required by Zoning and Planning Commission.

(C) **Minimum Floor Area.** Not applicable.

(D) **Maximum Height.** As determined by floor area ratio.

(E) **Maximum Stories.** As determined by floor area ratio.

(F) **Maximum Floor Area Ratio.** **3.0** for 1 through 3 stories; **4.0** for 4 through 6 stories; **5.0** for 7 through 8 stories; **6.0** for 9 through 10 stories; **7.0** for more than 10 stories.

(G) **Minimum Off-Street Parking and Loading.**

- (1) **Parking Spaces.** Off-street parking shall not be required for any permitted use except special uses and shall be provided or not provided as determined by the Zoning and Planning Commission.
- (2) **Loading Spaces.** Permitted principal uses with access to public alley: None. Permitted principal uses with no access to a public alley and special uses as determined by the Zoning and Planning Commission.

(H) **Permitted, Prohibited, Accessory, and Special Uses.** Specified in Business Activity/Use Schedule.

**40-3-87 - 40-3-89 RESERVED.**

## **DIVISION XIX – INTERSTATE INTERCHANGE BUSINESS DISTRICT (B-5)**

**40-3-90 DISTRICT DESCRIPTION.** This district is created to serve predominantly the needs of inter-regional vehicular traffic at interstate interchanges on limited access arterial thoroughfares. The uses allowed in this district should be limited to the needs of the inter-regional traveler which are: food, service, fuel, and lodging. The basic purpose of limiting the land uses in this district is to preserve and enhance the other business district(s) of the community (or nearby communities) by preventing the establishment of a shopping center which would compete with existing or proposed (and justified) shopping centers which cater or will cater to the needs of the community. The land for this district should be compact (not strip type). In any development plan, access points should be limited to minimize hazardous driving conditions.

**40-3-91 LOT REQUIREMENTS.**

- (A) **Minimum Lot Area.** Fifteen thousand (15,000) square feet.
- (B) **Minimum Lot Width.** One hundred (100) feet.
- (C) **Minimum Front Yard Depth.** Sixty (60) feet.
- (D) **Minimum Rear Yard Depth.** Fifteen (15) feet.
- (E) **Minimum Side Yard Width.** Ten (10) feet.
- (F) **Minimum Floor Area.** Not applicable.
- (G) **Maximum Height.** Thirty-five (35) feet.
- (H) **Maximum Stories.** Two (2).
- (I) **Maximum Floor Area Ratio.** Not applicable.
- (J) **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Filling station: per 2 employees of maximum shift	1	
Auto or truck repair shop, per repair bay, grease Rack, wash rack, paint stall, frame rack, etc.	4	
Restaurants, space per table or booth or 3 counter spaces	1	
Hotels or motels, per guest sleeping room	1	
Gift shops, per 200 sq. ft. of floor area	1	
All permitted uses, per service entrance		1
(K) <b><u>Permitted, Prohibited, Accessory, and Special Uses.</u></b>	Specified in	
Business Activity/Use Schedule.		

**40-3-92 - 40-3-94 RESERVED.**

**DIVISION XX – SCHEDULES**

**40-3-95 BUSINESS ACTIVITY/USE SCHEDULE.**

ACTIVITY/USE	ZONING DISTRICTS					
	B-6	B-1	B-2	B-5	B-4	B-3
Accountants	P	P	P	X	X	P
Advertising Agencies	P	P	P	X	X	P
Agriculture	X	X	X	X	X	X
Agricultural Implement	X	X	S-3	X	X	X
Agricultural Products, except produce	X	X	S	X	X	X
Amusement Centers, indoor, N.E.C.	S	P	P	P	X	X
Amusement Centers, outdoor, N.E.C.	X	X	P	X	X	X
Appliance	P	P	P(11)	X	X	X
Appliance Repair	P	P	P	X	X	X
Architects	P	P	P	X	X	P
Art Galleries	P	P	P	X	X	P
Attorneys	P	P	P	X	X	P
Automobile						
Abandoned	X	X	X	X	X	X
Glass	X	S	P	P(10)	X	X
Parking Lots	A	P(1)	P	A	X	A
Parking Structures	A	P(1)	P	A	X	A
Parts, New & Rebuilt	S	P	P	X	X	X
Repair, Major	X	X	P	P	X	X
Repair, Minor	P	X	P	P	X	X
Service Station	P	X	P	P	X	X
Truck Sales	X	S	P	P	X	X
Truck Sales & Service	X	S	P(7)	P	X	X
Upholstery Shop	X	A	A	X	X	S
Washing	X	X	P	P	X	X

ACTIVITY/USE	ZONING DISTRICTS					
	B-6	B-1	B-2	B-5	B-4	B-3
<b>Automobile (Cont'd.)</b>						
Washing Drive-In	S	x	P	P	X	X
Wrecking	X	X	X	X	X	X
<b>Bakery Goods</b>	P	P	P	X	P	X
<b>Bakery Manufacturing</b>	S(11)	S(2)	S(2)	X	P(11)	X
<b>Banks</b>	P	P	P	X	X	P
<b>Banks, Drive-In Facilities</b>	P	S(3)	P	X	X	A(3)
<b>Barber</b>	P	P	P	X	X	P
<b>Beauty Shops</b>	P	P	P	X	X	P
<b>Blueprinting &amp; Photocopying</b>	P	P	P	X	X	A
<b>Books</b>	P	P	P	X	X	P
<b>Bowling Alleys</b>	X	S(3)	P	X	X	X
<b>Business &amp; Professional Offices, N.E.C.</b>	P	P	P	X	X	P
<b>Camera Shop</b>	P	P	P(4)	X	X	P
<b>Candy Shop</b>	P	P	P	X	X	X
<b>Candy Manufacturing</b>	S(11)	S(2)	S(2)	X	X	X
<b>Catering</b>	P	P	P	X	X	X
<b>Chambers of Commerce</b>	P	P	P	X	X	P
<b>Chemical Supplies</b>	X	S(3)	P	X	X	X
<b>Church or Temple</b>	P	S(3)	P	X	X	P
<b>Clothes Cleaning Agency</b>	P	P	P	X	X	X
<b>Clothes Cleaning Plant or Laundry</b>	X	S(2)	S(2)	X	X	X
<b>Clubs or Lodges, Private</b>	X	S(3)	P	X	X	X
<b>Coin Operated Laundromat</b>	P	S(3)	P	X	P	X
<b>Coin Operated Dry Cleaning</b>	P	S(3)	P	X	P	X
Commercial uses including the following when Combined with a major office building of 100,000 gross square feet or more and when such commercial uses are clearly incidental and Adjunct to the primary use; branch banks, Barber shops, beauty shops, personal accessory Shops, cigar stores, high fashion apparel shops, Florist shops, gift shops, candy shops, newspaper And magazine shops, travel bureaus and agencies, Prescription pharmacies	S	X	X	X	X	S
<b>Community Facilities and Institutions</b>						
<b>Public and Parochial Schools</b>						
Nursery	S(3)	S(3)	S(3)	X	X	S(3)
Elementary	S(3)	S	S(3)	X	X	S(3)
Junior High	S(3)	S	S(3)	X	X	S(3)
High School	S(3)	S(3)	S(3)	X	X	S(3)
Colleges	S(3)	S(3)	S(3)	X	X	S(3)
<b>Private Non-Profit Schools &amp; Colleges</b>						
Art	S(3)	S(3)	S(3)	X	X	S(3)
Business	S(3)	S(3)	S(3)	X	X	S(3)
Craft	S(3)	S(3)	S(3)	X	X	S(3)
Dancing	S(3)	S(3)	S(3)	X	X	S(3)



ACTIVITY/USE	ZONING DISTRICTS					
	B-6	B-1	B-2	B-5	B-4	B-3
<b>Community Facilities and Institutions (Cont'd.)</b>						
Private Non-Profit Schools & Colleges (Cont'd.)						
Music	S(3)	S(3)	S(3)	X	X	S(3)
Professional	S(3)	S(3)	S(3)	X	X	S(3)
Trade	S(3)	S(3)	S(3)	X	X	S(3)
Public Facilities	P	P	P	X	X	S
Art Galleries	P	P	P	X	X	S
Community Centers	P	P	P	X	X	S
Libraries	P	P	P	X	X	S
Museums	P	P	P	X	X	S
Parks	S(3)	S(3)	S(3)	X	X	S
Playgrounds	S(3)	X	X	X	X	S
Police Stations	P	P	P	P(10)	X	S
Fire Stations	P	P	P	P(10)	X	S
Other Public Buildings, N.E.C.	S(3)	S(3)	S(3)	S(3)	X	S
Parsonages, Parish Houses, Monasteries, Convents, and Other Religious Institutions, N.E.C.	P	S(3)	P	X	X	S
Public and Private Charitable Institutions	P	P	P	X	X	S
Private Noncommercial Clubs and Lodges	P	S(3)	P	X	X	P
Hospitals, Sanitariums, and Nursing Homes	S	X	P	X	X	S
Hospitals, Sanitariums, or Nursing Homes for Mental, Drug Addict, or Liquor Addict Cases	S	X	S	X	X	S
Confectionary	P	P	P	X	P	X
Construction Company	X	X	P(6)	P(6)(10)	X	X
Credit Bureaus & Collections	P	P	P	X	X	P
Currency Exchanges	P	P	P	X	X	P
Custom Tailor & Dressmaking	P	P	P	X	X	S
Dairy Products	P	P	P	X	P	X
Delicatessen or Food, but not Grocery or Supermarket	P	P	P	X	P	X
Dentist, Orthodontists, Etc.	P	P	P	X	X	P
Department Store	P	P	P	X	X	X
Detectives	P	P	P	X	X	P
Drapery	P	P	P	X	X	S
Drapery Manufacturing	X	S(2)	S(2)	X	X	X
Drive-In Restaurants	S(10)	S(3)	P	P(10)	X	X
Drive-In Operations, N.E.C.	S(10)	S(3)	P	X	X	X
Drive-In Theaters	X	X	S(3)	X	X	X
Drug	P	P	P	X	P	X
Dry Goods	P	P	P	X	X	X
<b>Dwelling</b>						
Group	P(10)	X	X	X	X	X
Mobile Home	X	X	X	X	X	X
Multiple Family	P(10)	S(5)	A(8)	X	X	P(10)
Single Family	P(10)	S(8)	A(8)	X	X	P(10)
Two Family	P(10)	S(8)	A(8)	X	X	P(10)
Travel Trailer	X	X	X	X	X	X

ACTIVITY/USE	ZONING DISTRICTS					
	B-6	B-1	B-2	B-5	B-4	B-3
Employment Agencies	P	P	P	X	X	P
Engineering Offices	P(6)	P(6)	P	X	X	P
Essential Services	P(6)	P	P	P(10)	P(6)	P(6)
Exterminating Services	P(6)	S(3)	P	X	X	X
Exterminators	P(6)	S(3)	P	X	X	X
Farm & Garden Supplies, but not milling or Grain storage operations nor sale of major Agricultural implements	P	S	P	X	X	X
Filling Station	X	P	P	P(10)	X	X
Florist	P	P	P	X	X	S
Food, N.E.C.	P	P	P	A	X	X
Furniture	P	P	P	X	X	X
Funeral Home	P	P	P	X	X	S
Garage, Public	P	P	P	X	X	X
Garage, Repair	X	X	P	P(10)	X	X
General Loan or Finance	P	P	P	X	X	P
Gifts	P	P	P	A(10)	X	S
Governmental Offices, N.E.C.	P	P	P	X	X	P
Grocery or Supermarkets	P(10)	P	P	X	X	X
Hardware	P	P	P	X	X	X
Hospitals, N.E.C.	S(3)	S(3)	P	X	X	X
Hotels	P(10)	S(3)	P	P(10)	X	X
Ice Cream – Ice Milk Drive-In	S(10)	P	P	X	X	X
Ice Cream – Ice Milk Walk-In or Walk-Up	P	P	P	X	P	X
Industrial Operations	S(2)	S(2)	S(2)	S(2)	S(2)	S(2)
Insurance Agencies	P	P	P	X	X	P
Insurance Company Offices	P	P	P	X	X	P
Interior Decorator	P	P	P	X	X	S
Janitorial Services	P(6)	P	P	X	X	X
Jewelry	P	P	P	X	X	X
Jewelry Manufacturing	S(2)	S(2)	S(2)	X	X	X
Jewelry Repair	P	P	P	X	X	S
Junk Yards	X	X	X	X	X	X
Kennel	X	X	X	X	X	X
Labor Unions and Halls	S	P	P	X	X	S
Laundry Agencies	P	P	P	X	X	X
Lawn and Garden Supplies	P	S(3)	P	X	X	X
Libraries	P	P	P	X	X	P
Liquor	X	P	P	X	X	X
Locksmith	P	P	P	X	X	S
Lumber Yard	X	S(3)	S(3)	X	X	X
Mail Order Operation	P	P	P	X	X	X
Manufacturing, N.E.C.	X	X	X	X	X	X
Meat, Poultry, or Fish Market	P	B(3)	P	X	P	X
Medical Clinics	P	B(3)	P	X	X	P
Milliner	P	P	P	X	X	S
Motels	P(10)	S(3)	P	P(10)	X	X

ACTIVITY/USE	ZONING DISTRICTS					
	B-6	B-1	B-2	B-5	B-4	B-3
Motion Picture Theaters	P	P	P	X	X	X
Moving and Storage Operations	X	X	S(3)(9)	X	X	X
Museums	P	P	P	X	X	P
Newspaper Offices, but not newspaper plants	P	P	P	X	X	P
Newspaper Printing Plants	S(3)	S(3)	S(3)	X	X	X
Notions	P	P	P	X	X	X
Offices, Business & Professional, N.E.C.	P	P	P	X	X	P
Office Supply	P	P	P	X	X	X
Optical Merchandise	P	P	P	X	X	S
Paint, Wallpaper, Glass	A(2)	P	P	X	X	X
Pawn Brokers	P	P	P	X	X	X
Periodicals	P	P	P	X	X	P
Pet Shop	P(6)	S(3)	P	X	X	X
Pharmacy	P	P	P	X	X	P
Physicians, Chiropractor, Osteopaths, etc., But not Veterinarian	P	P	P	X	X	P
Photographer	P	P	P	X	X	P
Planners	P	P(6)	P	X	X	P
Pool hall	X	P	P	X	X	X
Post Office	P	P	P	X	X	X
Printers	P	P	P	X	X	X
Radio Studios	P	P	P	X	X	S
Rental Equipment	P(6)	P	P	X	X	X
Ready to Wear, Men's, Women's, Children, Infants	P	P	P	X	X	X
Restaurants, N.E.C.	P(10)	P	P	A	X	X
Savings & Loan Association	P	P	P	X	X	P
Schools, N.E.C.	S(3)	S(3)	P	X	X	X
Secretarial	P	P	P	X	X	P
Security & Commodity Brokers & Dealers	P	P	P	X	X	P
Shoes	P	P	P	X	X	X
Small Loan	P	P	P	X	X	S
Sporting Goods	P	P	P	X	X	X
Stationery	P	P	P	X	X	X
Studios, Offices, or Workrooms of a Painter Sculptor, Writer, Lecturer, Photographer, Commercial Artist, Professional Dancer or Musician, but not including Music Studios, Dance Studios, and Other Studios primarily Devoted to teaching or developing Professional or artistic skills among individual Students or groups of students	P	P	P	X	X	P
Tavern	X	P	P	X	X	X
Tire Dealers	X	P	P(9)	A	X	X
Title Abstract Offices	P	P	P	X	X	P
Trading Stamp Redemption	P	P	P	X	X	X
Trailer or Mobile Home Sales & Service	X	X	P	A	X	X
Tobacco, News	P	P	P	A	X	S

ACTIVITY/USE	ZONING DISTRICTS					
	B-6	B-1	B-2	B-5	B-4	B-3
Toys	P	P	P	A	X	X
Transportation Terminals (passenger)	P(3)	S(3)	P	A	X	X
Travel Agencies, Business and Personal Consultants, and other Similar Individual Services	P	P	P	X	X	P
Travel Trailer Sales and Service	X	X	P	A	X	X
Truck Terminals	X	X	S(3)	X	X	X
TV Studios	P	P	P	X	X	X
Upholstery Shop	P	P	P	X	X	S
Utility Company Offices	P(6)	P(6)	P(6)	X	X	X
Variety or 10¢	P	P	P	X	X	X
Veterinarians	P(9)	X	P	X	X	X
Warehouses	P	P	P	X	X	X

For other uses not listed herein, in the judgment of the Zoning Administrator, use shall be determined by the Zoning and Planning Commission and thereafter said other use shall be regarded as listed use.

P = Permitted Use

A = Accessory Use

X = Prohibited Use

S = Special Use by Permit

N.E.C. = Not Elsewhere Classified

Footnotes are located at the end of this Code in **Appendix "C"**.

#### **40-3-96 - 40-3-99 RESERVED.**

### **DIVISION XXI – LIGHT INDUSTRIAL DISTRICT (I-1)**

**40-3-100 DISTRICT DESCRIPTION.** This district is established to provide space for certain types of industrial and/or manufacturing and/or warehousing or storage operations which are compatible to adjoining districts. Such uses generally require open storage of materials or goods either before, during or after the manufacturing process, but are of a low noise or nuisance level. Such uses shall be conducted entirely within an enclosed building of substantial construction. Land designated for this district should be located in relation to the thoroughfare network of the community as well as rail and air if required, and designated so as to not disrupt normal traffic flow. Because of increased technological developments, extensive lists of permitted and prohibited uses are impractical, therefore, to safeguard the public interests performance standards are established herein as criteria for all permitted uses and as guidance for the Zoning and Planning Commission, as approved by the City Council, in permitting any special uses. Planned industrial parks are encouraged in this district.

- 40-3-101     LOT REQUIREMENTS.**
- (A)     **Minimum Lot Area. One-half (1/2) acre.**
  - (B)     **Minimum Lot Width. One hundred twenty-five (125) feet.**
  - (C)     **Minimum Front Yard Depth. Twenty (20) feet.**
  - (D)     **Minimum Rear Yard Depth. Twenty (20) feet.**
  - (E)     **Minimum Side Yard Width. Twenty (20) feet.**
  - (F)     **Minimum Floor Area. One thousand (1,000) square feet.**
  - (G)     **Maximum Height. As determined by floor area ratio.**
  - (H)     **Maximum Stories. As determined by floor area ratio.**
  - (I)     **Maximum Floor Area Ratio. .50.**
  - (J)     **Minimum Off-Street Parking and Loading.**

	<u>Parking Spaces</u>	<u>Loading Spaces</u>
Industrial or manufacturing operations:		
Per 2 employees of largest 2 successive shifts	1	1*
Or per 2 employees if only 1 shift	1+15%	1*
Non-industrial or manufacturing operations:		
As required for similar uses in more restrictive Zoning districts		

\* Additional space may be required by the nature and size of operations.

(K)     **Permitted, Prohibited, Accessory, and Special Uses.** Specified in Business Activity/Use Schedule.

**40-3-102 - 40-3-104     RESERVED.**

**DIVISION XXII – RESTRICTED INDUSTRIAL DISTRICTS (I-2)**

**40-3-105     DISTRICT DESCRIPTION.** This district is established to provide space for certain types of industrial and/or manufacturing and/or warehousing or storage operations which are and will be relatively compatible to adjoining districts. Such uses shall: be conducted entirely within enclosed buildings substantially constructed; not use the open area around such buildings for storage of raw materials, manufactured products, or for any other purpose other than parking for employees and loading and unloading operations. Land designated for this district should be located in relation to the thoroughfare network of the community (including primarily streets as well as rail and air if required) and designed so as to not wholly disrupt normal traffic flow. Because of increasing technological development, extensive lists of permitted and prohibited uses are impractical, therefore, to safeguard the public interest, performance standards are established herein as criteria for all permitted uses and as guidance for the Zoning and Planning Commission, as approved by the City Council, in permitting any uses. Planned industrial parks are encouraged in this district.

- 40-3-106      LOT REQUIREMENTS.**
- (A)      **Minimum Lot Area. One-half (1/2) acre.**
  - (B)      **Minimum Lot Width. One hundred twenty-five (125) feet.**
  - (C)      **Minimum Front Yard Depth. Twenty (20) feet.**
  - (D)      **Minimum Rear Yard Depth. Twenty (20) feet.**
  - (E)      **Minimum Side Yard Width. Twenty (20) feet.**
  - (F)      **Minimum Floor Area. One thousand (1,000) square feet.**
  - (G)      **Maximum Height. As determined by floor area ratio.**
  - (H)      **Maximum Stories. As determined by floor area ratio.**
  - (I)      **Maximum Floor Area Ratio. .50.**
  - (J)      **Minimum Off-Street Parking and Loading.**

<u>Parking Spaces</u>	<u>Loading Spaces</u>
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For industrial or manufacturing operations:

Per 2 employees of combined 2 largest successive shifts	1	1*
Or per 2 employees if only 1 shift	1+15%	1*

For non-industrial or manufacturing operations:

As required for similar uses in more restrictive districts

\* Additional off-street loading may be required by the nature and size of operations.

(K)      **Permitted, Prohibited, Accessory, and Special Uses.** Specified in Business Activity/Use Schedule.

**40-3-107 - 40-3-109      RESERVED.**

**DIVISION XXIII – GENERAL INDUSTRIAL DISTRICT (I-3)**

**40-3-110      DISTRICT DESCRIPTION.** This district is established to provide space for industrial and/or manufacturing and/or warehousing or storage operations which may require buildings and/or open area for fabricating, processing, extraction, repairing, dismantling, or disposal of equipment, raw materials, manufactured products or wastes. Land designated for this district should be located in relation to the thoroughfare network of the community (including primarily streets as well as rail and air if required) and designed so as to not wholly disrupt normal traffic flow. Because of increasing technological developments, extensive lists of permitted and prohibited uses are impractical, therefore, to safeguard the public interest, performance standards are established herein as criteria for all permitted uses and as guidance for the Zoning and Planning Commission, as approved by the City Council, in permitting any uses. Planned industrial parks are encouraged in this district.

- 40-3-111      LOT REQUIREMENTS.**
- (A)      **Minimum Lot Area. One (1) acre.**

- (B) **Minimum Lot Width.** One hundred (100) feet.  
 (C) **Minimum Front Yard Depth.** Twenty (20) feet.  
 (D) **Minimum Rear Yard Depth.** Twenty (20) feet.  
 (E) **Minimum Side Yard Width.** Twenty (20) feet.  
 (F) **Minimum Floor Area.** One thousand (1,000) square feet.  
 (G) **Maximum Height.** As determined by floor area ratio.  
 (H) **Maximum Stories.** As determined by floor area ratio.  
 (I) **Maximum Floor Area Ratio.** 5.0.  
 (J) **Minimum Off-Street Parking and Loading.**

Parking Spaces

Loading Spaces

For industrial or manufacturing operations:

Per 2 employees of combined 2 largest

successive shifts

1

1\*

Or per 2 employees if only 1 shift

1

1\*

For non-industrial or manufacturing operations:

Same as required for similar uses in more restricted districts

\* Additional off-street loading may be required by the nature and size of operations.

(K) **Permitted, Prohibited, Accessory, and Special Uses.** Specified in Business Activity/Use Schedule.

**40-3-112 - 40-3-114 RESERVED.**

**DIVISION XXIV – INDUSTRIAL ISOLATED DISTRICT (I-4)**

**40-3-115 DISTRICT DESCRIPTION.** This district is established to provide space for those land uses which are generally incompatible to any adjoining land use, but which are necessary to the economy of the community. Only those uses will be permitted in this district which cannot realistically and economically meet the performance standards specified in I-2 or I-3. It is not intended that this district be an easy “catchall” for entrepreneurs to utilize rather than meeting community obligations for being compatible neighbors in community. In establishing the location of this district, (and if possible, only one such contiguous area of the community shall be created) prevailing wind, existing and anticipated adjoining developments and the public interest of the community should be taken into consideration. Every effort shall be made by permitted uses to minimize the causes for incompatibility and every use shall also meet the performance standards indicated herein. Location of this district should be provided with an adequate link or links to the thoroughfare system of the community and be so designed as to not wholly disrupt normal traffic flow.

**40-3-116 LOT REQUIREMENTS.**

(A) **Minimum Lot Area.** One (1) acre.

- (B) **Minimum Lot Width. One hundred fifty (150) feet.**
- (C) **Minimum Front Yard Depth. Forty (40) feet** subject to note.\*
- (D) **Minimum Rear Yard Depth. Forty (40) feet** subject to note.\*
- (E) **Minimum Side Yard Width. Forty (40) feet** subject to note.\*
- (F) **Minimum Floor Area. Three thousand (3,000) square feet** subject to note.\*
- (G) **Maximum Height.** As determined by floor area ratio.
- (H) **Maximum Stories.** As determined by floor area ratio.
- (I) **Maximum Floor Area Ratio. .20.**

\* No principal or accessory buildings or operations other than open storage shall be conducted closer than **two hundred (200) feet** from any other district. In addition, well designed and substantial fences and/or screen planting shall be provided at least **eight (8) feet** in height to obscure all operations other than offices from the view of property in adjoining districts and adjoining thoroughfares. Open and landscaped yards that face public thoroughfares and adjoining land use districts will be permitted.

(J) **Permitted, Prohibited, Accessory, and Special Uses.** Specified in Business Activity/Use Schedule in **Section 40-3-117.**

#### **40-3-117 BUSINESS ACTIVITY/USE SCHEDULE.**

ACTIVITY/USE	ZONING DISTRICTS			
	I-1	I-2	I-3	I-4
Principal and Accessory Uses and Structures including by Special Use Permit, are permitted if the performance Standards are met and certified as being met, by a registered Professional engineer of the State of Illinois.				
<b>Assembly Operations</b>				
Electric Devices	P	P	P	X
Electronic Appliances	P	P	P	X
Household Appliances	P	P	P	X
Phonograph Sets	P	P	P	X
Radio	P	P	P	X
Television	P	P	P	X
<b>Commercial Uses and Other Uses N.E.C.</b>				
Abandoned Automobile	X	X	X	X
Apparel and other finished products	P	P(3)	X	X
Automobile Rental	P	X	P	X
Automobile, New and Used Sales	P	X	P(4)	X
Bag Cleaning	X	X	P	P
Bakery Products	P	P(3)	P(3)	X
Blacksmith Shop	P	P(3)	P	X
Body and Fender Works	P	P	P	X
Bottling Works, canning soft drinks, and Carbonated waters	P	P(3)	P(3)	X
Building Material Sales Yard	P	P(3)	P(5)	X
Business, Wholesale, N.E.C.	P	P	P	X



ACTIVITY/USE	ZONING DISTRICTS			
	I-1	I-2	I-3	I-4
Business, Retail, N.E.C.	S(3)	S(3)	S(3)	X
Bus Terminal	P	P	P	X
Café	P	P	P	X
Candy	P(3)	P(3)	X	X
Cabinet Shop	P	P	P	X
Carpenter Shop	P	P	P	X
Carpet or Rug Cleaning	P	P	P	P
Carnival (transient)	P	P	P	P
Churches	X	X	X	X
Circus (transient)	P	P	P	P
Clothes Cleaning and Dyeing	P	P	P	P
Clubs	X	X	X	X
Contractors' Equipment Storage Yard or Plant	P	P	P(5)	P
Converted Paper and Paperboard Products	X	X	X	P
Dairy Products (not including whey)	P	P	P	P
Dairy Products including whey	X	X	X	P
Do-it-yourself Agency (i.e. rental shops, etc.)	S	S	S	S
Drugs	P	P(3)	P(3)	P
Engineering Services	P	P	P	P
Essential Services, Substations	P	P	P	P
Express Office	P	P	P	X
Filling Stations	P	S	S	X
Garage, Public	P	P	P	X
Garage, Repair	P	P	P	X
Groceries & Canned Products	P(2)	P(2)	P(2)	X
Hardware and Household Appliances	P	P	P	X
Hospital, large animal	P	P	P	X
Hospitals, N.E.C.	X	X	X	X
Incinerator	X	X	P(6)	P
Junk Yard	X	X	P	P
Kennel	P	X	P	X
Laboratories, dental and medical	P	P	P	X
Laboratories, research and testing	S	S	S	P
Liquor	P	P	P	P
Lumber Yards	P	X	P(5)	X
Lodges	P	X	X	X
Machine Shops	P	P	P	P
Motion Picture Studio	P	P	P(5)	X
Offices, business and professional, N.E.C.	A	A	A	A
Parking Lot	P	P	P	P
Printing, Publishing, and allied industries	P	P	P	P
Professional Employment and Supplies	P	P	P	P
Public Buildings	P	P	P	P
Public Transit Yards	P	P	P	P
Railroad Yard, Shop or Roundhouse	X	X	P	P
Rental of Equipment Commonly Used by Contractors	P	P	P(5)	P
Restaurants	P	P	P	X

ACTIVITY/USE	ZONING DISTRICTS			
	I-1	I-2	I-3	I-4
Revival Tent or other transient enterprises	P	P	P	P
Schools, N.E.C.	X	X	X	X
Service Station	P	P	P	X
Sheetmetal Products	P	P	P	P
Sign Painting; advertising outdoor	P	P	P	X
Taverns	P	P	P	X
Theater, Outdoor	P	P	P	X
Transfer Company	P	P	P	X
Trucking Terminal	P	P	P	X
Vocational & Correspondence Schools	P	P	X	X
Veterinary	P	P	P	X
<b>Dwelling</b>				
Group	X	X	X	X
Hotel, Motel	X	X	X	X
Mobile Home	X	X	X	X
Multiple Family	X	X	X	X
Single Family	X	X	X	X
Two Family	X	X	X	X
Travel Trailer	X	X	X	X
<b>Food and Kindred, Processing, Wholesale</b>				
Confections	P	P	P	X
Dairy Products (not including whey)	P	P	P	X
Dairy Products (including whey)	X	X	X	P
Eggs	P	P	P	X
Fruits and Vegetable Concentration, Preservation, and Preparation	S	S	P	P
Grain Mill Products	S	S	P	P
Honey Extraction	P	P	P	X
Meats; Sausages or Prepared Meat Products; Fish S(7)	X	P	P	
Poultry and Small Game Dressing and Packing	S	S	P	P
Processing, canning, bottling, treatment or storage of The following: Brewery, cereal or flour mill, feed, Malts, oleomargarine, pickles, salt, sauerkraut, Starch, sugar, syrup, vinegar, yeast	X	X	P	P
<b>Laboratories Manufacturing, Compounding, Processing, Packaging or Treatment</b>				
Atmospheric, non-atmospheric, industrial and medical Gases in their liquid or vapor state, including, but Not limited to: acetylene, argon, hydrogen, Nitrogen, and oxygen	S	S	S	S
Cosmetics	S	S	S	S
Drugs	S	S	S	S
Gasoline	X	X	S	S
LP Gas	X	X	S	S
Perfumes	S	S	S	S
Petroleum Refining and Storage	X	X	S	S
Pharmaceuticals	S	S	S	S

ACTIVITY/USE	ZONING DISTRICTS			
	I-1	I-2	I-3	I-4
Oil	S	S	S	S
Sewage Disposal or Treatment Plant	X	X	P	P
Toiletries	P	S	P	X
<b>Manufacture, Fabrication and/or Assembly, Including Canning, Processing, or Treatment</b>				
Acid	X	X	X	S
Airplanes and Parts	P	P	P	S
Alcohol	P	P	P	S
Automobiles and Parts	P	P	P	S
Automobile Wrecking & Storage Yards	X	X	X	P
Awnings	P	P	P	S
Batteries	S	X	P	P
Bicycles	P	P	P	P
Billboards	P	P	P	X
Blast Furnace	P	P	P	P
Boiler Works	P	P	P	P
Boats	P	P	P	P
Brass	P	P	P	P
Brick	P	P	P	P
Brooms	P	P	P	P
Brushes	P	P	P	P
Building Material, N.E.C.	S	S	S	S
Business Machines and Equipment	P	P	P	P
Buttons	P	P	P	P
Candles	P	P	P	P
Cans	P	P	P	P
Canvas	P	P	P	P
Cellophane	P	P	P	P
Celluloid	P	P	P	P
Cement	X	X	P	P
Ceramic	P	P	P	P
Chemical	S	S	S	P
Cinder	X	X	P	P
Clay	X	X	P	P
Cloth	P	P	P	P
Concrete Coke Oven and by-products	X	X	P	P
Copper	P	P	P	P
Cork	P	P	P	P
Cutlery	P	P	P	P
Dyestuffs	X	X	P	P
Electric and Neon Signs	P	P	P	P
Electric Lighting and Wiring Equipment	P	P	P	P
Emery Cloth	P	P	P	P
Explosives	X	X	X	S
Excelsior	P	P	P	P
Feather	P	P	P	P
Felt	P	P	P	P

ACTIVITY/USE	ZONING DISTRICTS			
	I-1	I-2	I-3	I-4
Fertilizer Manufacturing	S	S	S	S
Fibers	P	P	P	P
Foundry Casting, light-weight, non-ferrous metals P	P	P	P	
Foundry, N.E.C.	S	S	P	S
Fur	S	S	S	S
Furniture and Fixtures	P	P	P	S
Gas and Electrical Welding Rods	P	P	P	P
Glass Products	P	P	P	P
Glue	X	X	X	S
Glucose	S	S	S	S
Gravel Rock, Pumice Stone, and Stone	X	X	P	P
Gypsum	X	X	P	P
Hair	S	S	S	S
Hand Tools	P	P	P	P
Hardware	P	P	P	S
Horn	P	P	P	P
Ink	S	S	S	S
Instruments				
Professional, Scientific, and Controlling	P	P	P	P
Musical	X	P	P	P
Jewelry, Silverware, and Kindred Plated Wares	P	P	P	P
Leather	P	P	P	P
Lampblack	S	S	S	S
Lamp Shades	P	P	P	P
Lime	X	X	P	P
Linoleum	P	P	P	P
Machinery and Machine Parts	P(1)	P	P	P
Matches	X	P	P	P
Meatpacking Plants	X	X	S	P
Metal Cans	P	P	P	P
Metal Plating	P	P	P	P
Metal Product Treatment and Processing	P	P	P	P
Metal Stamping	X	X	P	P
Mortar	X	X	P	P
Notions	S	S	S	S
Novelties	P	P	P	P
Oilcloth	P	P	P	P
Oiled Rubber Goods	P	P	P	P
Oil or Grease Compounding	S	P	P	P
Optical Goods	P	P	P	P
Paint & Kindred Operations	S	S	P	P
Paving Material	X	X	P	P
Paper	P	P	P	P
Pencils and Other Office and Artists' Materials, N.E.C.	P	P	P	P
Pens	P	P	P	P
Photographic Equipment	P	P	P	P
Planing Mill	P	P	P(5)	P

ACTIVITY/USE	ZONING DISTRICTS			
	I-1	I-2	I-3	I-4
Plaster of Paris	X	X	P	P
Plaster	X	X	P	P
Plastic	P	P	P	P
Pottery	P	P	P	P
Precious or Semi-precious Metals	P	P	P	P
Pump	P	P	P	P
Rivets	P	P	P	P
Sand Blasting	P	P	P	P
Screw Machine Products and Bolts, Nuts, Screws and Washers	P	P	P	P
Shipbuilding	X	X	P	P
Shell	P	P	P	P
Shellac	S	S	P	P
Shoe Polish	P	P	P	P
Slaughterhouses	X	X	X	P
Soap and Detergent	X	X	P	P
Soda	S	S	S	S
Sporting and Athletic Goods	P	P	P	P
Stamps, Rubber and/or Metal	P	P	P	P
Stockyards, Livestock Sale Barns	X	X	X	P
Stone, Cast	X	X	P	P
Stone Monument Works	P	P	P	P
Stone Masonry Shop	P	P	P	P
Stove Polish	P	P	P	P
Straw	P	P	P	X
Tannery	X	X	X	P
Tar or Asphalt Plants	X	X	P	P
Tobacco Products	P	P	P	P
Tools, motor powered	P	P	P	P
Toys, Amusement	P	P	P	P
Trailers	P	P	P	P
Turpentine	X	X	P	P
Umbrellas	P	P	P	P
Utilities, including central plants	P	P	P	P
Varnish	X	X	P	P
Venetian Blinds	P	P	P	P
Watches and Clocks	P	P	P	P
Wood	P	P	P	P
Wool	P	P	P	P
Wire Products	P	P	P	P
X-Ray apparatus and tubes	P	P	P	P
<b>Mineral Extraction Operations</b>				
Coal, Deepshaft	X	X	S	S
Coal, Strip	S	S	S	S
Oil, Well	S	S	S	S
Rock, Gravel, Sand, Strip	S	S	S	S
Other Minerals, Deep Shaft, N.E.C.	S	S	S	S

ACTIVITY/USE	ZONING DISTRICTS			
	I-1	I-2	I-3	I-4
Other Minerals, Strip, N.E.C.	S	S	S	S
<b>Warehousing and Storage, N.E.C.</b>				
Explosives	S	S	S	S
Flammable Liquids	S	S	S	S
Other Uses, N.E.C.	S	S	S	S

For other uses not listed herein, in the judgment of the Zoning Administrator, use shall be determined by the Zoning and Planning Commission and thereafter said other use shall be regarded as a listed use.

P = Permitted Use

A = Accessory Use

X = Prohibited Use

S = Special Use by Permit

N.E.C. = Not Elsewhere Classified

Footnotes are located at the end of this Code in **Appendix "D"**.

**40-3-118 - 40-3-119 RESERVED.**

**(This Article Sec. 9)**

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## ARTICLE IV – SIGN DEFINITIONS AND ILLUSTRATIONS

### 40-4-1 SIGN DEFINITIONS.

(A) **Sign.** Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided however, that the following shall not be included in the application of the regulations herein:

- (1) Signs not exceeding **one (1) square foot** in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification or premises not having commercial connotations;
- (2) Flags and insignia of any government except when displayed in connection with commercial promotion;
- (3) Legal notices; identification, informational, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
- (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

(B) **Sign Structure.** A structure constructed for the purpose of displaying a sign. Any sign structure shall be designed and constructed in a manner that is safe, not aesthetically offensive, and shall be free of any exposed: extra bracing; angle iron; guy wires; cables; etc.

(C) **Sign, Surface Area of.** The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area and frame (or border) of the sign surface area and including all of the elements of the matter displayed. Structural members not bearing advertising matter shall not be included in computation of surface area.

(D) **Sign, Number of.** For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

(E) **Flush Wall.** A sign, mounted, attached to or painted on the exterior of a structure other than a Sign Structure where the plane of the sign surface area is parallel to the plane of the structure to which it is attached. A flush mounted wall sign may be an on-site or an off-site sign. A flush mounted wall sign may not project more than **one (1) foot** from the plane of the structure to which it is attached.

(F) **Perpendicular Wall.** A sign mounted or attached to the exterior of a structure where the plane(s) of the sign surface area(s) (is) (are) not parallel to the plane of the structure to which it is attached. A perpendicular wall mounted sign is generally an on-site sign. Maximum distance between sign faces shall not exceed **three (3) feet**. A perpendicular wall mounted sign shall not be construed to be a marquee sign.

(G) **Marquee.** A canopy structure projecting over public right-of-way, attached to and supported by a larger structure on land not within public right-of-way. Minimum distance between perpendicular ends of marquee shall be not less than **three (3) feet**. A marquee may also be a sign structure.

(H) **Sign, Marquee.** Any sign attached to or constructed in or upon a Marquee. See also: Sign Structure.



(I) **Time and/or Temperature.**

- (1) **Temperature** signs shall not change except when the temperature changes one degree.
- (2) **Time** signs shall be permitted to change no more frequently than **sixty (60) second** intervals.
- (3) **Temperature and Time** signs in combination. If separate space is provided on sign surface area for time and temperature, (1) and (2) above shall apply. If same surface area is provided for both time and temperature, the frequency of change shall be no more frequently than **five (5) second** intervals.

(J) **Roof.** A sign which is supported by **one (1)** or more columns, uprights or braces anchored in or upon the roof of a structure other than a Sign Structure. See also Sign Structure.

**(Sec. 10)**

**40-4-2 SIGN REGULATIONS.** The sign regulations set by this Code include regulations for maximum number of signs, permitted sign types, and maximum height of signs. Standards are established for each zoning district and are set forth in the Schedule of District Sign Regulations, **Appendix "E"** of this Code. Signs may be erected, altered, and maintained only for a permitted use in the district in which the signs are located. Except for permitted off-site signs, all signs shall be located on the same parcel of land as the permitted use which they identify.

(A) **Permits.** Before any sign that is subject to a permit is erected, enlarged, altered, rebuilt, or relocated, a permit shall be obtained from the Zoning Administrator. Routine maintenance or changing of parts designed for changes shall not be considered an alteration provided such change does not alter the surface area, height, or otherwise make the sign nonconforming. Fees for said permit shall be as established by the City Council.

(B) **Signs Not Subject to a Permit.** The following signs shall not be subject to a permit (see also the definition of "sign" for those objects not considered to be a sign):

- (1) Temporary real estate sign
- (2) Window promotional signs
- (3) Political signs
- (4) Pennants – must get temporary permit
- (5) These signs shall, however, meet all other sign regulations of this Code. All other signs not listed above shall be subject to a permit.

(C) **Prohibited Signs.** The following signs are prohibited within the jurisdiction of this Code:

- (1) Moving signs
- (2) Flashing signs
- (3) Propellers, paddle wheels, or other attraction devices designed to be set in motion by the wind

(D) **Removal of Certain Signs.** Any sign now or hereafter existing which advertises a business no longer being conducted or a product no longer being sold on the premises upon which the sign is located shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or premises upon which it may be found within **sixty (60) days** after written notification from the Zoning Administrator and, upon failure to comply with such notice within the time specified in such order, the Zoning Administrator is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the

owner, agent or person having the beneficial use of the building, structure or premises to which the sign is attached.

**(Sec. 11)**

**40-4-3**      **SCHEDULE OF SIGN REGULATIONS.**    See Appendix "E" at end of this Code.

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## ARTICLE V – PERFORMANCE STANDARDS

**40-5-1      MOBILE (MANUFACTURED) HOMES.** Mobile homes, single wide and double wide, are permitted in R-4, residential zoning districts, by special use permit, providing that all minimum requirements, including minimum floor area, are met as set forth in the Schedule of District Regulations within **Article III, Division XI** of this Code.

All mobile homes within all zoning districts shall be anchored in accordance with recommendations set by the United States Department of Defense, Defense Civil Preparedness Agency's publication "Protecting Mobile Homes from High Winds" (008-030-00013). In addition mobile homes within these zoning districts shall also be underpinned or skirted.

Prior to the performing of any work, or beginning of any construction upon the lot of the proposed location of a mobile home, a building permit shall be secured from the Zoning Administrator as in accordance with **Section 40-7-2** and **40-7-3** of this Code.

A certificate of zoning compliance shall be secured from the Zoning Administrator prior to use or occupancy as in accordance with **Section 40-7-4** in this Code.

Failure to comply with these regulations shall constitute a nonconforming use, and if applicable, shall also constitute a violation of this Code as in accordance with **Section 40-9-2** of this Code.

**(Sec. 13)**

**40-5-2      PLANNED UNIT DEVELOPMENTS.** This Section is to provide guidelines for the administration of this Code and for developers for specified types of development permitted by this Code.

(A) **Low and Medium Density Planned Unit Developments (R-5), (R-1), (R-2) and (R-3).** A building or group of buildings situated on land which is under single ownership or unified control and which is wholly residential in nature. Any Planned Unit Development shall be compatible to the Comprehensive Plan, especially the Thoroughfare Plan for the City. Provided further, if the proposed development is only for a portion of contiguous land-holding of the applicant, then a plan showing anticipated uses, densities, and circulation (traffic or thoroughfare) patterns shall be submitted with the application. Planned Unit Developments for district R-1, R-2, R-3 and R-5 shall further meet the following criteria:

- (1) Wholly residential development may be permitted a waiver of lot area, yard requirements and height restrictions, providing: The general intent of the district is not circumvented; yards along the development perimeter conform to yards of adjacent districts; further consideration is given to adjoining property including the provision and lighting when necessary; adequate vehicle circulation and off-street parking meeting the requirements of the regulations for this district are provided; the density of development does not exceed the density as indicated in the statement of intent for this district; covenants to provide maintenance of commonly owned land and any improvements or facilities thereon are found to be acceptable to the Zoning and Planning Commission, with special attention directed toward the accessibility and adequacy of common open space. Maps, charts, statements of policy, etc., should be prepared by the Board of Appeals or Zoning and Planning Commission to illustrate the requirements listed above.

- (2) Accessory uses including, but not limited to swimming pools, tennis courts, golf courses, community centers and other recreational uses will be permitted, but shall be limited to the residents of the planned unit development and subject to their control. Any such accessory uses shall not be of a commercial nature which are open to the general public.
- (3) Planned unit developments shall meet the requirements of special subdivision regulations as formulated by the Board of Appeals or Zoning and Planning Commission for the developments. Development may be staged, permits issued for each stage.
- (4) The granting of a special use permit for a planned unit development shall be valid for a period of **twenty-four (24) months** from date of approval. If substantial progress has not been made toward exercising the permit it shall become null and void.

(B) **High Density Planned Unit Developments (R-4).** A building or group of buildings situated on land which is under single ownership or unified control and which is either: (1) entirely residential in nature, or (2) predominantly residential in nature, but wherein various compatible uses hereinafter indicated may be conducted. Planned unit developments for this district (R-4) shall further meet the following criteria:

- (1) A waiver of lot area, yards, height and stories requirements may be granted providing: total land area for wholly or predominantly residential uses shall be equal to or more than the sum of: the total of minimum lot areas required per dwelling unit and minimum lot area per non-residential uses permitted in this district. To insure that adequate open space is provided, the total land for residential purposes required may not be infringed upon for parking for non-residential purposes although common parking areas will be permitted.
- (2) Yards along the development perimeter conform to yards of adjacent districts and further consideration is given to adjoining property owners including the provision of screening and lighting when necessary.
- (3) Adequate vehicular circulation and off-street parking meeting the requirements of the regulations for this district are provided.
- (4) The dwelling unit density for this district is not exceeded, and that such density shall be based upon computations in (1), above, as distinct from non-residential uses.
- (5) Covenants to provide maintenance of commonly owned land and any improvements thereon are found to be acceptable to the Zoning and Planning Commission.
- (6) At least **two hundred fifty (250) square feet** of recreational area per dwelling unit shall be provided for recreational and playground purposes including but not limited to swimming pools, tennis courts, golf putting green, tot lot, badminton, community centers and other recreational uses, but shall be limited to the residents of the planned unit development and subject to their control. Any such accessory uses shall not be of a commercial nature which are open to the general public. This required

recreational area may be part of the open space computed in (1) above.

- (7) Planned unit developments shall meet the requirements of special subdivision regulations as formulated by the Board of Appeals or Zoning and Planning Commission for the developments. Development may be staged, permits issued for each stage.
- (8) Permitted non-residential uses shall be limited to the following, and shall be situated so as not to conflict with the residential portion(s) of the development: parking areas for uses in less restricted districts; kindergarten or day nursery; professional or secondary offices, welfare and charitable services, and other offices deemed to be compatible by the Zoning and Planning Commission. Museum and art galleries; laundromat; coffee shop or restaurant; drug stores.
- (9) The granting of a special use permit for a planned unit development shall be valid for a period of **twenty-four (24) months** from the date of approval. If substantial progress has not been made toward exercising the permit, it shall become null and void.

(C)

**Planned Mobile Home Development (M-1).**

- (1) Planned mobile home developments are as a matter-of-right in districts zoned as Planned Mobile Home Districts (M-1). However, to implement the Statement of Intent for this district in the Schedule of District Regulations the following standards shall be met by any applicant for rezoning.
  - (a) The proposed property shall be located so that it shall not be necessary for excessive traffic movement from the park to pass through an existing single-family residential area or area suitable for future single-family residential development. Consequently, any such proposed development shall have access limited to the following types of streets as indicated in the Thoroughfare Plan for the City: Arterial; Primary; or Secondary.
  - (b) The property shall be convenient to schools, parks, shopping facilities.
  - (c) The property is not within an area used nor planned for industrial development, nor will the occupants of the proposed park be in any way adversely affected by nearby existing or planned industrial uses.

(2) **Site Requirements.**

- (a) Recreation, or open spaces, shall be provided for each mobile home park containing **twenty-five (25) mobile home sites** or more of an area of at least **five thousand (5,000) square feet**, plus **one hundred (100) square feet** for each mobile home site. For mobile home parks with less than **twenty-five (25) spaces**, **two thousand five hundred (2,500) square feet** shall be provided, plus **seventy-five (75) square feet** for each mobile home site. This open space may be used in more than one location, but no location shall contain less than **two**

**thousand (2,000) square feet.** Each recreational space shall be accessible to all of the mobile home sites in the park, and shall not be used for any other purpose.

- (b) All mobile home sites shall have a minimum of **two thousand three hundred (2,300) square feet** of usable open space over and above the space covered by the mobile home.
- (c) The minimum distance required for the separation of a mobile home from any other mobile home shall be: **fifteen (15) feet** from side to side, **fifteen (15) feet** from side to rear, and **ten (10) feet** from rear to rear; front setback from private drive **ten (10) feet**.

(3) **Access and Street Requirements.**

- (a) All mobile home sites must be served from internal private streets within the mobile home park and there shall be no direct access from a mobile home site to a public street or alley.
- (b) A minimum of **two (2)** off-street parking spaces shall be provided for each mobile home site; guest parking in the ratio of one parking space per **five (5)** mobile home spaces shall be interspersed throughout the mobile home park.
- (c) All internal private streets shall be a minimum of **twenty-five (25) feet** in width, exclusive of the required parking areas. All areas used by automobiles shall be of an improved surface and meet the requirements of the City.
- (d) No internal private street access to public streets shall be located closer than **one hundred (100) feet** to any public street intersection.
- (e) All interior cul-de-sac streets shall have a minimum outside turning radius of **thirty-eight (38) feet**.
- (f) All corners shall have a minimum **fifteen (15) feet** radii.
- (g) All streets shall be lighted in accordance to the standards of the City.
- (h) Stop signs shall be placed at all public street intersections. Yield signs placed appropriately on internal private streets.
- (i) Dedication of all necessary rights-of-way to conform to the requirements of the Thoroughfare Plan shall be offered free of charge to the proper jurisdiction.

(4) **Fencing Required.**

- (a) A **six (6) foot** ornamental wall, evergreen hedge, a **six (6) foot** chain link fence with vertical slats, a grape stake or other ornamental wood fence or a combination of the above shall be constructed along property lines contiguous to areas of existing conventional construction, subject to the provision of architectural review by the Zoning and Planning Commission.
- (b) Except for connection of internal private street to public street, a wall, hedge or fence of a minimum of **four (4) feet** in height shall be constructed along all public streets.

- (5) **Landscaping Required.** A landscaping plan of the proposed park including at least **one (1) tree** per mobile home space shall be submitted for approval by the Zoning and Planning Commission. All open spaces shall be landscaped and include a permanent means of maintenance. No more than **thirty percent (30%)** of the landscaped area may be maintained in ornamental rock or gravel.
- (6) **Sign Requirements.** Signs proposed for any mobile home park shall be subject to architectural review of the Zoning and Planning Commission and may be indirectly or internally lighted, but shall not be flashing, moving, or have the illusion of flashing or moving.
  - (a) Incidental signs not to exceed **one (1) square foot** in area per sign, with a height limit of **four (4) feet**; and
  - (b) **One (1) sixteen (16) square foot** park directory for each **five (5) acres**.
- (7) **Other Requirements.**
  - (a) Applicant shall comply with appropriate requirements of the Subdivision Regulations.
  - (b) Each mobile home park shall provide screened areas for refuse disposal of an adequate size for the number of units served, and shall provide for the disposal of such refuse on a regularly scheduled basis.
  - (c) Additional development requirements may be prescribed as conditions when such requirements are determined to be necessary to ensure the protection of the character of the neighboring properties, the compatibility of land uses, and the health and safety of mobile home park occupants.
  - (d) Streets shall be named and lots shall be numbered.

(D)

**Planned Travel Trailer Developments (M-2).**

- (1) Planned Travel Trailer developments are permitted as a matter-of-right in districts zoned as Planned Travel Trailer Districts (M-2). However, to implement the Statement of Intent for this district in the Schedule of District Regulations, the following standards shall be met by any applicant for re-zoning:
  - (a) The property is within or near an area zoned or used for interchange business or is located near recreational facilities requiring such a service.
  - (b) The proposed property shall be located so that it shall not be necessary for the excessive traffic movement from the park to pass through an existing single-family residential area or area suitable for future single-family residential development. Consequently, any such proposed development shall have access limited to the following types of streets as indicated in the Thoroughfare Plan for the City: Arterial; Primary; or Secondary.
- (2) **Site Requirements.**
  - (a) Recreation, or open spaces, shall be provided for each travel trailer park containing **twenty-five (25) spaces** or more of an area of at least **five thousand (5,000) square feet**, plus **one hundred (100) square feet** for each



travel trailer space. For travel trailer parks with less than **twenty-five (25) spaces, two thousand five hundred (2,500) square feet** shall be provided, plus **seventy-five (75) square feet** for each travel trailer site. This open space may be used in more than one location, but no location shall contain less than **two thousand (2,000) square feet**. Each recreational space shall be accessible to all the travel trailer spaces in the park, and shall not be used for any other purpose.

- (b) All travel trailer sites shall have a minimum of **two thousand three hundred (2,300) square feet**.
- (c) The minimum distance required for the separation of a travel trailer shall be: **fifteen (15) feet** from side to side; **fifteen (15) feet** from side to rear, and **ten (10) feet** from rear to rear; front setback from private drive **ten (10) feet**.

(3) **Access and Street Requirements.**

- (a) All travel trailer spaces must be served by internal private streets within the travel trailer park and there shall be no direct access from a travel trailer space to a public street or alley.
- (b) All internal private streets shall be a minimum of **twenty-five (25) feet** in width, exclusive of the required parking areas, and shall contain acceptable curbs and gutters on both sides of the street. All areas used by automobiles shall be an improved surface and meet the requirements of the City.
- (c) No internal private street access to public street shall be located closer than **one hundred (100) feet** to any public street intersection.
- (d) All interior cul-de-sac streets shall have a minimum outside turning radius of **thirty-eight (38) feet**.
- (e) All corners shall have a minimum **fifteen (15) feet** radii.
- (f) All streets shall be lighted in accordance to the standards of the City.
- (g) Stop signs shall be placed at all public street intersections. Yield signs shall be placed appropriately on internal private streets.
- (h) Dedication of all necessary rights-of-way to conform to the requirements of the Thoroughfare Plan shall be offered free of charge to the proper jurisdiction.

(4) **Fencing Required.**

- (a) A **six (6) foot** ornamental wall, evergreen hedge, a **six (6) foot** chain link fence with vertical slats, a grape stake or other ornamental wood fence or a combination of the above shall be constructed along property lines contiguous to areas of existing conventional construction subject to the provision of architectural review by the Zoning and Planning Commission.

- (b) Except for connection of internal private street to public street, a wall, hedge, or fence of a minimum of **four (4) feet** in height shall be constructed along all public streets.
- (5) **Landscaping Required.** A landscaping plan of the proposed park including at least **one (1) tree** per travel trailer space shall be submitted for approval by the Zoning and Planning Commission. All open spaces shall be landscaped and include a permanent means of maintenance. No more than **thirty percent (30%)** of the landscaped area may be maintained in ornamental rock or gravel.
- (6) **Sign Requirements.** Signs proposed for any travel trailer park shall be subject to architectural review of the Zoning and Planning Commission and may be indirectly or internally lighted, but shall not be flashing, moving, or have the illusion of flashing or moving.
  - (a) Incidental signs not to exceed **one (1) square foot** in area per sign, with a height limits of **four (4) feet**.
- (7) **Other Requirements.**
  - (a) Applicant shall comply with appropriate requirements of the Subdivision Regulations.
  - (b) Each travel trailer park shall provide screened areas for refuse disposal of an adequate size for the number of units served, and shall provide for the disposal of such refuse on a regularly scheduled basis.
  - (c) Additional development requirements may be prescribed as conditions when such requirements are determined to be necessary to ensure the protection of the character of the neighboring properties, the compatibility of land uses, and the health and safety of travel trailer park occupants.

**(Sec. 14)**

**40-5-3**

**(A)**

**INDUSTRIAL.**

**Light Industrial (I-1) Uses.**

- (1) **Fire Hazards<sup>1</sup>.** Solid substances ranging from free or active burning to intense burning may be stored, used, or manufactured only within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.  
The storage, utilization, or manufacture of flammable liquids or materials which produce flammable vapors or gases shall be permitted in accordance with the Rules and Regulations of the State Fire Marshall. A certificate of compliance, issued by the State Fire Marshall's Office, stating that the plan and specifications for a light or general industrial use comply with the Rules and Regulations of the State Fire Marshall shall accompany the application for a certificate of zoning compliance.

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<sup>1</sup> Free burning means a rate of combustion described by a substance that burns actively and easily supports combustion; and intense burning means a rate of combustion described by a substance that burns with a high degree of activity and is consumed rapidly.

- (2) **Detonation Materials.** No activity involving the storage, use or manufacturing of materials that decompose by detonation may be carried on except in accordance with the rules issued by the State Fire Marshall. These materials include primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and their components, such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds, such as acetylides, tetrazones, and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates, and hydrogen peroxide in concentrations greater than **twenty-four percent (24%)**; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.
- (3) **Exceptions.** These performance standards do not apply to: site preparation or construction, maintenance, repair, alteration or improvement of buildings, structures, equipment, or other improvements on or within the lot line;  
The operation of motor vehicles or other facilities for the transportation of personnel, materials, or products;  
Conditions beyond the control of the user such as fire, explosion, accident, failure, or breakdown;  
Safety or emergency warning signals or alarms necessary for the protection of life, limb or property; or  
Processes for which there are no known means of control.  
Research shall be promptly conducted to discover methods of control leading to the installation of protective equipment.
- (4) **Open Storage.** Open storage of materials shall be kept in a neat and orderly manner. Open storage shall be limited to no more than **fifty percent (50%)** of the open storage area, and shall not exceed **five (5) feet** in height. All open areas shall be screened from public view by a fence of at least **six (6) feet** in height. All open storage areas shall be paved with a dust-free surface.

(B) **Restricted Industrial (I-2) Uses.** All restricted industrial uses shall meet the performance standards for light industrial uses, except that no open storage shall be permitted, and all assembly, manufacturing or storage of materials and equipment shall be within an enclosed structure.

(C) **General Industrial (I-3) Uses.**

- (1) **Fire Hazards<sup>2</sup>.** Solid substances ranging from free or active burning to intense burning may be stored, used, or manufactured only within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.

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<sup>2</sup> See footnote Number 1 under Light Industrial Performance Standards.

The storage, utilization, or manufacture of flammable liquids or materials which produce flammable vapors or gases shall be permitted in accordance with the Rules and Regulations of the State Fire Marshall. A certificate of compliance, issued by the State Fire Marshall's Office, stating that the plans and specifications for a light or general industrial use comply with the Rules and Regulations of the State Fire Marshall shall accompany the application for a certificate of zoning compliance.

- (2) **Detonation Materials.** No activity involving the storage, use or manufacturing of materials that decompose by detonation may be carried on except in accordance with the rules issued by the State Fire Marshall. These materials include primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and their components, such as nitrocellulose, hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds, such as acetylides, tetrazones, and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates, and hydrogen peroxide in concentrations greater than **thirty-five percent (35%)**; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.

- (3) **Exceptions.** These performance standards do not apply to: site preparation or construction, maintenance, repair, alteration or improvement of buildings, structures, equipment, or other improvements on or within the lot line;  
The operation of motor vehicles or other facilities for the transportation of personnel, materials, or products;  
Conditions beyond the control of the user such as fire, explosion, accident, failure, or breakdown;  
Safety or emergency warning signals or alarms necessary for the protection of life, limb or property; or  
Processes for which there are no known means of control.  
Research shall be promptly conducted to discover methods of control leading to the installation of protective equipment.

(Sec. 15)

## ARTICLE VI – NONCONFORMING USES

**40-6-1**      **INTENT.** Within the districts established by this Code or amendments that may later be adopted there exist:

- (A)            lots,
- (B)            structures,
- (C)            uses of land and structures,
- (D)            characteristics of use, and
- (E)            signs

which were lawful before this Code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendment. It is the intent of this Code to provide for the elimination of certain nonconformities. It is also the intent to permit some nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Code that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this Code to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Code by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Code and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

**40-6-2**      **NONCONFORMING LOTS OF RECORD.** In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Code, notwithstanding limitations imposed by other provisions of this Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Appeals and City Council.

In any district, if two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Code, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this Code, and no portion of said parcel shall be used or sold in a manner which diminishes

compliance with lot width and area requirements established by this Code, nor shall any division of any parcel be made which creates a lot with width or area below requirements stated in this Code.

**40-6-3      TERMINATION OF NONCONFORMING USE OF LAND.** Where at the time of passage of this Code lawful use of land exists which would not be permitted by the regulations imposed by this Code, and where such use involves no individual structure with a reasonable fair market value exceeding **One Thousand Dollars (\$1,000.00)**, the use may be continued so long as it remains otherwise lawful for a period of **five (5) years** from the date of adoption of this Code provided:

(A)              No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Code;

(B)              No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Code;

(C)              If any such nonconforming use of land ceases for any reason for a period of more than **one hundred eighty (180) days**, any subsequent use of such land shall conform to the regulations specified by this Code for the district in which such land is located.

(D)              No additional structure not conforming to the requirements of this Code shall be erected in connection with such nonconforming use of land.

At the end of **five (5) years** from the date of adoption of this Code, all nonconforming uses of land with structures having a reasonable fair market value of **One Thousand Dollars (\$1,000.00)** or less shall be terminated, and the land cleared of such nonconforming structures.

For purposes of **Section 40-6-3** of this Code, a determination of value shall be made in accordance with **Section 40-1-2** of this Code, this value shall be maintained during the **five (5) year** period.

**40-6-4      NONCONFORMING STRUCTURES.** Where a lawful structure exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions of area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A)              No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(B)              Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than **fifty percent (50%)** of its reasonable fair market value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Code.

(C)              Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**40-6-5      NONCONFORMING USES OF STRUCTURES OR OF STRUCTURE AND PREMISES IN COMBINATION.** If lawful use involving individual structures with reasonable fair market value of **One Thousand Dollars (\$1,000.00)** or less, or of structure

and premises in this Code, that would not be allowed in the district under the terms of this Code, the lawful use may be continued for a period of **five (5) years** from the date of adoption of this Code so long as it remains otherwise lawful, subject to the following provisions:

(A) No existing structure devoted to a use not permitted by this Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(B) Any nonconforming use in a building shall not be extended to occupy any land outside such building;

(C) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as special use be changed to another nonconforming use provided the Zoning and Planning Commission either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning and Planning Commission may require appropriate conditions and safeguards in accord with provisions of this Code but in any event the conversion of such nonconforming use shall be completed prior to the expiration of the **five (5) year** period;

(D) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(E) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for **six (6)** consecutive months or for **eighteen (18) months** during any **three (3) year** period, (except when government action impedes access to the premises) and upon receipt of written notice from the Zoning Administrator, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

(F) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than **fifty percent (50%)** of the reasonable fair market value at time of destruction.

**40-6-6      SPECIAL USE SHALL NOT BE NONCONFORMING USES.** Any use which is permitted as a special use in a district under the terms of this Article (other than a change through Zoning and Planning Commission action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming special use at the date of adoption of this Article.

**(This Article Sec. 16)**

## **ARTICLE VII - ADMINISTRATION AND ENFORCEMENT**

**40-7-1      ADMINISTRATION AND ENFORCEMENT.** An administrative official designated by the City Council, hereinafter referred to as the Zoning Administrator, shall administer and enforce this Code. He may be provided with the assistance of such other persons as the City Council may direct.

The Zoning Administrator shall establish within **twelve (12) months** after passage of this Code a master map and supporting tables and/or lists of nonconformities to this Code indicating the nature thereof which lies within the jurisdiction established heretofore. Within **twenty-four (24) months** after passage of this Code, the Zoning Administrator shall notify the land owners of such nonconformity(s). Within **twenty-four (24) months** after passage of this Code, the Zoning Administrator shall record these nonconformities as facts with the County Recorder. Thereafter, the aforementioned map, and supporting information shall be kept on file as the basis for future administration. The unintentional omission of any nonconforming use or structure from the list of nonconformities shall not void or change the intent of this paragraph or the list.

To further facilitate the administration of this Code, the Zoning Administrator shall establish a working arrangement with electric, gas, water and sewer companies as well as the appropriate health department to more effectively administer this Code.

Further, the Zoning Administrator shall carry out the provisions of **Section 40-2-1(B)** of this Code, and in addition shall cause to be prepared and published a revised Schedule of District Regulations before **March 31** of each year indicating thereon amendments to such Schedule of District Regulations made in the preceding calendar year.

If the Zoning Administrator shall find that any of the provisions of this Code are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Code to ensure compliance with or to prevent violation of its provisions. The property owner shall be given **thirty (30) days** to comply, or the case shall be turned over to the City Attorney for prosecution.

**40-7-2      BUILDING PERMITS REQUIRED.** No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the Zoning Administrator. No building permit shall be issued by the administrative official except in conformity with the provisions of this Code, unless he receives a written order from the City Council, indicating approval of a special use permit or variance granted by the City Council.

**40-7-3      APPLICATION FOR BUILDING PERMIT.** All applications for building permits shall be accompanied by plans in triplicate showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing if any; and the location and dimensions of the proposed building or alteration. The application shall include other information as lawfully may be required by the Zoning Administrator including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate;



conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Code.

(A) **One (1) copy** of the plans shall be returned to the applicant by the Zoning Administrator, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and **one (1) copy** of the plans, similarly marked, shall be retained by the Zoning Administrator.

**40-7-4 CERTIFICATES OF ZONING COMPLIANCE.** It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this Code.

(A) No nonconforming structure or use shall be renewed, changed or extended until a certificate of zoning compliance shall have been issued by the Zoning Administrator. The certificate of zoning compliance shall state specifically wherein the nonconformity differs from the provisions of this Code.

(B) No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this Code upon completion of the work.

(C) A temporary certificate of zoning compliance may be issued by the Zoning Administrator for a period not exceeding **six (6) months** during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

(D) The Zoning Administrator shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

(E) Failure to obtain a certificate of zoning compliance shall be a violation of this Code and punishable under **Section 40-9-2** of this Code.

**40-7-5 EXPIRATION OF BUILDING PERMIT.** If the work described in any building permit has not begun within **one hundred eighty (180) days** from the day of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator and written notice thereof shall be given to the persons affected.

(A) If the work described in any building permit has not been substantially completed within **two (2) years** of the date of issuance thereof, said permit shall expire and be cancelled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

**40-7-6 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.** Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed in violation of this Code, and punishable as provided by **Section 40-9-2** hereof.

**(This Article Sec. 17)**

## **ARTICLE VIII – ADMINISTRATIVE RESPONSIBILITIES**

### **DIVISION I - BOARD OF APPEALS**

**40-8-1      ESTABLISHMENT, MEMBERSHIP, TERMS.** A Board of Appeals is hereby established which shall consist of the same **seven (7) members** of the Zoning and Planning Commission of the City of Benton, Illinois with the members serving for the same duration of term as established for the members of the Zoning and Planning Commission. **(Ord. No. 2016-06; 02-22-16)**

**40-8-2      PROCEEDINGS OF THE BOARD OF APPEALS.** The Board of Appeals shall adopt written rules necessary to the conduct of its affairs and in keeping with the provisions of this Code. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, every regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Board shall immediately be filed in the office of the Board and shall be a public record. In the performance of its duties, the Board of Appeals may incur such expenditures as are authorized by the City Council. Meetings shall be held at the call of the chairman and at such times and places within the City as the Board of Appeals may determine. All meetings shall be open to the public.

**40-8-3      HEARINGS, APPEALS, DECISIONS, NOTICE.** Appeals to the Board of Appeals concerning interpretation or administration of this Code may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Zoning Administrator. Such appeals shall be taken within a reasonable time, not to exceed **forty-five (45) days** or such less period as the Board of Appeals may provide by the rules of the Board of Appeals, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit all papers constituting the record upon which the action appealed from was taken.

(A) **Time Parameters.** The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give the notice thereof to the parties interested and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.

(B) **Required Vote.** The concurring vote of **four (4) members** of the Board of Appeals is necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant, any matter upon which it is required to pass under this Code, or to effect any variation in this Code, or to recommend any variation or modification to this Code to the City Council.

**40-8-4      STAY OF PROCEEDINGS.** An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board

of Appeals after the notice of appeal has been filed with him, that by reasons of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

**(This Division Sec. 18)**

**40-8-5      RESERVED.**

**DIVISION II – THE BOARD OF APPEALS: POWERS AND DUTIES**

**40-8-6      BOARD OF APPEALS.** The Board of Appeals shall have the following powers and duties:

(A)      **Administrative Review.** To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Code, subject to final review by the City Council.

(B)      **Variances.** The Board of Appeals may recommend such variances from the terms of this Code as will not be contrary to the public interest. Variances may be recommended only in those specific instances enumerated in **Section 40-8-6(F)(1)**, and then only when the Board has made findings of fact, based upon the standards set out in this Section, subsection (G)(1), that owing the special conditions a literal enforcement of the provisions of this Code will, in an individual case, result in practical difficulties or particular hardship for the owner, lessee, or occupant of land or a structure.

(C)      No nonconforming use of neighborhood lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(D)      An application for a variance shall be filed in duplicate with the Zoning Administrator, who shall forward a copy to the secretary of the Board of Appeals without delay. The application shall contain the following information, as well as such additional information as may be prescribed by rule of the Board:

- (1)      The particular requirements of this Code which prevent compliance with said requirements of this Code;
- (2)      The characteristics of the subject property which prevent compliance with said requirements of this Code;
- (3)      The reduction of the minimum requirements of this Code which would be necessary to permit the proposed use or construction; and
- (4)      The practical difficulty or particular hardship which would result if said particular requirements of this Code were applied to the subject property.

(E)      The Board shall select a reasonable time and place for a hearing. Public notice of such hearing shall be published at least once, not less than **fifteen (15) days** nor more

than **thirty (30) days** before such hearing, in a newspaper. The owner of the property for which variance is sought, or his agent, shall be notified by mail. Notice of such hearings shall include the date, time, place and nature of the proposed variance. Any person having an interest may appear and be heard at the hearing in person, by agent or by attorney. Deposit of said notice in the U.S. Postal Service shall constitute sufficient notice.

(F) Variations from the regulations of this Code shall be granted only in accordance with the standards set out in this subsection and may be granted only in the following instances, and in no others.

- (1) To vary the applicable lot area, lot width, and lot depth requirements, subject to the following limitations:
  - (a) The minimum lot width and lot depth requirements shall not be reduced more than **ten percent (10%)**.
  - (b) The minimum lot area for a single-family or two-family dwelling shall not be reduced more than **twenty percent (20%)**.
- (2) To vary the applicable bulk regulations, including maximum height, maximum lot coverage, maximum floor area ratio, and minimum yard requirements.
- (3) To vary the applicable off-street parking and off-street loading requirements contained in **Section 40-3-1** of this Code, Schedule of District Regulations.
- (4) To vary the regulations relating to restoration of damaged or destroyed nonconforming structures or uses, contained in **Section 40-2-5** of this Code.
- (5) To permit the expansion of structural alteration of a nonconforming structure or use.
- (6) To permit the continuance of a nonconforming use beyond the use life fixed for such use by **Section 40-2-5** of this Code.

(G) The Board of Appeals shall not recommend to vary the regulation of this Code unless it shall make findings of fact based upon the evidence as presented that:

- (1) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations of the district in which it is located.
- (2) The proposed variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship which will result if the strict letter of the regulations is carried out, and which is not generally applicable to property within the same district.
- (3) The alleged hardship has not been created by any person presently having a proprietary interest in the premises.
- (4) The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood.
- (5) The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, or endanger the public safety.
- (6) The proposed variation will not alter the essential character of the neighborhood.

(7) The proposed variation is in harmony with the spirit and intent of this Code.

(H) The Board of Appeals will not recommend that a variation be granted unless the evidence presented sustains each of the above conditions, in the judgment of the Board.

(I) The Board may recommend such conditions and restrictions upon the location, construction, design, and use of the property benefited by variation as may be necessary or appropriate to comply with the foregoing standards and to protect adjacent property and property values.

Under no circumstances shall a variance be granted to allow a use not permissible under the terms of this Code in the district involved, or any use expressly or by implication prohibited by the terms of this Code in said district.

(J) **Board Has Powers of Zoning Administrator on Appeals – Reversing Decisions of Zoning Administrator.** In exercising the above-mentioned powers, the Board of Appeals may, so long as such action is in conformity with the terms of this Code, recommend reversing or affirming, wholly or partially, or may recommend modifying any order, requirement, decision, or determination appealed from, and may recommend how such order, requirement, decision, or determination ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken.

The concurring vote of **four (4) members** of the Board of Appeals shall be necessary to make any decision, whether by way of recommending reversal of any order, requirement, or determination of the Zoning Administrator or whether recommending in favor of the applicant on any matter upon which the Board is required to pass under this Code, or to affect any variation in the application of this Code.

(K) **Special Uses; Conditions Governing Applications; Procedures.** To hear and recommend the granting of special uses as indicated in the Schedule of District Regulations; to decide such questions as are involved in determining whether special uses should be granted; and to recommend the granting of special uses with such conditions and safeguards as are appropriate under this Code, or to recommend the denial of special uses when not in harmony with the purpose and intent of this Code. A special use shall not be granted unless and until:

- (1) A written application for a special use is submitted, indicating the section of this Code under which the special use is sought and stating the grounds on which it is requested.
- (2) Notice shall be given not less than **fifteen (15)** and not more than **thirty (30) days** in advance of public hearing. The owner of the property for which special use is sought, or his agent, shall be notified by mail. Notice of such hearings, indicating date, time, place, and nature of proposed special use, shall be posted in a prominent place on the property for which special exception is sought, at the City Hall, and in one other appropriate public place at least **fifteen (15) days** prior to the public hearing.
- (3) The public hearing shall be held. Any party may appear in person, by agent, or by attorney.
- (4) The Board of Appeals shall make a finding that it is empowered under the section of this Code in the application, to recommend the granting of a special use, and that the granting of the special use will not adversely affect the public interest.

- (5) Before any special use shall be recommended, the Board of Appeals shall make written findings certifying compliance with the specific rules governing individual special uses and certifying that satisfactory provision and arrangement has been made concerning the following, where applicable:
- (a) Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - (b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, or odor effects of the special use on adjoining properties and properties generally in the district;
  - (c) Refuse and service areas, with particular reference to the items in (a) and (b) above;
  - (d) Utilities, with reference to locations, availability, and compatibility;
  - (e) Screening and buffering, with reference to type, dimension, and character;
  - (f) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - (g) Required yards and other open space;
  - (h) General compatibility with adjacent properties and other property in the district.

**40-8-7      SECRETARY.** The Secretary of the Board of Appeals shall submit to the City Council its findings and recommendations as set out in **Section 40-8-6**, for a final decision to be made by the City Council. The City Council shall have the sole authority to grant variances and special uses based on the recommendations of the Board of Appeals. The authority of the City Council to grant variations and special uses shall be in conformity with the requirements and guidelines established in this Zoning Code. **(Ord. No. 2016-06; 02-22-16)**

**(This Division Sec. 19)**

**40-8-8 - 40-8-9      RESERVED.**

### **DIVISION III – GENERALLY**

**40-8-10      APPEALS FROM THE BOARD OF APPEALS, CITY COUNCIL.** Any person or persons, or any board, taxpayer, department, board, or bureau of the City aggrieved by any decision of the City Council reviewing decisions of the Board of Appeals, may seek review by Court of record of such decision in the manner provided by law. **(Ord. No. 2016-06; 02-22-16)**  
**(Sec. 20)**

**40-8-11      DUTIES OF ZONING ADMINISTRATOR, BOARD OF APPEALS, AND CITY COUNCIL.** It is the intent of this Code that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Appeals shall be to the City Council and that recourse from decisions of the City Council shall be to a court of law.

It is also the intent of this Code that special uses shall be decided by the City Council after hearing before the Zoning Board of Appeals, and that recourse from decisions of the City Council shall be to a court of law. **(Ord. No. 2016-06; 02-22-16) (Sec. 21)**

**40-8-12      SCHEDULE OF FEES, CHARGES AND EXPENSES.** The City Council, upon consideration of recommendation of the Zoning and Planning Commission, shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, special uses, variances, amendments to the official zoning map and other matters pertaining to this Code. The Schedule of Fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the City Council.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. **(See Schedule "A" at the conclusion of this Code.) (Sec. 22)**

## ARTICLE IX - MISCELLANEOUS

**40-9-1      COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall be filed with the Zoning Administrator. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Code. **(Sec. 23)**

**40-9-2      PENALTIES FOR VIOLATION.** Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Code shall be fined not less than **Twenty-Five Dollars (\$25.00)** nor more than **Two Hundred Fifty Dollars (\$250.00)** for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition, violator shall pay all costs and expenses involved in the case. **(See Section 1-1-20)**

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. **(Sec. 24)**

**40-9-3      PROVISIONS OF CODE DECLARED TO BE MINIMUM REQUIREMENTS.** In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern. **(Sec. 25)**

**40-9-4      AMENDMENTS.** The regulations imposed and the districts created by this Code may be amended from time to time by ordinance after this Code has gone into effect, but no such amendments shall be made without a hearing before the Zoning and Planning Commission of the City. Notice shall be given of the time and place of the hearing, not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing, by publishing a notice thereof at least once in one or more newspapers published in the City, or, if no newspaper is published herein, then in one or more newspapers with a general circulation within the City.

Any person desiring a change in zoning of property shall make written application with the Zoning Administrator. The application shall be accompanied by a fee of **Four Hundred Dollars (\$400.00)**. Property owners within **two hundred (200) feet** of the property line will be notified by certified return signature mail prepared and processed by the Zoning Administrator. The fee, less costs incurred by the Zoning Administrator, shall be refunded if the legal notice has not been published, or the application is rejected by the City Council. **(Ord. No. 00-18; 07-24-00)**

In case of written protest against any proposed amendment signed and acknowledged by the owners of **twenty percent (20%)** of the frontage:

- (A) Immediately adjoining or across an alley therefrom;
- (B) Directly opposite the frontage proposed to be altered; or



(C) Proposed to be altered.

Such written protest shall be filed with the Clerk of the City, and the amendment shall not be passed except by a favorable vote of **two-thirds (2/3)** of all the City Council of the City.

**(Sec. 26)**

**40-9-5      ANNEXATION AGREEMENTS.** The best interests of the City will be served by the annexation of any land in the extraterritorial jurisdiction of this Code which is proposed for development. The best interests of the inhabitants of any such proposed development will be served by the provision of municipal services (fire protection, police protection, trash collection, water supply, sewer facilities, etc.) which the City is in a better position to provide, but only within the corporate limits of the City. The City will not be equipped to provide such services without a concomitant increase of revenue, which can only be gained through annexation. Therefore, a condition of this Code shall be that a mutually acceptable agreement shall be entered into between (a) the owner of property in the extraterritorial jurisdiction proposed for rezoning, use, or variance and (b) the City Council of the City that the land proposed for rezoning, special use or variance will be annexed to if: (1) it is contiguous to the corporate boundaries at present, or (2) it provides a means to annex the property proposed for rezoning, special use, or variance to the City when it does become contiguous to the corporate boundary. In the latter case (2), the terms of such agreement shall become a covenant to run with the land within the limits of such proposed rezoning, special use or variance. **(Sec. 27)**

**40-9-6      SEPARABILITY CLAUSE.** Should any section or provision of this Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid. **(Sec. 28)**

**40-9-7      REPEAL OF CONFLICTING ORDINANCES; EFFECTIVE DATE.** All ordinances or parts of ordinances in conflict with this Zoning Code, or inconsistent with the provisions of this Code, are hereby repealed to the extent necessary to give this Code full force and effect. This Code shall become effective from and after its passage, approval and publication as provided by law. **(Sec. 29)**

**40-9-8      COMPREHENSIVE PLAN AND OFFICIAL MAP.** City has adopted a Comprehensive Plan Update, and an official map by Ordinance No. 1068. This ordinance is recorded in the Office of the County Clerk of Franklin County, Illinois. Attached to this Ordinance and made a part hereof is the official zoning map of the City of Benton, Illinois, entitled Zoning District Map, City of Benton, Franklin County, Illinois passed by the City Council of the City of Benton, Illinois this 23<sup>rd</sup> day of February, 1981. It is the intent of this Zoning Code that the Comprehensive Plan Update and the Zoning District Map be the guides for and the development of the jurisdiction of this Code. In the event of any proposed amendment to this Zoning Code which is in contradiction to the Comprehensive Plan or the Official Zoning District Map, any such amendment shall be preceded by an amendment to the Comprehensive Plan or Official Zoning Map as the case may be.

It is further intended that in the extraterritorial jurisdiction of this Zoning Code that the open space district(s) be utilized as far as it is practical until residential, commercial or industrial development is proposed as the case may be. It is also intended that any development proposed in the extraterritorial jurisdiction be considered in conjunction with annexation agreements. **(Sec. 30)**

**(Ord. No. 1062; 02-23-81)**

## **SCHEDULE "A"**

### **MISCELLANEOUS PERMIT FEES**

**Special Use Permit.** Each application for the issuance of a special use permit shall be accompanied by a fee of **Two Hundred Fifty Dollars (\$250.00)** Non-residential, and **Three Hundred Fifty Dollars (\$350.00)** Residential, payable at the time when filing the application for said special use permit. Notification by written certified return signature will be prepared and processed by the Zoning Administrator to property owners within **two hundred (200) foot** of the property line.

**Re-Zoning Fees.** Any person desiring a zoning change shall make written application with the Zoning Administrator. The application shall be accompanied by a fee of **Four Hundred Dollars (\$400.00)**. Property owners within **two hundred (200) feet** of the property line will be notified by certified return signature mail prepared and processing by the Zoning Administrator.

The fee, less costs incurred by the Zoning Administrator, shall be refunded if the legal notice has not been published, or the application is rejected by the City Council.

**(Ord. No. 00-17; 07-24-00)**

## APPENDIX "B"

### FOOTNOTES FOR THE FORESTRY, AGRICULTURE, RESIDENTIAL, AND PLANNED ZONING DISTRICTS

- (1) Buildings and enclosed pens for livestock, fowl, and animals shall not be closer than **two hundred (200) feet** from any adjoining district.
- (2) Principal and accessory buildings shall not be closer than **one hundred (100) feet** from any adjoining parcel.
- (3) Principal and accessory buildings shall not be closer than **fifty (50) feet** from any adjoining parcel.
- (4) Principal and accessory buildings are those related to the use requiring a special use permit as stated in the table of permitted uses and includes any structure for mineral extraction and must be **one thousand (1,000) feet** from any residential structure on adjoining parcels. **(Ord. No. 1394; 05-22-95)**
- (5) See State law.
- (6) See definition of Home Occupation.
- (7) Principal, accessory buildings and operations shall not be closer than **one hundred (100) feet** from any adjoining parcel.
- (8) Occupancy limited to members of the immediate family and/or farm related employees of the property owner employed upon the premises.
- (9) Special uses for Manufactured Homes will be considered by the Planning Commission only if the Mobile Home meets the following conditions:
  - A. Manufactured within the N.A.D.A. guidelines and rated "very good", and
  - B. Box size must meet minimum floor area, and
  - C. Location must be compatible with surroundings, and
  - D. Overall aesthetics (siding, windows, doors, etc.) must be in compliance with Housing Code Ordinance #1367, and
  - E. Must be owner occupied only (except if exempt under Ordinance No. 1394), and
  - F. Written notice by certified mail must be given to all property owners within **two hundred fifty (250) feet** of property line and verification submitted prior to hearing, and
  - G. All utilities to be in the name of the owner/occupant, (except if exempt under Ordinance No. 1394), and
  - H. Copies of title and tax bill and a photo of the mobile home are submitted with the application.**(Ord. No. 97-04; 02-24-97)**
- (10) Municipal sewer and/or water services not available.
- (11) Both municipal sewer and water are available.
- (12) The development plan shall be approved by the Planning Commission. Such plan shall show:
  - A. Access points to public right of way.
  - B. Building locations (existing and proposed).
  - C. Parking layout.
  - D. Elevations of buildings.
  - E. Landscaping plan.
  - F. Lighting plan.
  - G. Drainage plan.
  - H. Utilities site plan.
  - I. Plan shall be compatible with the comprehensive and thoroughfare plans.
  - J. If the development is to be staged, phasing shall be indicated.
- (13) Exempted from district height regulations.

## APPENDIX "C"

### BUSINESS ZONING DISTRICTS FOOTNOTES

- (1) Only sale of gas and oil at retail in conjunction with and subsidiary to a parking lot or parking structure.
- (2) In conjunction with a permitted use, of a limited nature, and in harmony with other activities and uses within this district.
- (3) The location, nature and extent of operations shall be compatible with other activities and uses in this district, furthermore, this development shall have provided for the integration with the thoroughfare system of the community and neighborhood.
- (4) Residential uses shall have the same standards as the R-3 Residential zoning district, except as otherwise prohibited.
- (5) **Six (6)** or more dwelling units.
- (6) No outside storage of equipment or materials.
- (7) Service shall be conducted within buildings.
- (8) Residential dwellings as principal uses are prohibited, however, residential dwelling units are permitted as accessory uses when incidental and in conjunction with a structure of a permitted use.
- (9) All business shall be conducted within buildings.
- (10) All developments shall be approved by the Zoning Administrator and the City Council; such plans shall show:
  - A. access points to all public right-of-ways;
  - B. all building locations;
  - C. parking layout;
  - D. elevations of buildings;
  - E. detail drawings of all signs.
- (11) All manufactured products shall be sold at retail on premises.

## **APPENDIX "D"**

### **FOOTNOTES FOR INDUSTRIAL ZONING DISTRICTS**

- (1) Except electrical.
- (2) Except fresh fish, meats, poultry, fruits and vegetables.
- (3) Retail sales by an establishment engaged in wholesaling is permitted by special use permit.
- (4) Including only used sales.
- (5) Conducted within a building or an area enclosed by a solid wall or uniformly painted board fence **eight (8) feet** high.
- (6) Non-accessory.
- (7) No outside storage allowed. Any other special conditions described by the Planning Commission.  
**(Ord. No. 00-10; 05-08-00)**



## APPENDIX "E"

## SCHEDULE OF DISTRICT SIGN REGULATIONS

Zoning District	Land Use and Nature of Sign	Permitted (if not permitted – Sign is Prohibited)					Misc. & Notes
		No. of Signs	Sign Types	Maximum Surface Area	Max. Height	Min. Setback from R-O-W	
<b>A-4</b> Forestry	Designation of name & owner of land	(1)(2)	Freestanding	12 sq. ft. one side, 2 sides permitted	8'	10'	(1) All signs shall be similar in design & type face (2) One sign at each entrance on perimeter of district (3) Colors may vary
	Non-commercial directional and/or informational (1) (3)	N/A	Freestanding, Flush-Wall, Reflectorized	2 sq. ft. per side, 2 sides permitted	8'	N/A	
<b>A-1</b> General Agriculture	Temp. real estate for sale, rent or lease	N/A	Freestanding, Flus-Wall, Reflectorized	32 sq. ft. one side, 2 sides permitted	8' (1) 8' (2)	12'	(1) Freestanding (2) Flush-Wall (3) 300' min. from any other district, highway or street intersection; 500' min. from controlled access route; 1000' min. from any other off-site sign.
	Off-site sign (3)  Stadium, Coliseum, Horse or auto Race track	One	Freestanding, Reflectorized, Illuminated, Changeable copy	300 sq. ft. one side, 2 sides permitted	20'	12.5' min. yard requirements	
	Remaining uses Permitted	One	Freestanding, Flush-Wall, Roof, Illuminated	32 sq. ft. one side, 2 sides permitted	8' 30'	½ min. yard requirements	
<b>A-2</b> Limited Agriculture	Temporary real estate; off-site signs same as General Agriculture						
	Drive-In Theater same as stadium, coliseum, horse or auto race track in General Agriculture						
	All remaining uses permitted same as General Agriculture						
<b>A-3</b> Flood Plain	Drive-In Theater same as Limited Agriculture						
	Temporary real estate; off-site signs same as General Agriculture						
	All remaining uses permitted same as General Agriculture.						



Zoning District	Land Use and Nature of Sign	Permitted (if not permitted – Sign is Prohibited)					Misc. & Notes
		No. of Signs	Sign Types	Maximum Surface Area	Max. Height	Min. Setback from R-O-W	
<b>R-5</b> Rural Estates	Temp. real estate signs	one	Flush-Wall, Freestanding	6 sq. ft per side, 2 sides permitted	5'	10'	
	All remaining uses permitted	one	Freestanding, Flush-Wall	10 sq. ft. one side,	8'	½ min. yard requirements	
	Planned Developments	A plan indicating location, design, height, surface areas, colors, type faces, maintenance responsibility, and any other relevant data considered necessary by the Planning Commission. Guidelines for the Planning Commission shall be this Sign Regulation's supplement.					
<b>R-1</b> Low Density	Temporary Real Estate Signs same as Rural Estates						
	Planned Developments same as Rural Estates						
	All remaining uses permitted	one	Freestanding, Flush-Wall	10 sq. ft. one side,	8'	½ min. yard requirements	
<b>R-2</b> Medium Density Residential	Planned developments same as R-5						
	Temporary real estate same as R-5						
	Remaining uses permitted	one	Freestanding, Flush-Wall	10 sq. ft.	8'	½ min. yard requirement	
<b>R-3</b> Medium Density Residential And R-4 High Density Residential	Temporary real estate same as R-5						(1) Sign will not be in operation during hours of 9:30 pm to 6:00 am
	Planned Development same as R-5						
	Churches, libraries, private clubs, lodges, public or private	one	Freestanding, Flush-Wall, Illuminated, (1) Changeable copy	10 sq. ft. one side, 2 sides permitted	8'	½ min. yard requirement	
	schools, funeral homes, museums, art galleries, parking areas for uses in less restricted districts.						
	Remaining uses permitted	one	Freestanding, Flush-Wall	1 ½ sq. ft.	8'	½ min. yard requirement	
<b>M-1</b> Planned Mobile Home	Laundromats, parks & (1) playgrounds	one	Freestanding Flush-Wall Illuminated	10 sq. ft. one side 2 sides permitted	8'	½ min. yard requirements	(1) One sign permitted at each vehicular entrance to park or playground
	Temporary Real Estate signs same as R-5						
	Planned Developments same as R-5						

Zoning District	Land Use and Nature of Sign	Permitted (if not permitted – Sign is Prohibited)					Misc. & Notes
		No. of Signs	Sign Types	Maximum Surface Area	Max. Height	Min. Setback from R-O-W	
M-2 Planned Travel Trailer	Mobile home and Travel Trailer Sales, Laundromat, Parks, & Playgrounds (1)	one	Freestanding Flush-Wall, Illuminated, Roof,	12 sq. ft. one side 2 sides permitted - sign area not to exceed total of 16 sq. ft. if on 2 sides	8' (2)	½ min. yard requirement	(1) One sign permitted at each vehicular entrance to park or playground (2) Roof sign not to exceed 30' from grade
	Temporary Real Estate signs same as R-5						
	Planned Developments same as R-5						
B-5 Interchange Business	Temporary Real Estate signs same as General Agriculture						(1) Min: 150' from any on-site signs; 300' from another off-site sign, any other zoning district, any highway or street intersection; 500' from controlled access route (2) One sign structure upon which may or may not be erected on sign for each of the enterprises within the segment (such as a directory) (3) For all enterprises in the segment, the total surface area shall not exceed the square root of the land area of the segment in sq. ft. for single face signs. One additional sign face will be permitted, but total sign surface area shall not exceed 1 ¾ times the result of the above formula. In the event no more than one business enterprise is represented on such sign, the signs shall not contain more than 2/3 the maximum allowable sign area.
	Off-site sign (1)	one	Freestanding Illuminated, Reflectorized	300 sq. ft. one side 2 sides permitted	15'	½ min. yard requirement	
	For all permitted uses in addition to the (directory) sign structure below	two	Freestanding, Illuminated, Changeable copy, Flush-Wall, Perpendicular Wall	One or two surface areas permitted per sign but total surface area shall not exceed 25 sq. ft. for one side. 40 sq. ft. for two sides	8'	½ min. yard requirement	
	Each segment of land zoned B-1 adjoining the intersecting thoroughfares. In order to implement this provision, the owner of the property upon which such sign is permitted to be placed shall permit other enterprises to utilize such sign structure, or such sign structures shall not be permitted. Rationale – A single extremely tall sign (80' in height) would be permitted in order that several such tall signs would not be erected, thus causing competition between signs at 80' heights.	(2)	Freestanding, Illuminated	(3)	80'	½ min. yard requirement	

Zoning District	Land Use and Nature of Sign	Permitted (if not permitted – Sign is Prohibited)					Misc. & Notes
		No. of Signs	Sign Types	Maximum Surface Area	Max. Height	Min. Setback from R-O-W	
<b>B-3</b> Professional Administrative Offices	Professional offices: Administrative offices	one	Flush, (3) Wall, Window Sign, Illuminated (6)	One or two sides permitted per sign, but total exceed total of 6 sq. ft. for two sides 6 sq. ft. for one	10'	5' (5)	(1) Min. distance from any other on-site sign shall be 50' (2) Min. distance from residential district 25' (3) If sign does not exceed 6' in height, clearance shall be determined by Zoning Administrator (4) Roof sign may not exceed 15' above roof line of primary structure to which it is anchored. (5) A bonus of increased surface area will be permitted by Zoning Administrator in an amount of 5% for each 2' additional setback From R.O.W. (6) Illuminated signs shall Not be in operation Between the hours of 9:30 pm to 6:00 am
	Other uses as Permitted etc. (1) (2) Temp. real estate	one	Freestanding	16 sq. ft. one side 1 side permitted	7'	10'	
<b>B-2</b> Secondary Business	Temp. Real estate	one	Flush-Wall, Freestanding (3)	Total surface area for one side shall not exceed 20 sq. ft. or 30 sq. ft. for two sides (5)	25'	5'	
	All permitted uses	one	Freestanding, (3) Illuminated, Window Sign, Changeable Copy, Time & Temp. OR	Total surface area for one side shall not exceed 100 sq. ft., 200 sq. ft. for two sides (5)	25'	5'	
			Roof sign, Illuminated, Changeable Copy, Time & Temp.	One side 100 sq. ft., 2 sides 120 sq. ft. total <b>(#1157)</b>	(4)	5' from any building	
		AND One	Flush or Perpendicular Wall, (3) Illuminated Changeable Copy, time & Temp.	One or two sides permitted. Total surface area shall not exceed 100 sq. ft. for one side, <b>(#1157)</b>	20'	5'	
					<b>(#1157)</b>		

Zoning District	Land Use and Nature of Sign	Permitted (if not permitted – Sign is Prohibited)					Misc. & Notes
		No. of Signs	Sign Types	Maximum Surface Area	Max. Height	Min. Setback from R-O-W	
<b>B-6</b> Limited Secondary Business		one	Flush or Perpendicular wall, (3) Illuminated, Changeable Copy, Time & Temp.	One or two sides permitted. Total surface area shall not exceed 100 sq. ft. for one side <b>(#1157)</b>	20' <b>(#1157)</b>	5'	See previous page for notes.
<b>B-4</b> Neighborhood Business	Temporary Real Estate Signs Same as Rural Estates may not exceed permitted	All other uses as	Window Sign, Illuminated (2) OR Freestanding, Illuminated (2)	one side permitted  One or two sides permitted, total Surface area shall Not exceed 8 sq. ft.	Flush-Wall,  5'	16 sq. ft.  5'	(1) Min. yard (1) Sign above roofline. (2) Illuminated signs shall not be in operation between the hours of 9:30 pm and 6:00 am. Illumination may be extended to correspond To business hours. During such time Illumination of the sign Shall be reduced to a Level deemed by the Planning Commission To be compatible to the Adjoining districts.
<b>M-3</b>	A plan indicating location, design, height, surface areas, colors, typefaces, maintenance responsibility, And any other relevant data considered necessary by the Plan. Commission shall be approved by the Plan. Commission Guidelines for the Plan. Commission shall be to permit the following: One sign Indicating a directory and/or name of development for each thoroughfare entrance permitted by the Plan. Commission and that as such sign(s) increase(s) in surface area, remaining sign surface areas Shall be diminished. Overall guidelines shall be as determined by the sign regulations for the Secondary Business Districts. Minor directional signs, if designed in accordance with a plan which indicates a Consistency of sizes, patterns, colors and typefaces will be permitted.						

Zoning District	Land Use and Nature of Sign	Permitted (if not permitted – Sign is Prohibited)					Misc. & Notes
		No. of Signs	Sign Types	Maximum Surface Area	Max. Height	Min. Setback from R-O-W	
<b>B-1</b> Central Business District	Accountants, Adv. Agencies, Attorneys, Chamber of Commerce, clubs, credit bureaus, custom tailor or dressmaking, dentists, orthodontists, detectives, Employment agencies, engineering offices, janitorial services, labor unions, business & professional Offices, physicians, etc. planners, secretarial – other similar services as determined by Zoning Administrator	one	Flush-Wall, Window Sign	1 sq. ft. (3)	8' (1)	N/A	(1) From grade (2) In addition, barber shops are permitted one traditional barber pole subject to following limitations; projection not to exceed 9" from exterior wall; shall not be over 3' in length; may be illuminated, and, placed in manner that is not hazardous
	Art Galleries, Barber (2) & Beauty shops Blueprinting & Photocopying	one	Illuminated, Flush-Wall, Window Sign (3) Changeable Copy	5 sq. ft.	8'	N/A	(3) Not to exceed 1 window per side of building per Business
	Services, Insurance agencies, Interior decorators, Libraries, Museums, Newspaper Offices, Photographers, Radio Studios, Security Dealers, etc. Title Abstract Offices, Utility Co. Offices						
	Motion Picture Theaters	one  AND (6)	Marquee (1), Illuminated, Changeable Copy, Flush or Perpendicular	Marquee: 2 sides permitted, each side not to exceed 20 sq. ft. (4) (5)	12'	N/A	(1) Maximum projection, 6' but in no event shall projection be closer than 2' from the street curb line extended vertically (2) Marquee permitted provided the gross floor area is in excess of 8,000 sq. ft.
	All remaining Uses permitted	one	Flush-Wall, Perp-Wall, Changeable Copy, Time & Temp., Illuminated, Window, Marquee	Flus & Perp. Wall signs and corner lots as permitted for theaters	12'	N/A	(3) Maximum projection: 4' (4) Motion picture theater 30 sq. ft. per side (5) <u>Flush Wall</u> : Up to 10' Frontage 10 sq. ft. plus 0.5 sq. ft. for each 1' frontage over 10'. <u>Perpendicular Wall</u> : 2 or more surface areas, total surface area not to exceed: up to 10' frontage – 15 sq. ft. plus 0.75 for each 1' frontage over 10'.
		AND (6)	Window promotional	One 10 sq. ft. sign for each 20' frontage of smallest lot dimension			

Zoning District	Land Use and Nature of Sign	Permitted (if not permitted – Sign is Prohibited)					Misc. & Notes
		No. of Signs	Sign Types	Maximum Surface Area	Max. Height	Min. Setback from R-O-W	
<b>B-1</b>	If a minimum of 4 establishments, having a minimum of 100' frontage desire to develop an imaginative Aesthetically pleasing scheme for signs which is not permitted in these regulations, such scheme may Be presented to the Planning Commission, and if approved, a permit may be issued.						(5) (Cont'd.) <u>If on corner lot with Customer entrance on Each frontage</u> , an Additional Flus or Perpendicular Wall sign Will be permitted in Accordance with these Limitations but with a Surface area not to Exceed a size equal to The surface area Permitted on the Smallest frontage of the property. (6) See Max. surface area (7) Max. exposure time: 30 days
<b>I-2</b> Restricted Industrial	All permitted uses	one	Freestanding, illuminated, window, Perp-wall, Changeable Copy, Time & Temp.	One or two sides permitted. Total surface area shall not exceed 20 sq. ft. for one side, 30 sq. ft. for two sides	15'	1/2 yard min.	(1) Roof sign may not exceed 15' above roof line of primary structure to which it is attached.
<b>I-2</b> Light Industrial			OR Roof sign, illuminated, Changeable Copy	one side 60 sq. ft., two sides 100 sq. ft.	15' (1)	5' from any building elevation	
<b>I-3</b> General Industrial	All permitted uses	Same requirements as in Light Industrial Districts					
<b>I-4</b>	All permitted	Same requirements as in General Industrial Districts					



**References Are To Section Numbers**



**Abandoned Vehicles, (See Motor Vehicles)****Administration,**

administrative sick leave,

- accrual, 1-4-10
- advance approval, 1-4-4
- employee qualification, 1-4-3
- half time approval, 1-4-6
- increment limitations, 1-4-7
- medical documentation, 1-4-5
- medication, 1-4-9
- policy, 1-4-1
- purpose, 1-4-2
- return to work, 1-4-8
- termination, 1-4-11

attorney, city

- department advisor, 1-2-85
- judgments, 1-2-84
- preparation of ordinances, 1-2-83
- prosecute for city, 1-2-82
- prosecution of suits, 1-2-87
- services of, 1-2-81
- violation of ordinances, 1-2-86

boards and commissions (see that title)

bidding procedures, 1-2-34

billing clerk,

- clerk, secretary, 1-2-111
- duties, 1-2-109
- office established, 1-2-108
- reports, 1-2-110

bonds, 1-2-31

city administration and officials,

- accounts and finances, 1-2-14
- departments, 1-2-10
- public affairs, 1-2-13
- public health and safety, 1-2-15
- public property, 1-2-17
- regulations, 1-2-12
- streets and public improvements, 1-2-16
- superintendent, 1-2-11

claims, 1-2-36

clerk, city,

- annual budget, 1-2-59
- appointment, 1-2-47
- delinquent special assessments, 1-2-62
- delivery of papers, 1-2-49
- deputy clerk for, 1-2-55
- finances, 1-2-58
- license plates, 1-2-51
- minutes, 1-2-48
- notice to appointed officials, 1-2-60
- oaths administered by, 1-2-52
- other duties of, 1-2-61
- payments, 1-2-56

**Administration, (Cont'd.)**

clerk, city, (Cont'd.)

- preparation of commissions, 1-2-50
- reports by, 1-2-53
- successor of, 1-2-54
- unclaimed rebate fund, 1-2-63
- warrant register, 1-2-57

commissioners,

- composition of, 1-2-1
- meetings of, 1-2-3
- quorum, 1-2-5
- special committees, 1-2-6
- special meetings, 1-2-4
- vacancies, appointment, 1-2-2

commissions, (see: boards and commissions)

committees, 1-2-4

contracts, 1-2-34

director of public works,

- accountable to commissioners, 1-2-98
- approval of salary, 1-2-99
- duties, 1-2-97
- position created, 1-2-96

elections, city, 1-2-27

engineer,

- duties, 1-2-93
- maps, plats and records, 1-2-92
- oath, 1-2-91
- office created, 1-2-90

expenses of, 1-2-38

federal old age and survivor's insurance system, 1-2-40

fiscal year, 1-1-16

general,

- bidding and contract procedures, 1-2-34
- bonds, 1-2-31
- claims, 1-2-36
- elections, 1-2-27
- expenses, 1-2-38
- federal old age and survivor's insurance system, 1-2-40
- IMRF, 1-2-41
- insurance, 1-2-33, 1-2-34
- municipal officers, regulations, 1-2-28
- municipal year, 1-2-37
- offices consolidated, 1-2-32
- official records, 1-2-39
- qualifications, 1-2-30
- resignation of appointed officials, 1-2-29
- salaries regulation, 1-2-35
- seal, 1-2-26
- smoking prohibited, 1-2-42

**Administration, (Cont'd.)**

government unit remote attendance policy,  
Addendum "A"

liability insurances for, 1-2-33

meeting procedures,

- recording closed meetings,
  - back-up equipment, 1-5-5
  - closed session minutes, 1-5-3
  - maintenance and public release of recordings, 1-5-7
  - procedure for destruction of recordings, 1-5-8
  - procedure for recording, 1-5-4
  - recording closed sessions, 1-5-1
  - responsibility, 1-5-2
  - review, 1-5-6
- remote meeting participation,
  - amendment of previous terms, 1-5-13
  - definition of meeting, 1-5-12
  - remote participation policy, 1-5-14
  - statutory authority, 1-5-11

meetings,

- quorum, 1-2-5
- regular, 1-2-3
- special, 1-2-4
- time, 1-2-3

motions,

- changes in votes, 1-2-20(K)
- filling of blanks, 1-2-20(S)
- postpone, 1-2-20(P)
- precedence of, 1-2-20(L)
- previous question, 1-2-20(N)
- reconsideration of, 1-2-20(U)
- record of, 1-2-20(J)
- to adjourn, 1-2-20(M)
- to amend, 1-2-20(R)
- to refer, 1-2-20(Q)
- to substitute, 1-2-20(T)
- to table, 1-2-20(O)
- voting on, 1-2-20(K)

oath, 1-2-52

official records, 1-2-39

ordinances, 1-2-23

quorum, 1-2-5

request for auxiliary aid(s) and/or service(s),  
Addendum "B"

rules, council,

- address by non-members, 1-2-21
- business, order of, 1-2-20(A)
- call to order, 1-2-20(G)
- censure, 1-2-20(X)
- chair, decisions of, 1-2-20(H)
- debate, 1-2-20(F)
- members, duties of, 1-2-20(C)

- motions, (see title)

**Administration, (Cont'd.)**

rules, council, (Cont'd.)

- new business, 1-2-20(E)
- presiding officer, 1-2-20(B)
- question of personal privilege, 1-2-20(I)
- "rules of order" adopted, 1-2-20(V)
- suspension of rules, 1-2-20(W)
- visitors, 1-2-20(D)
- voting, 1-2-20(K)

salaries, 1-3-1, 1-3-2

seal, 1-2-26

treasurer, city,

- accounts by, 1-2-77
- appointment, 1-2-69
- bond of, 1-2-31, 1-2-73
- bookkeeping, 1-2-75
- deposit of funds, 1-2-78
- finance committee, 1-2-68
- money, warrants, accounts, 1-2-70
- outstanding bonds, 1-2-79
- separate funds by, 1-2-72
- special assessments, 1-2-74
- statements by, 1-2-76
- warrant register, 1-2-71

zoning and code enforcement officer/  
economic development administrator,

- duties, 1-2-102
- entry powers, 1-2-104
- office established and appointment, 1-2-101
- scope, 1-2-105
- stop order, 1-2-103

**Animals,**

dogs,

- bitten persons, 3-2-11
- certificate of inoculation, 3-2-6
- city pound designated, 3-2-14
- definitions, 3-2-1
- disposition of, 3-2-15
- duration of inoculation, 3-2-4
- female, 3-2-16
- female dog with other dogs, 3-2-17
- impounding, 3-2-8, 3-2-12
- injury to property, 3-1-3
- inoculation of, 3-2-2
- limitation on, 3-1-9
- notice to owner, 3-2-9
- poundmaster, obstructing, 3-2-10
- redemption, 3-2-13
- restraint, 3-2-7
- running at large, 3-2-8
- tags, 3-2-5
- unlicensed, 3-2-8

- vaccination of, 3-2-3

**Animals, (Cont'd.)**

## general regulations,

- animals,
  - cruelty, 3-1-6
  - in city, 3-1-10
- cruelty, 3-1-6
- definitions, 3-1-2
- health hazard, 3-1-8
- injury to property, 3-1-3
- keeping barking dogs and crying cats, 3-1-5
- keeping of wild, 3-1-7
- livestock, 3-1-10
- manner of keeping, 3-1-4
- number, 3-1-9
- short title, 3-1-1
- penalty, 1-1-20
- pound designated, 3-2-14

## tethering,

- regulations, 1-4-1
- variances, 1-4-2

## vicious and dangerous dogs,

- definitions, 3-3-1
- dog permitted to leave premises, 3-3-4
- injunction, 3-3-5
- liability of owner, 3-3-6
- owner's responsibility, 3-3-3
- right of entry, 3-3-7
- unlawful to maintain, 3-3-2

**Annexations,**

planning commission, 4-1-5

**Anti-Bullying Policy,**

application of policy, 12-2-1

bullying prohibited, 12-2-3

definition, 12-2-2

disciplinary action, 12-2-4

reporting and complaint procedure, 12-2-5

**Assembly,**

disturbing, 27-2-3

**Attorney, City, 1-2-81 - 1-2-87****- B -****Banks, 1-2-78(F)****Begging, 27-2-17****Boards and Commissions,**

## airport board,

- annual reports, 4-7-6
- cooperation with lessees, 4-7-7
- established, 4-7-1
- expenditures, 4-7-5
- officers, 4-7-4
- term, 4-7-2
- vacancies, 4-7-3

## board of police commissioners,

- application of law, 4-2-15

**Boards and Commissions, (Cont'd.)**

## board of police commissioners, (Cont'd.)

- appointment, vacancies, 4-2-2
- appointment of chief, 4-2-12
- adoption of rules and regulations, 4-2-13
- board attorney, 4-2-14
- board established, 4-2-1
- chairman elected, 4-2-4
- compensation of secretary, 4-2-10
- conflicting offices, 4-2-7
- employment of secretary, 4-2-9
- oath and bond, 4-2-6
- powers of board, 4-2-11
- quorum, 4-2-5
- removal from office, 4-2-8
- statutes adopted, 4-2-16
- term of office, 4-2-3

## firefighters pension board,

- compensation, 4-4-7
- created, 4-4-2
- employee contribution, 4-4-5
- established, 4-4-1
- Illinois Pension Code adopted, 4-4-10
- pension funds, 4-4-3
- powers and duties, 4-4-9
- quarterly meetings, 4-4-8
- tax levy, 4-4-4
- vacancies and resignation, 4-4-6

## foreign fire insurance board,

- appropriation by city council, 4-6-5
- audit, 4-6-6
- duties of the board, 4-6-7
- election, 4-6-2
- established, 4-6-1
- office, terms, 4-6-3
- treasurer's bond, 4-6-4

## police pension fund,

- annual statements, 4-3-12
- board membership, 4-3-6
- compensation, 4-3-8
- employee contribution, 4-3-5
- established, 4-3-1
- Illinois pension code adopted, 4-3-14
- pension funds, 4-3-3
- powers and duties, 4-3-11
- quarterly meetings, 4-3-9
- report to city council, 4-3-13
- tax levy, 4-3-4
- terms, 4-3-2
- vacancies and resignation, 4-3-7
- vice-president's duties, 4-3-10

## tourism board,

- established, 4-5-1
- expenditures, 4-5-6
- membership, 4-5-2
- powers and duties, 4-5-5
- procedure, 4-5-4

- term of office, 4-5-3

**Boards and Commissions, (Cont'd.)**

- zoning and planning commission,
- annexations, 4-1-5
- duties of, 4-1-5
- established, 4-1-1
- expenditures, 4-1-7
- improvements, 4-1-7
- membership on, 4-1-2
- official map of, 4-1-6
- powers of, 4-1-5
- procedure, 4-1-4
- re-subdivision approval, 4-1-6
- term of office, 4-1-3

**Bond(s), 1-2-31****Building Regulations,**

- building code, 6-1-2
- electrical code, 6-1-6
- expiration of building permit, 6-1-4
- fees, 6-1-9
- international fire prevention code, 6-1-7
- international residential code, 6-1-3
- plumbing code, 6-1-5
- purpose and code, 6-1-1
- state of Illinois accessibility standards, 6-1-8

**Businesses,**

- administration,
- appeal, 7-1-14
- applications, 7-1-1
- building and premises, 7-1-7
- change of location, 7-1-8
- fees, 7-1-5
- form of license, 7-1-3
- inspections, 7-1-12
- investigations, 7-1-4
- license to be posted, 7-1-15
- location, 7-1-9
- nuisances prohibited, 7-1-10
- persons subject to license, 7-1-2
- produce, exclusions, 7-1-16
- suspension, revocation of license or permit, 7-1-13
- termination of licenses, 7-1-6
- working conditions, 7-1-11
- adult entertainment,
- additional regulations concerning all sexually oriented businesses, 7-8-19
- additional regulations for adult motels, 7-8-16
- additional regulations for adult theaters, 7-8-18
- additional regulations pertaining to exhibition of sexually explicit films or videos, 7-8-17
- alcoholic beverages, 7-8-14

- application for business license, 7-8-5

**Businesses, (Cont'd.)**

- application for business employee license, 7-8-6
- calculation of time, 7-8-23
- definitions, 7-8-2
- expiration of license, 7-8-9
- exterior portions of sexually oriented businesses, 7-8-15
- fees, 7-8-7
- hours of operation, 7-8-21
- injunction, penalties and remedies, 7-8-24
- inspection, 7-8-8
- license required, 7-8-4
- licensing procedure and decisions, 7-8-12
- location of sexually oriented businesses, 7-8-3
- notices, 7-8-22
- nuisance declared, 7-8-25
- prohibition against minors in a sexually oriented business, 7-8-20
- purpose and intent, 7-8-1
- revocation, 7-8-11
- suspension, 7-8-10
- transfer of license, 7-8-13
- coin-operated machines,
- application, 7-4-3
- definitions, 7-4-1
- delinquent payment of city debt, 7-4-6
- display of license, 7-4-11
- gambling regulations, 7-4-8
- hours, 7-4-10
- license fees, 7-4-5
- license required, 7-4-2
- non-assignability of license, 7-4-7
- permitting gambling, 7-4-9
- prohibited licensees, 7-4-4
- right of entry, 7-4-12
- fireworks,
- applicability, 7-9-16
- application for public display permit, 7-9-8
- application for seller's permit, 7-9-9

## **Businesses, (Cont'd.)**

### fireworks, (Cont'd.)

- definitions, 7-9-1
- enforcement, 7-9-18
- issuance – nontransferable voiding, 7-9-7
- non-prohibited acts, 7-9-15
- permit, 7-9-4
- permit fees, 7-9-6
- possession, use and discharge unlawful, 7-9-3
- reckless discharge, 7-9-19
- sale from stands, 7-9-10
- sale unlawful, 7-9-2
- special effects, 7-9-14
- standards for public fireworks displays, 7-9-12
- standards for temporary stands, 7-9-11
- status of state law, 7-9-17
- time limit, 7-9-5
- use of fireworks in public parks, 7-9-13

### garage and yard sales,

- fines, 7-2-46
- limitation, 7-2-45
- time period, 7-2-44

### junk dealers,

- application, 7-5-4
- defined, 7-5-1
- delinquent payment of city debt, 7-5-8
- disqualified, 7-5-5
- fee, 7-5-7
- license, 7-5-6
- license required, 7-5-3
- minors, 7-5-8
- penalty, 1-1-20
- physical requirements, 7-5-2

### licenses,

- adult business, 7-8-4
- application, 7-1-1
- coin-operated machines, 7-4-2
- fees for, 7-1-5, 7-2-13, 7-2-26, 7-3-12, 7-4-5, 7-5-7, 7-6-11, 7-8-7, 7-9-6
- fireworks, 7-9-4
- inspections, 7-1-12
- investigation, 7-1-4, 7-3-4
- junk dealers, 7-5-3
- liquor, 21-2-1
- manufactured home parks, 23-3-21
- peddlers, 7-3-1
- person subject to, 7-1-2
- poker run, 7-7-4
- raffles, 7-7-3
- revocation of, 7-1-13
- signed by mayor, 7-1-3
- solicitors, 7-2-28

- taxicab, 7-6-3

## **Businesses, (Cont'd.)**

### licenses, (Cont'd.)

- termination of, 7-1-6
- transient merchants and itinerant vendors, 7-2-4

### peddlers,

- application, 7-3-3
- definitions, 7-3-2
- delinquent payment of city debt, 7-3-13
- exclusionary provision, 7-3-11
- fees, 7-3-12
- fraud, 7-3-6
- hours, 7-3-5
- investigation, 7-3-4
- license for, 7-3-1
- nuisance, 7-3-9
- photographs of, 7-3-7
- police action, 7-3-10
- unwanted, 7-3-8

### raffles and poker runs,

- application for poker runs, 7-7-4
- application for raffles, 7-7-3
- conduct, 7-7-7
- definitions, 7-7-1
- delinquent payment of city debt, 7-7-11
- issuance, 7-7-6
- license qualifications, 7-7-5
- limited construction, 7-7-10
- manager, bond, 7-7-8
- records, 7-7-9
- requirement of license, 7-7-2

### solicitors,

- appeal, 7-2-31
- disclosure requirements, 7-2-34
- exceptions, 7-2-37
- exhibited upon request, 7-2-32
- interstate commerce, 7-2-39
- issuance of permit, 7-2-28
- no agreement to evade, 7-2-38
- non-transferable, 7-2-33
- penalty, 7-2-41
- permit denial, 7-2-29
- posted premises, 7-2-35
- prohibited practices, 7-2-36
- regulations, intersections, 7-2-40
- standards for permit issuance, 7-2-27

### taxicabs,

- application, 7-6-3
- application for driver's license, 7-6-10
- certificate fee, 7-6-17
- certificate required, 7-6-2
- definitions, 7-6-1
- delinquent payment of city debt, 7-6-18
- display of license, 7-6-12
- failure to comply, 7-6-14

- issuance of certificate, 7-6-4



**Businesses, (Cont'd.)****taxicabs, (Cont'd.)**

- issuance of license, duration, annual fee, 7-6-11
- liability insurance required, 7-6-6
- limitation of franchises, 7-6-5
- refusal of passengers to pay legal fare, 7-6-16
- suspension and revocation of certificates, 7-6-8
- suspension and revocation of license, 7-6-13
- taxi driver's license, 7-6-9
- transfer of certificates, 7-6-7
- vehicles, equipment, maintenance, 7-6-15

**transient merchants and itinerant merchants,**

- appeal, 7-2-9
- denial of license, 7-2-6, 7-2-7
- exemptions from fees, 7-2-13
- exemptions from requirements, 7-2-14
- exhibited upon request, 7-2-10
- failure to obtain, 7-2-12
- firms or corporations, 7-2-15
- interstate commerce, 7-2-16
- license, 7-2-4
- penalty, 7-2-17
- revocation, 7-2-8
- standards, 7-2-5
- transfer, 7-2-11

**transient merchants, itinerant merchants, and solicitors,**

- application for, 7-2-25
- defined, 7-2-1
- fees, 7-2-26
- revocation, 7-2-30

- C -

**Cable Television,****cable and video customer protection law,**

- customer credits, 8-2-3
- customer service and privacy protection law, 8-2-1
- enforcement, 8-2-2
- penalties, 8-2-4

**cable and video service provider fee,**

- accounting principles, 8-1-4
- audits, 8-1-6
- definitions, 8-1-1
- fee imposed, 8-1-2
- late fees/payments, 8-1-7
- no impact on other taxes due, 8-1-5
- PEG access support fee imposed, 8-1-3

**new wave cable fee,**

- annual provider fee, 8-3-1
- fee based on gross revenue, 8-3-3
- paid quarterly, 8-3-2
- revenues excluded, 8-3-4
- unconstitutional rulings, 8-3-5

**Chief of Police, (See Public Safety)****City Code,****definitions,**

- catchlines, 1-1-17
- list of, 1-1-16
- word construction, 1-1-15

**penalty,**

- appeals, 1-1-21
- application of, 1-1-23
- liability of officers, 1-1-24
- license, 1-1-25
- service by certified mail, 1-1-22
- specific, 1-1-20

**saving clause of,**

- clerk's certificate, 1-1-12
- court proceedings, 1-1-10
- ordinance repeal, 1-1-8
- public utility ordinances, 1-1-9
- severability of provisions, 1-1-11

**Civil Emergency,****authority of mayor to issue orders, 30-1-4****curfew, 30-1-3****declaration of emergency, 30-1-2****definitions, 30-1-1****effectiveness, 30-1-5****notification, 30-1-6****Claims against City, 1-2-36****Clerk, City, (See Administration)****Commissions, (See title "Boards and Commissions")****Communications Regulations,****applicability, 10-1-3****approval process, 10-1-9****definitions, 10-1-2****development standards, 10-1-10****inventory of existing sites, 10-1-5****nonconforming wireless communication facilities, 10-1-11****preference locations, 10-1-6****removal of abandoned wireless communication facilities, 10-1-12****required submittals for tower and/or antenna use permit (TAP), 10-1-8****review procedures, 10-1-7****revocation of tower and antenna use permits, 10-1-13****shared facilities and collocation policy, 10-1-4****small wireless facilities, 10-2-1 – 10-2-7****statement of intent, 10-1-1****Contracts, 1-2-34****Culverts in Streets, (See Streets)****Curbs and Gutters, 33-5-2****Curfew, 27-2-30**

- D -

**Disorderly Conduct,** 27-4-1

**Disturbing peace,** 27-2-5

**Dogs, (See Animals)**

**Domestic and Sexual Violence Policy,**

definition, 12-3-2

policy, 12-3-4

purpose of policy, 12-3-1

victims' economic security and safety act  
(VESSA), 12-3-3

- E -

**Elections,** 1-2-27

**Emergency Management Agency (E.M.A.),**

appropriations and levy of tax, 30-4-13

authority to accept services, gifts, grants or  
loans, 30-4-14

communications, 30-4-10

compensation, 30-4-20

definitions, 30-4-3

emergency management agency, 30-4-4

emergency management powers of the  
mayor, 30-4-5

emergency termination or reduction of  
electrical service, 30-4-22

financing, 30-4-6

immunity, 30-4-11

limitations, 30-4-2

local disaster emergencies, 30-4-7

mutual aid arrangements between political  
subdivisions, 30-4-9

no private liability, 30-4-18

orders, rules and regulations, 30-4-15

penalty, 30-4-23

personnel oath, 30-4-21

policy and procedures, 30-4-1

professions, trades and occupations, 30-4-

12

succession, 30-4-19

testing of disaster warning devices, 30-4-8

utilization of existing agency, facilities and  
personnel, 30-4-16

**Employee Personnel Code,**

Americans with disability act grievance  
procedure, Appendix "E"

anti-bullying policy,

- application, 12-2-1

- bullying prohibited, 12-2-3

- definition, 12-2-2

- disciplinary action, 12-2-4

- reporting and complaint procedure, 12-2-5

domestic and sexual violence policy,

- definition, 12-3-2

- policy, 12-3-4

**Employee Personnel Code, (Cont'd.)**

domestic and sexual violence policy,  
(Cont'd.)

- purpose, 12-3-1

- victims' economic security and safety  
act (VESSA), 12-3-3

drug free workplace policy, Appendix "A"

employee code, discipline form, Appendix  
"C"

employee notification of personnel code and  
drug free workplace policy and  
disclaimer of employment, Appendix "B"  
generally,

- definitions, 12-1-2

- discipline, 12-1-12

- equal employment, 12-1-3

- hiring policy, residency, 12-1-4

- leave, 12-1-6

- length of service, 12-1-11

- other benefits, 12-1-7

- purpose, 12-1-1

- regulations and restrictions, 12-1-8

- rights of employees, 12-1-9

- rights of employer, 12-1-10

- wages and classifications, 12-1-5

request for family or medical leave,  
Appendix "F"

request for special leave, Appendix "G"

social media policy,

- mission statement, 12-4-1

- policy, 12-4-3

- purpose, 12-4-2

- rules and regulations, 12-4-4

**Enterprise Zone,**

abate real estate taxes, 13-1-6

description, 13-1-3

designated zone organizations, 13-1-9

established, 13-1-1

permit fees waived, 13-1-7

position of zone administrator established,  
13-1-10

qualification, 13-1-4

sale of materials, 13-1-5

term of zone, 13-1-2

urban homestead program, 13-1-8

**Equal employment,**

accommodations for disabled, 22-7-6

adoption, 22-7-1

**Equal employment, (Cont'd.)**

- compliance by employees, 22-7-7
- contracting with non-complaints, 22-7-3
- designated enforcers, 22-7-8
- minority hiring, 22-7-5
- non-discriminatory practices, 22-7-2
- outreach to all, 22-7-4

**Ethics Code, 22-6-1**

- F -

**Fair Housing Code,**

- declaration of policy, 22-4-1
- definitions, 22-4-2
- penalty, 22-4-4
- prohibited acts, 22-4-3

**Filth, 25-1-1****Fire Department,**

- department administration,
  - appointments, 30-3-3
  - duties of chief, 30-3-6
  - enforcement, 30-3-7
  - established, 30-3-1
  - non-resident service fees, 30-3-10
  - obstruction of and restitution, 30-3-9
  - order of rank, 30-3-2
  - outside calls, 30-3-8
  - rank, 30-3-4
  - rules and regulations, 30-3-5
- hazardous materials,
  - abatement of hazardous materials, 30-3-37
  - allocation of expenses, 30-3-39
  - charges for services, 30-3-40
  - definitions, 30-3-36
  - hazard materials specialist, 30-3-38
- officers,
  - bond required, 30-3-18
  - election, 30-3-16
  - monetary transfers, 30-3-19
  - treasurer fiscal duties, 30-3-17
  - use of funds, 30-3-20
- volunteer firemen,
  - compensation, 30-3-29
  - compliance to regulations, 30-3-30
  - duties, 30-3-27
  - members appointed, 30-3-25
  - minimum age requirement, 30-3-31
  - requirements, 30-3-26
  - training, 30-3-28

**Firearms, 27-2-19****Fireworks,**

- applicability, 7-9-16
- application for public display permit, 7-9-8
- application for seller's permit, 7-9-9
- definitions, 7-9-1

**Fireworks, (Cont'd.)**

- enforcement, 7-9-18
- issuance – nontransferable voiding, 7-9-7
- non-prohibited acts, 7-9-15
- permit, 7-9-4
- permit fees, 7-9-6
- possession, use and discharge unlawful, 7-9-3
- reckless discharge, 7-9-19
- sale from stands, 7-9-10
- sale unlawful, 7-9-2
- special effects, 7-9-14
- standards for public fireworks displays, 7-9-12
- standards for temporary stands, 7-9-11
- status of state law, 7-9-17
- time limit, 7-9-5
- use of fireworks in public parks, 7-9-13

**Fiscal year, 1-1-16****Flood Plain Code,**

- Abrogation and greater restrictions, 14-1-14
- base flood elevation, 14-1-3
- carrying capacity and notification, 14-1-10
- definitions, 14-1-2
- development permit, 14-1-5
- disclaimer of liability, 14-1-12
- duties of zoning administrator/code enforcement official, 14-1-4
- penalty, 14-1-13
- preventing increased flood heights and resulting damages, 14-1-6
- protecting buildings, 14-1-7
- public health and other standards, 14-1-9
- purpose, 14-1-1
- subdivision requirements, 14-1-8
- variances, 14-1-11

**Franchises,**

- electric, 15-1-1

**Freedom of Information Code,**

- certain information exempt from inspection and copying, 22-3-9
- designation, duties and training of officers, 22-3-2
- fees, 22-3-6
- granting or denial of requests, 22-3-8
- notice of denial of request; appeals, 22-3-10
- procedures, 22-3-3
- public file, 22-3-7
- public records available, 22-3-1
- request for commercial purposes, 22-3-5
- requests to inspect or copy, 22-3-4

- G -

**Games in Streets, 27-2-20**

**- H -**

**Historic Preservation Code,**

- applications for nominations of landmarks and historic districts, 17-1-14
- certificate of appropriateness, 17-1-15
- composition, 17-1-3
- criteria for historic district designation, 17-1-12
- criteria for landmark designation, 17-1-10
- definitions, 17-1-2
- historic district designation procedure, 17-1-13
- historic preservation, 17-1-1
- landmark designation procedures, 17-1-11
- meetings, 17-1-7
- officers, 17-1-6
- powers and duties, 17-1-8
- qualifications, 17-1-4
- surveys and research, 17-1-9
- terms, 17-1-5

**- I -**

**Identity Theft,**

- prevention policy,
  - detecting red flags, 22-1-4
  - identification of red flags, 22-1-3
  - preventing and mitigating identity theft, 22-1-5
- program administration 22-1-7
- program adoption, 22-1-1
- program updates, 22-1-6
- purpose and definitions, 22-1-2
- use of social security numbers,
  - amendment of privacy policy, 22-2-9
  - applicability, 22-2-4
  - compliance with federal law, 22-2-5
  - conflict with stricter laws, 22-2-10
  - definitions, 22-2-1
  - embedded social security numbers, 22-2-6
  - identity--protection requirements, 22-2-7
  - penalty, 22-2-8
  - prohibited activities, 22-2-2
  - public inspection and copying of documents, 22-2-3

**Investment Policy,**

- authorized and suitable investments, 22-5-8
- authorized financial dealers and institutions, 22-5-7
- collateralization, 22-5-9
- delegation of authority, 22-5-5
- diversification, 22-5-11
- ethics and conflicts of interest, 22-5-6

**Investment Policy, (Cont'd.)**

- internal control, 22-5-13
- investment policy adoption, 22-5-16
- maximum maturities, 22-5-12
- objective, 22-5-4
- performance standards, 22-5-14
- policy, 22-5-1
- prudence, 22-5-3
- reporting, 22-5-15
- safekeeping and custody, 22-5-10
- scope, 22-5-2

**- J -**

**Junk Dealers,**

- application, 7-5-4
- defined, 7-5-1
- delinquent payment of city debt, 7-5-8
- disqualified, 7-5-5
- fee, 7-5-7
- license, 7-5-6
- license required, 7-5-3
- minors, 7-5-8
- penalty, 1-1-20
- physical requirements, 7-5-2

**- L -**

**Licenses,**

- adult business, 7-8-4
- application, 7-1-1
- coin-operated machines, 7-4-2
- fees for, 7-1-5, 7-2-13, 7-2-26, 7-3-12, 7-4-5, 7-5-7, 7-6-11, 7-8-7, 7-9-6
- fireworks, 7-9-4
- inspections, 7-1-12
- investigation, 7-1-4, 7-3-4
- junk dealers, 7-5-3
- liquor, 21-2-1
- manufactured home parks, 23-3-21
- peddlers, 7-3-1
- person subject to, 7-1-2
- poker runs, 7-7-4
- raffles, 7-7-3
- revocation of, 7-1-13
- signed by mayor, 7-1-3
- solicitors, 7-2-28
- taxicab, 7-6-3
- termination of, 7-1-6
- transient merchants and itinerant vendors, 7-2-4

**Liquor Code,**

- classes of licenses, 21-2-6
- closing hours, 21-3-1
- definitions for, 21-1-1
- examination of applicant, 21-2-3

## **Liquor Code, (Cont'd.)**

licenses for,

- application, 21-2-2
- classes, 21-2-6
- display of, 21-2-10
- dramshop insurance, 21-2-9
- examining, 21-2-3
- fees for, 21-2-6, 21-2-7
- hours open, 21-3-1
- limitation of, 21-2-8
- nature of, 21-2-7
- prohibited, 21-2-4
- record of, 21-2-11
- required, 21-2-1
- term of, 21-2-5

liquor defined, 21-1-1

regulations for,

- books and records, 21-3-29
- change of location, 21-3-5
- diseased employees, 21-3-15
- disorderly conduct, 21-3-19
- election days, 21-3-11
- exclusionary provision, 21-3-27
- false identification, 21-3-32
- gambling, 21-3-18
- happy hour restrictions, 21-3-3
- health permit, 21-3-16
- hours, 21-3-1
- identification required, 21-3-24
- inspections, 21-3-28
- minors, liquor in vehicles, 21-3-9
- open liquor, 21-3-8
- peddling alcohol, 21-3-17
- persons selling, 21-3-21
- prohibited locations, 21-3-4
- prohibited sales, 21-3-20
- renting hotel rooms for drinking, 21-3-35
- residential areas, 21-3-10
- residential drinking, 21-3-34
- restrictions on licensee, 21-3-30
- sanitary conditions, 21-3-14
- school supplies sold, 21-3-6
- selling false identification, 21-3-31
- transfer of identification prohibited, 21-3-25
- transporting in motor vehicles, 21-3-7
- underaged; entry on licensed premises, 21-3-22
- underaged drinking on streets, 21-3-33
- unlawful acts, 21-3-12
- unlawful entertainment, 21-3-13
- unlawful purchase, 21-3-23
- warnings posted, 21-3-26

term of license, 21-2-5

## **Liquor Code, (Cont'd.)**

violations of,

- abatement of place used, 21-4-6
- acts of agents, 21-4-2
- appeal limitations, 21-4-13
- appeals of commissioner, 21-4-11
- complaint of residents, 21-4-9
- hearings, 21-4-10
- misbranding, 21-4-5
- owner permitting, 21-4-1
- revocation of license, 21-4-3, 21-4-4, 21-4-8
- subsequent violations, 21-4-12
- suspension of, 21-4-10
- use of premises, 21-4-7

## **- M -**

## **Mandated Policies,**

equal employment,

- accommodations for disabled, 22-7-6
- adoption, 22-7-1
- compliance by employees, 22-7-7
- contracting with non-complaints, 22-7-3
- designated enforcers, 22-7-8
- minority hiring, 22-7-5
- non-discriminatory practices, 22-7-2
- outreach to all, 22-7-4

ethics Code, 22-6-1

fair housing code,

- declaration of policy, 22-4-1
- definitions, 22-4-2
- penalty, 22-4-4
- prohibited acts, 22-4-3

freedom of information code,

- certain information exempt from inspection and copying, 22-3-9
- designation, duties and training of officers, 22-3-2
- fees, 22-3-6
- granting or denial of requests, 22-3-8
- notice of denial of request; appeals, 22-3-10
- procedures, 22-3-3
- public file, 22-3-7
- public records available, 22-3-1
- request for commercial purposes, 22-3-5
- requests to inspect or copy, 22-3-4

identity theft,

- prevention policy,
  - detecting red flags, 22-1-4
  - identification of red flags, 22-1-3
  - preventing and mitigating identity theft, 22-1-5
  - program administration, 22-1-7
  - program adoption, 22-1-1
  - program updates, 22-1-6

purpose and definitions, 22-1-2

## **Mandated Policies, (Cont'd.)**

identity theft, (Cont'd.)

- use of social security numbers, amendment of privacy policy, 22-2-9 applicability, 22-2-4 compliance with federal law, 22-2-5 conflict with stricter laws, 22-2-10 definitions, 22-2-1 embedded social security numbers, 22-2-6 identity--protection requirements, 22-2-7 penalty, 22-2-8 prohibited activities, 22-2-2 public inspection and copying of documents, 22-2-3

investment policy,

- authorized and suitable investments, 22-5-8
- authorized financial dealers and institutions, 22-5-7
- collateralization, 22-5-9
- delegation of authority, 22-5-5
- diversification, 22-5-11
- ethics and conflicts of interest, 22-5-6
- internal control, 22-5-13
- investment policy adoption, 22-5-16
- maximum maturities, 22-5-12
- objective, 22-5-4
- performance standards, 22-5-14
- policy, 22-5-1
- prudence, 22-5-3
- reporting, 22-5-15
- safekeeping and custody, 22-5-10
- scope, 22-5-2

sexual harassment,

- consequences, 22-8-5
- definition, 22-8-2
- false report, 22-8-6
- procedure for reporting, 22-8-3
- prohibition, 22-8-1
- retaliation, 22-8-4

## **Manufactured Housing,**

department of public health, 23-1-4

fees, 23-3-21

general provisions of,

- carbon monoxide detectors, 23-1-11
- definitions, 23-1-1
- department of public health rules, 23-1-4
- fire extinguishers, 23-1-7
- Illinois Manufactured Housing Code, 23-1-3
- inspection, 23-1-8
- Manufactured Home Park Act, 23-1-2
- Manufactured Home Tiedown Act, 23-1-2
- national safety standards, 23-1-5
- off-street parking, 23-1-9
- owner occupied, 23-1-12
- prohibited residential use, 23-1-10
- skirting, 23-1-6

## **Manufactured Housing, (Cont'd.)**

immobilized manufactured homes,

- defined, 23-2-1
- foundation specifications, 23-2-4
- limit of units, 23-2-5
- lot size, 23-2-3
- permit, fee, 23-2-2

inspections, 23-1-8

Manufactured Home Park Act adopted, 23-1-2

manufactured home parks,

- compliance with statutes, 23-3-1
- design requirements for, application for, 23-3-11 location and, 23-3-12 parking as, 23-3-13 plan document, 23-3-10 roadways, 23-3-13
- initial permit required, 23-3-7
- inspection of, 23-3-5
- local government requirements, 23-3-3
- lot size, 23-3-17
- miscellaneous restrictions, 23-3-18
- permits for, 23-3-4
- planning for, 23-3-2
- violation proceedings, 23-3-6

Manufactured Home Tiedown Act, 23-1-2

off-street parking, 23-1-9

## **Motor Vehicles,**

abandoned, lost, stolen or unclaimed,

- abandonment prohibited, 24-7-1
- collection of unpaid charges, 24-7-11
- disposal of hazardous dilapidated vehicles, 24-7-10
- disposal of unclaimed vehicle, 24-7-8
- disposal without notice, 24-7-9
- identifying and tracing vehicle, 24-7-6
- liability of law enforcement officers, 24-7-14
- notification to law enforcement agencies, 24-7-2
- police record for disposed vehicle, 24-7-12
- police tows, reports, release, payment, 24-7-4
- public sale proceeds, 24-7-13
- reclaimed vehicles, expenses, 24-7-7
- record searches for unknown owner, 24-7-5
- removal, towing or hauling away, 24-7-3
- violations, 24-7-15

animals, 24-2-7

bicycles, 24-2-8

definitions, 24-1-1



## **Motor Vehicles, (Cont'd.)**

### driving rules,

- careless, 24-2-2(A)
- duty to report accident, 24-4-3
- drag racing, 24-4-2(B)
- excessive noise, squealing tires, 24-4-7
- excessive noise, stopped vehicle, 24-4-5
- excessive noise, wheels, 24-4-6
- excessive noise while driving, 24-4-9
- fleeing or attempting to elude officer, 24-4-2(C)
- no passing zones, 24-4-2(K)
- reckless, negligent or careless driving, 24-4-8
- rules of the road adopted, 24-4-1
- speed restrictions,
  - elevated structures, 24-4-2(E)
  - failure to reduce, 24-4-2(H)
  - general, 24-4-2(F)
  - school, 24-4-2(G)
- traffic lane usage, 24-4-2(I)
- transporting liquor, 24-4-4
- u-turns prohibited, 24-4-2(J)
- unlawful possession of highway sign or marker, 24-4-2(D)

### equipment of,

- excessive engine braking noise prohibited, 24-5-4
- Illinois vehicle code, 24-5-1
- muffler, 24-5-2
- sound amplification system, 24-5-3

### generally,

- advertising signs, 24-2-6
- animals or bicycles, 24-2-7
- bicycle lamps, reflectors and equipment, 24-2-8
- obedience to police, 24-2-1
- scene of fire, 24-2-2
- signs and signals, 24-2-3
  - advertising, 24-2-6
  - interference, 24-2-5
  - unauthorized, 24-2-4

### golf carts,

- definitions, 24-11-2
- invalidity of law, 24-11-6
- permits, 24-11-4
- prohibited, 24-11-1
- requirements, 24-11-3
- violations, 24-11-4

### handicapped zones, Schedule "H"

### Illinois vehicle code,

- definitions adopted, 24-1-1
- rules of the road adopted, 24-4-1

### limited parking zones, Schedule "F"

## **Motor Vehicles, (Cont'd.)**

### load limits,

- application for permits, 24-8-4
- bond, 24-8-5
- load limits, 24-8-1
- permits, 24-8-3
- posting of street signs, 24-8-2
- repair of streets, 24-8-6

### loading zones, Schedule "J"

### no parking zones, Schedule "E"

### no passing zones, Schedule "R"

### one-way streets, Schedule "B"

### parking agreement,

- parking lot agreement, 24-9-1
- penalty, 24-9-3
- towing, 24-9-4
- violation notice, 24-9-2

### parking rules,

- for sale or repair, 24-6-2
- handicapped, 24-6-5
- in specified places, 24-6-4
- load limits, 24-6-6
- parking privileges for physically handicapped persons, 24-6-7
- prima facie proof, 24-6-10
- private property, 24-6-3
- snow routes, 24-6-11
- tickets, 24-6-12
- time limit, 24-6-1
- towing cars away, 24-6-8
- violations, 24-6-9

### restricted parking zones, Schedule "G"

### speed bumps, Schedule "S"

### speed limits, 24-4-2, Schedule "D"

### stop and through streets, Schedule "A"

- one-way streets or alleys, 24-3-2
- posting signs, 24-3-5
- stop intersections, 24-3-3
- through streets, 24-3-1
- yield right-of-way streets, 24-3-4

### vehicle seizure and impoundment,

- conduct prohibited, 24-10-2
- definitions, 24-10-1
- disposition of impounded vehicle, 24-10-9
- failure to pay penalty, 24-10-11
- failure to request hearing, 24-10-6
- hearing officer, 24-10-7
- judicial review pending, 24-10-12
- monies deposited, 24-10-13
- notice, 24-10-4
- penalty, 24-10-8
- posting of bond, 24-10-10

- request for hearing, 24-10-5
- seizure and impoundment, 24-10-3

**- N -**

**Nuisances,**

abatement of,

- garbage and debris, 25-3-4
- notice to, 25-1-3, 25-2-3, 25-3-2, 25-4-3, 25-5-3

building as nuisance,

- building condition, nuisance, 25-5-1
- dangerous and unsafe building defined, 25-5-4
- dangerous and unsafe buildings, nuisances, 25-5-6
- duties of attorney, 25-5-7
- liens, 25-5-8
- notification, 25-5-3
- standards for repair, vacation or demolition, 25-5-5
- time limit, 25-5-2

garbage and debris as,

- abatement of, 25-3-4
- accumulation prohibited, 25-3-1
- foreclosure of lien, 25-3-7
- lien for, 25-3-5
- notice to person, 25-3-2
- payment, 25-3-6
- service of notice, 25-3-3

generally,

- abatement by city, 25-1-6
- appeal, 25-1-5
- detrimental to health, 25-1-2
- failure to comply, 25-1-7
- hearing, 25-1-4
- notice to abate, 25-1-3
- specific, 25-1-1

inoperable motor vehicles,

- declaration of nuisance, 25-4-2
- definitions, 25-4-1
- exclusions, 25-4-4
- notice, 25-4-3

liens for,

- foreclosure of, 25-2-8, 25-3-7
- garbage, 25-3-5
- weed, 25-2-5

specific,

- accumulation of debris, 25-1-1(Y)
- advertising, 25-1-1(H)
- bringing nuisances into city, 25-1-1(T)
- burn-out pits, 25-1-1(J)
- business, 25-1-1(N)
- corruption of water, 25-1-1(C)
- dense or offensive smoke, 25-1-1(V)
- discarded materials, 25-1-1(K)
- expectorate, 25-1-1(P)
- filth, 25-1-1(A)
- generally, 25-1-1(Z)

**Nuisances, (Cont'd.)**

specific, (Cont'd.)

- harassment as, 25-1-1(M)
- highway encroachment, 25-1-1(D)
- junk, 25-1-1(R)
- litter, 25-1-1(Q)
- manufacturing gunpowder, 25-1-1(E)
- motor transport engines, 25-1-1(X)
- noxious odors, 25-1-1(G)
- offensive materials,  
deposit of, 25-1-1(B)
- offensive liquids, 25-1-1(U)
- powder magazines, 25-1-1(F)
- premises, filthy, 25-1-1(O)
- rodents, 25-1-1(S)
- scrap tires, 25-1-1(W)
- underground wells, 25-1-1(L)
- wells unplugged, 25-1-1(I)

violations,

- abatement, 25-6-3
- penalties, 25-6-2
- prosecution, 25-6-1

weeds,

- abatement, 25-2-4
- defined, 25-2-1
- foreclosure, 25-2-8
- foreclosure of lien, 25-2-7
- height, 25-2-2
- lien, 25-2-5
- notice, 25-2-3
- payment, 25-2-6
- service of notice, 25-2-3

**- O -**

**Offenses, (Public),**

abandoned refrigerators, 27-2-24

abetting or encouraging violation, 27-2-34

admission fees, avoiding, 27-2-6

adult uses,

- adult entertainment facility, 27-11-5
- definitions, 27-11-2
- limitation, 27-11-4
- prohibition, 27-11-3
- purpose and additional findings, 27-11-1

against property,

- criminal damage,  
climbing utility poles, 27-3-7  
false alarms, 27-3-10  
fire equipment, 27-3-3  
loitering unlawful, 27-3-9  
property, 27-3-2  
public notice, 27-3-6  
street signs, 27-3-5  
vandalism, 27-3-8

wires and poles, 27-3-4

**Offenses, (Public), (Cont'd.)**

against property, (Cont'd.)

- theft,
  - petty, 27-3-1

aid in committing, 27-2-14

aid in escape, 27-2-10

assemblies,

- disturbing, 27-2-3
- public places and businesses, 27-4-4
- unlawful, 27-2-4

begging as, 27-2-17

bows and arrows, 27-2-19

burning materials, 27-2-39

concealed weapons, 27-2-18

criminal code,

- adopted, 27-1-2
- definitions, 27-1-1

curfew violations, 27-2-30

definitions adopted, 27-1-1

depositing of snow and ice restricted, 27-2-28

destruction of public property, 27-2-23

discarded refrigerators, 27-2-24

discharging firearms, 27-2-19

disorderly conduct, 27-4-1

disturbing the peace, 27-2-5

drug paraphernalia,

- definitions, 27-14-1
- determination, 27-14-2
- forfeiture of property, 27-14-4
- in city hall, 27-14-5
- penalty, 27-14-3

escaping custody, 27-2-11

explosives, 27-2-21

false pretenses to obtain goods as, 27-2-12

fireworks, (See Title FIREWORKS)

fortune telling, 27-2-36

fraudulently avoiding admission fees, 27-2-6

games in street, 27-2-20

grass and weeds along streets, 27-2-37

halloween, 27-2-25

harmful (obscene) materials, 27-12-2

harmful material, 27-12-2

hunting on city property, 27-2-41

impersonating an officer, 27-2-2

intoxication in public, 27-2-16

litter unlawful,

- air craft, 27-5-8
- clearing by city, 27-5-15
- construction sites, 27-5-12
- definitions of, 27-5-1
- handbills, 27-5-10
- loading docks, 27-5-13
- owner to maintain private premises, 27-5-6

- parks, 27-5-9

**Offenses, (Public), (Cont'd.)**

litter unlawful, (Cont'd.)

- parking lots, 27-5-14
- posting notices, 27-5-11
- prohibited, 27-5-2
- receptacles for, 27-5-4
- scattering of, 27-5-3
- sidewalks from, 27-5-5
- vehicles, 27-5-7

loud and unnecessary noise, 27-2-33, 27-4-7

molesting street signs prohibited, 27-3-5

obscenity as,

- definition of, 27-12-1(B)
- elements of offense, 27-12-1(A)
- evidence interpretation, 27-12-1(C)
- prima facie evidence, 27-12-1(D)
- publications that are, 27-12-3

officer, refusing aid to, 27-4-3

open burning,

- definitions, 27-9-1
- prohibited, 27-9-2
- restrictions on landscape waste, 27-9-3

parental responsibility, 27-7-1, 27-7-2

penalties for, 1-1-20

petty theft, 27-3-1

police officer,

- disturbing, 27-2-1
- impersonation of, 27-2-2
- refusing aid to, 27-4-3
- resisting or obstructing, 27-4-2

posting bills, 27-2-15

premises rented for unlawful purpose, 27-2-13

protective covering or fencing, 27-2-29

public health,

- assault, battery, affray and reckless conduct, 27-4-14
- excavations, 27-4-18
- false report, 27-4-12
- fighting, 27-4-6
- interfering with firemen, 27-4-13
- intimidation, 27-4-16
- nudity prohibited, 27-4-10
- peeping tom, 27-4-9
- profanity, 27-4-8
- sale of firearms, 27-4-15
- scavengers prohibited, 27-4-11
- trapping animals, 27-4-5
- use of potable water supply, 27-4-17

public ways blocked, 27-2-9

refrigerators,

- abandoned, 27-2-24

registered sex offenders,

- definitions, 27-13-1

- other provisions, 27-13-4
- penalty, 27-13-3

## **Offenses, (Public), (Cont'd.)**

- registered sex offenders, (Cont'd.)
  - prohibited acts, 27-13-2
- resisting a police officer, 27-4-2
- sanctity of funeral and memorial services, 27-2-31
- smoke free air code,
  - amendments, 27-15-17
  - background, 27-15-1
  - definitions, 27-15-3
  - designation of no-smoking areas, 27-15-9
  - discrimination prohibited, 27-15-12
  - enclosed public places, 27-15-4
  - enforcement, complaints, 27-15-9
  - entrances, exits, windows and ventilation intakes, 27-15-15
  - exemptions, 27-15-8
  - home rule regulations, 27-15-14
  - injunctions, 27-15-11
  - places of employment, 27-15-4
  - purpose, 27-15-2
  - rules, 27-15-16
  - severability, 27-15-13
  - signs, 27-15-5
  - student dormitories, 27-15-6
  - violations, 27-15-10
- smokeless tobacco sales, 27-2-8
- storage of explosives, 27-2-21
- synthetic drugs,
  - synthetic cannabis, 27-12-2
  - synthetic cocaine, 27-12-1
- theft of recyclables, 27-2-26
- throwing objects from motor vehicles, 27-2-27
- throwing rocks as, 27-2-22
- tobacco regulations, minors, 27-2-7
- trash containers, 27-2-38
- trespass,
  - prohibited, 27-6-1
  - solicitors, 27-6-2
- truancy,
  - civil liability, 27-8-7
  - curfew restrictions, 27-8-2
  - definitions, 27-8-1
  - enforcement, 27-8-5
  - establishment restrictions, 27-8-4
  - penalty, 27-8-6
  - truancy restrictions, 27-8-3
- unattended machinery, 27-2-35
- use of upholstered furniture in outdoor locations, 27-2-32
- wild game sanctuary, 27-2-40

## **Oil and Gas Wells,**

- fees, Lake Benton, drainage,
  - application for permit, fee, 28-3-2
  - approval of storage, 28-3-11
  - burn-out pits, 28-3-8
  - dike capacity, 28-3-6
  - dikes to protect, 28-3-5
  - inspection by officials, 28-3-14
  - nuisance declared, 28-3-15
  - permit to drill, 28-3-1
  - polluting well area, 28-3-12
  - posting of permits, 28-3-3
  - sign posting, 28-3-4
  - storage of oil prohibited, 28-3-7
  - storage of wastes, 28-3-13
  - unplugged well prohibited, 28-3-10
  - well debris prohibited, 28-3-9
- Lake Benton,
  - acidization of well, 28-2-16
  - application, deposit, 28-2-6
  - burn-out pits prohibited, 28-2-27
  - capacity of reservoir, 28-2-25
  - consent of owner required, 28-2-13
  - damage by reservoir contents, 28-2-30
  - dikes required, 28-2-24
  - drilling permit required, 28-2-1
  - electric pump required, 28-2-21
  - fire extinguishers, 28-2-9
  - identification sign, 28-2-23
  - inspection of well site, 28-2-18
  - issuance of permit by council, 28-2-8
  - lien, 28-2-5
  - locations prohibited, 28-2-7
  - maximum number per drilling block, 28-2-4
  - nuisance declared, 28-2-33
  - ownership of land for permit, 28-2-11
  - permit, personal privilege, 28-2-12
  - permits restricted, 28-2-2
  - pipe lines, 28-2-19
  - polluting well area, 28-2-31
  - posting of permits, 28-2-22
  - pumping equipment, 28-2-20
  - sanitary sewer use prohibited, 28-2-15
  - storage facilities, 28-2-10
  - storage of oil in reservoir unlawful, 28-2-26
  - storage of wastes, 28-2-32
  - tanks for storage, 28-2-14
  - time limit on well permit, 28-2-17
  - unplugged well, 28-2-29
  - well debris prohibited, 28-2-28
  - well permit to particular stratum, 28-2-3

## **Oil and Gas Wells, (Cont'd.)**

- oil wells in city,
  - distance from buildings, 28-1-11
  - lease required for permit, 28-1-12
  - oil well drilling, application deposit, 28-1-9
  - owner's permission, 28-1-13
  - permit, streets and alleys, 28-1-8
  - permit, time constraint, 28-1-15
  - permit required, 28-1-1
  - permits, issuance, 28-1-7
  - permits per drilling block, 28-1-2
  - permitted wells, drilling blocks, 28-1-3
  - piping for production, 28-1-16
  - removal of oil, gas and water, 28-1-14
  - restricted permits, 28-1-4
  - royalty allocations, 28-1-6
  - royalty to owners, 28-1-5
  - terms of permit, 28-1-10

## **Open Burning, 27-9-1**

- P -

## **Peace,**

- disturbing, 27-2-5

## **Peddlers,**

- application, 7-3-3
- definitions, 7-3-2
- fees, 7-3-12
- fraud, 7-3-6
- hours, 7-3-5
- investigation, 7-3-4
- license for, 7-3-1
- nuisances, 7-3-9
- photographs of, 7-3-7
- police action, 7-3-10
- unwanted, 7-3-8

## **Penalties, 1-1-20**

## **Permits, required,**

- adult business, 7-8-4
- business, 7-1-1
- coin-operated machines, 7-4-2
- culverts, 33-6-2
- curb, 33-5-2
- driveway, 33-7-1
- fireworks, 7-9-4
- health, 21-3-16
- immobilized manufactured home, 23-2-2
- junk yards, 7-5-6
- manufactured home parks, 23-3-4
- outdoor café, 21-2-6
- sewer, 38-5-10, 38-5-18
- sidewalk, 33-5-1
- special use permit, 21-3-2
- storm sewer, 33-5-3
- water, 38-3-2
- wells, 38-3-21

## **Person,**

- defined, 1-1-16

## **Police Department,**

- aiding fire department, 30-2-12
- aiding in escape, 30-2-14
- appointments, 30-2-3
- assisting police officer, 30-2-11
- auxiliary police,
  - appointment, 30-2-21
  - badges and patches, 30-2-29
  - chain of command, 30-2-27
  - compensation, 30-2-26
  - expenses, 30-2-28
  - firearms, 30-2-24
  - multiple membership, 30-2-30
  - not members of police department, 30-2-22
  - powers and duties, 30-2-23
  - training, 30-2-25
- committee, 30-2-2
- duties, 30-2-7
- duties of chief of police, 30-2-6
- enforcement, 30-2-7
- established, 30-2-1
- failure to perform, 30-2-13
- legal processes, 30-2-10
- mutual aid contract, 30-2-8
- office of chief created, 30-2-3
- order of rank, 30-2-2
- part-time, 30-2-8
- rank, 30-2-4
- rules and regulations, 30-2-5
- salary, 30-2-6
- special policemen, 30-2-9
- stolen property, 30-2-19
- training, 30-2-18
- use of intoxicating liquor, 30-2-15
- witness fees, 30-2-16

## **Property Maintenance Code,**

- administration,
  - applicability,
    - application of other codes, 29-1-7
    - application of references, 29-1-13
    - existing remedies, 29-1-8
    - general, 29-1-5
    - historic buildings, 29-1-10
    - maintenance, 29-1-6
    - other laws, 29-1-14
    - referenced codes and standards, 29-1-11
    - requirements not covered by code, 29-1-12
    - workmanship, 29-1-9
  - approval,
    - alternative materials, methods and equipment, 29-1-31

## Property Maintenance Code, (Cont'd.)

- administration, (Cont'd.)
  - approval, (Cont'd.)
    - material and equipment reuse, 29-1-33
    - modifications, 29-1-30
    - required testing, 29-1-32
    - research reports, 29-1-34
  - demolition,
    - failure to comply, 29-1-69
    - general, 29-1-67
    - notices and orders, 29-1-68
    - salvage materials, 29-1-70
  - duties and powers of the code official,
    - coordination of inspection, 29-1-26
    - department records, 29-1-25
    - general, 29-1-21
    - inspections, 29-1-22
    - notices and orders, 29-1-24
    - right of entry, 29-1-23
  - emergency measures,
    - closing streets, 29-1-62
    - costs of emergency repairs, 29-1-64
    - emergency repairs, 29-1-63
    - hearing, 29-1-65
    - imminent danger, 29-1-60
    - temporary safeguards, 29-1-61
  - general
    - intent, 29-1-3
    - scope, 29-1-2
    - severability, 29-1-4
    - title, 29-1-1
  - means of appeal,
    - application, 29-1-72
    - board decision, 29-1-77
    - court review, 29-1-78
    - membership of the board, 29-1-73
    - notice of meeting, 29-1-74
    - open hearing, 29-1-75
    - postponed hearing, 29-1-76
    - stays of enforcement, 29-1-79
  - notices and orders,
    - form, 29-1-42
    - method of service, 29-1-43
    - penalties, 29-1-44
    - to person responsible, 29-1-41
    - transfer of ownership, 29-1-45
  - property maintenance inspection,
    - appointment, 29-1-16
    - deputies, 29-1-17
    - fees, 29-1-20
    - general, 29-1-15
    - liability, 29-1-18
    - permit to occupy, 29-1-19

## Property Maintenance Code, (Cont'd.)

- administration, (Cont'd.)
  - stop work order,
    - authority, 29-1-81
    - emergencies, 29-1-83
    - failure to comply, 29-1-84
    - issuance, 29-1-82
  - unsafe structures and equipment,
    - abatement methods, 29-1-52
    - closing of vacant structures, 29-1-48
    - general, 29-1-47
    - notice, 29-1-49
    - placarding, 29-1-50
    - prohibited occupancy, 29-1-51
  - violations,
    - abatement, 29-1-39
    - notice, 29-1-36
    - penalties, 29-1-38
    - prosecution, 29-1-37
    - unlawful acts, 29-1-35
- criminal nuisance abatement,
  - burden of proof, procedure, fines and remedies, 29-8-5
  - charge for nuisance services, 29-8-6
  - nuisance free lease addendum, 29-8-2
  - nuisance free rental housing, 29-8-1
  - permit, 29-8-7
  - procedures, 29-8-4
  - violations, 29-8-3
- definitions,
  - defined in other codes, 29-2-3
  - interchangeability, 29-2-2
  - parts, 29-2-4
  - scope, 29-2-1
  - specific, 29-2-5
- fire safety requirements,
  - fire protection systems,
    - carbon monoxide detectors, 29-7-14
    - general, 29-7-10
    - interconnection, 29-7-13
    - power source, 29-7-12
    - smoke alarms, 29-7-11
  - fire-resistance ratings,
    - assemblies, 29-7-8
    - opening protectives, 29-7-9
  - general,
    - responsibility, 29-7-2
    - scope, 29-7-1
  - means of egress,
    - aisles, 29-7-4
    - emergency escape openings, 29-7-6
    - fire partitions, 29-7-7



general, 29-7-3  
locked doors, 29-7-5

### **Property Maintenance Code, (Cont'd.)**

- general requirements,
- component serviceability, 29-3-43
- exterior property areas,
  - accessory structures, 29-3-11
  - defacement of property, 29-3-13
  - exhaust vents, 29-3-10
  - grading and drainage, 29-3-6
  - graffiti, 29-3-14
  - motor vehicles, 29-3-12
  - parking motor vehicles, 29-3-13
  - rodent harborage, 29-3-9
  - sanitation, 29-3-5
  - sidewalks and driveways, 29-3-7
  - weeds, 29-3-8
- exterior structure,
  - basement hatchways, 29-3-33
  - building security, 29-3-35
  - decorative features, 29-3-26
  - doors, 29-3-32
  - exterior walls, 29-3-24
  - foundation walls, 29-3-23
  - gates, 29-3-36
  - general, 29-3-18
  - guards for basement windows, 29-3-34
  - handrails and guards, 29-3-29
  - insect screens, 29-3-31
  - overhang extensions, 29-3-27
  - premises identification, 29-3-21
  - protective treatment, 29-3-20
  - roofs and drainage, 29-3-25
  - stairways, decks, porches and balconies, 29-3-28
  - structural members, 29-3-22
  - unsafe conditions, 29-3-19
  - window, skylight and door frames, 29-3-30
- general,
  - responsibility, 29-3-2
  - scope, 29-3-1
  - vacant structures and land, 29-3-3
- handrails and guardrails, 29-3-44
- interior structure,
  - general, 29-3-37
  - handrails and guards, 29-3-41
  - interior doors, 29-3-42
  - interior surfaces, 29-3-39
  - stairs and walking surfaces, 29-3-40
  - structural members, 29-3-38
- pest elimination,
  - infestation, 29-3-50
  - multiple occupancy, 29-3-53
  - occupant, 29-3-54
  - owner, 29-3-51
  - single occupant, 29-3-52

### **Property Maintenance Code, (Cont'd.)**

- general requirements, (Cont'd.)
- rubbish and garbage,
  - accumulation, 29-3-46
  - disposal of garbage, 29-3-48
  - disposal of rubbish, 29-3-47
- swimming pools, spas and hot tubs,
  - enclosures, 29-3-16
  - swimming pools, 29-3-15
- light, ventilation and occupancy limitations,
- general,
  - alternative devices, 29-4-3
  - responsibility, 29-4-2
  - scope, 29-4-1
- light,
  - common halls and stairways, 29-4-6
  - habitable spaces, 29-4-5
  - other spaces, 29-4-7
- occupancy limitations,
  - bedroom requirements, 29-4-18
  - efficiency unit, 29-4-20
  - food preparation, 29-4-21
  - minimum ceiling heights, 29-4-17
  - minimum room widths, 29-4-16
  - overcrowding, 29-4-19
  - privacy, 29-4-15
- ventilation,
  - bathrooms and toilet rooms, 29-4-10
  - clothes dryer exhaust, 29-4-13
  - cooking facilities, 29-4-11
  - habitable spaces, 29-4-9
  - process ventilation, 29-4-12
- mechanical and electrical requirements,
- duct systems, 29-6-21
- electrical equipment,
  - installation, 29-6-17
  - luminaires, 29-6-19
  - receptacles, 29-6-18
  - wiring, 29-6-20
- electrical facilities,
  - required, 29-6-14
  - service, 29-6-15
  - system hazards, 29-6-16
- general,
  - responsibility, 29-6-2
  - scope, 29-6-1
- heating facilities,
  - facilities required, 29-6-13
  - heat supply, 29-6-5
  - residential occupancies, 29-6-4
  - room temperature measurement, 29-6-6

### **Property Maintenance Code, (Cont'd.)**

mechanical and electrical requirements,  
(Cont'd.)

- mechanical equipment,  
clearances, 29-6-9  
combustion air, 29-6-12  
elevation of ignition source, 29-6-10  
energy conservation devices, 29-6-13  
mechanical appliances, 29-6-7  
removal of combustion products, 29-6-8  
safety controls, 29-6-11

plumbing facilities and fixture requirements,

- general,  
responsibility, 29-5-2  
scope, 29-5-1
- plumbing systems and fixtures,  
fixture clearances, 29-5-8  
general, 29-5-7  
plumbing system hazards, 29-5-10  
pressure-relief valve, 29-5-9
- required facilities,  
dwelling units, 29-5-3  
rooming houses, 29-5-4
- sanitary drainage system,  
general, 29-5-16  
grease interceptors, 29-5-18  
maintenance, 29-5-17
- storm drainage, 29-5-19
- toilet rooms,  
floor surface, 29-5-6  
privacy, 29-5-5
- water system,  
contamination, 29-5-12  
garages, 29-5-15  
general, 29-5-11  
supply, 29-5-13  
water heating facilities, 29-5-14

### **Public Safety,**

civil emergency,

- authority of mayor to issue orders, 30-1-4
- curfew, 30-1-3
- declaration of emergency, 30-1-2
- definitions, 30-1-1
- effectiveness, 30-1-5
- notification, 30-1-6

emergency management agency (E.M.A.)

- appropriations and levy of tax, 30-4-13
- authority to accept services, gifts, grants or  
loans, 30-4-14
- communications, 30-4-10
- compensation, 30-4-20
- definitions, 30-4-3
- emergency management agency, 30-4-4
- emergency management powers of the  
mayor, 30-4-5

### **Public Safety, (Cont'd.)**

emergency management agency (E.M.A.)  
(Cont'd.)

- emergency termination or reduction of  
electrical service, 30-4-22
- financing, 30-4-6
- immunity, 30-4-11
- limitations, 30-4-2
- local disaster emergencies, 30-4-7
- mutual aid arrangements between political  
subdivisions, 30-4-9
- no private liability, 30-4-18
- orders, rules and regulations, 30-4-15
- penalty, 30-4-23
- personnel oath, 30-4-21
- policy and procedures, 30-4-1
- professions, trades and occupations, 30-4-12
- severability, 30-4-17
- succession, 30-4-19
- testing of disaster warning devices, 30-4-8
- utilization of existing agency, facilities and  
personnel, 30-4-16

fire department,

- department administration,  
appointments, 30-3-3  
duties of chief, 30-3-6  
enforcement, 30-3-7  
established, 30-3-1  
non-resident service fees, 30-3-10  
obstruction of and restitution, 30-3-9  
order of rank, 30-3-2  
outside calls, 30-3-8  
rank, 30-3-4  
rules and regulations, 30-3-5
- emergency medical ambulance service,  
billing and payment, 30-3-54  
destination determination, 30-3-50  
emergency medical ambulance service,  
30-3-48  
fees, 30-3-53  
mutual aid, 30-3-51  
purpose, 30-3-47  
required training, etc., 30-3-52  
title, 30-3-46  
transport destinations, 30-3-49
- hazardous materials,  
abatement of hazardous materials, 30-  
3-37  
allocation of expenses, 30-3-39  
charges for services, 30-3-40  
definitions, 30-3-36  
hazard materials specialist, 30-3-38
- officers,  
bond required, 30-3-18  
election, 30-3-16  
monetary transfers, 30-3-19  
treasurer fiscal duties, 30-3-17  
use of funds, 30-3-20
- volunteer firemen,  
compensation, 30-3-29  
compliance to regulations, 30-3-30

duties, 30-3-27

**Public Safety, (Cont'd.)**

fire department, (Cont'd.)

- volunteer firemen, (Cont'd.)
  - members appointed, 30-3-25
  - minimum age requirement, 30-3-31
  - requirements, 30-3-26
  - training, 30-3-28

police department,

- aiding fire department, 30-2-12
- aiding in escape, 30-2-14
- appointments, 30-2-3
- assisting police officer, 30-2-11
- auxiliary police,
  - appointment, 30-2-21
  - badges and patches, 30-2-29
  - chain of command, 30-2-27
  - compensation, 30-2-26
  - expenses, 30-2-28
  - firearms, 30-2-24
  - multiple membership, 30-2-30
  - not members of police department, 30-2-22
  - powers and duties, 30-2-23
  - training, 30-2-25
- committee, 30-2-2
- duties, 30-2-7
- duties of chief of police, 30-2-6
- enforcement, 30-2-7
- established, 30-2-1
- failure to perform, 30-2-13
- legal processes, 30-2-10
- mutual aid contract, 30-2-8
- office of chief created, 30-2-3
- order of rank, 30-2-2
- part-time, 30-2-8
- rank, 30-2-4
- rules and regulations, 30-2-5
- salary, 30-2-6
- special policemen, 30-2-9
- stolen property, 30-2-19
- training, 30-2-18
- use of intoxicating liquor, 30-2-15
- witness fees, 30-2-16

**- R -****Refrigerators,**

discarded, 27-2-24

**Religious assembly,**

disturbing, 27-2-3

**Revised Code,**

definitions,

- catchlines, 1-1-17
- list of, 1-1-16

- word construction, 1-1-15

**Revised Code, (Cont'd.)**

liability of officers, 1-1-24

penalty,

- appeals, 1-1-21
- application of, 1-1-23
- liability of officers, 1-1-24
- license, 1-1-25
- service by certified mail, 1-1-22
- specific, 1-1-20

saving clause of,

- clerk's certificate, 1-1-12
- court proceedings, 1-1-10
- ordinance repeal, 1-1-8
- public utility ordinances, 1-1-9
- severability of provisions, 1-1-11

title of, 1-1-1

- acceptance, 1-1-2
- amendments, 1-1-3
- code alteration, 1-1-4
- jurisdiction, 1-1-5

**- S -****Salaries, (See "Administration")****Seal of Village,** 1-2-26**Sewer System,**

building sewers and connections,

- application for permit, 38-5-18
- backfill, 38-5-30
- barricades at excavations, 38-5-28
- capacity of sewer, 38-5-19
- compliance, 38-5-17
- construction methods, 38-5-23
- cost of installation, 38-5-20
- disturbing system unlawful, 38-5-16
- elevation, 38-5-24
- excavation, 38-5-29
- inspection, 38-5-27
- old building sewers, 38-5-22
- plumbing code requirements, 38-5-26
- prohibited connections, 38-5-25
- separate sewer; exception, 38-5-21

definitions, 38-5-1

extension of collecting wastewaters,

- extension permits, 38-5-52
- inspections of construction, 38-5-54
- manholes required, 38-5-55
- materials, 38-5-53
- permit required, 38-5-51

inspections,

- damage, 38-5-46
- inspection and testing, 38-5-47
- liability of city, 38-5-48

- private property inspections, 38-5-49

## **Sewer System, (Cont'd.)**

penalties,

- continued violations, 38-5-59
- liability of person, 38-5-60
- penalty, 38-5-58

private sewage disposal,

- additional restrictions, 38-5-14
- approval, 38-5-9
- availability of public connection, 38-5-12
- cleaning of system 38-5-15
- maintenance, 38-5-13
- permit, 38-5-10
- requirements, 38-5-11
- system, 38-5-8

use of public sewers required,

- connection to system required, 38-5-7
- deposit of wastes, 38-5-4
- private system unlawful, 38-5-6
- sewage in natural outlet, 38-5-5

use of public wastewater facilities,

- discharge of storm water, 38-5-32
- flow equalizing facilities, 38-5-39
- harmful effects of certain materials, 38-5-36
- harmful wastes, approval, 38-5-37
- industrial discharges, 38-5-35
- industrial waste testing, 38-5-41
- industrial wastes control manhole, 38-5-40
- interceptors provided, 38-5-38
- measurements and tests, 38-5-42
- regulations of wastes, 38-5-34
- special arrangements, 38-5-43
- storm water, 38-5-33

wastewater service charges,

- basic user charge, 38-4-18, 38-4-26
- basis for wastewater service charges, 38-4-17
- capital improvement charge, 38-4-21, 38-4-28
- computation of basic user charge, 38-4-19
- computation of wastewater service charge, 38-4-32
- debt service charge, 38-4-20, 38-4-27
- materials and labor, 38-4-33
- measurement of flow, 38-4-25
- multi-unit buildings, 38-4-30
- notification of users, 38-4-24
- rates, 38-4-29
- review of service charges, 38-4-23
- surcharge on excessive concentrations, 38-4-22
- surcharge rates, 38-4-31

- tapping of the mains, 38-4-34

## **Sexual harassment policy,**

Consequences, 22-8-5

definition, 22-8-2

false report, 22-8-6

procedure for reporting, 22-8-3

prohibition, 22-8-1

retaliation, 22-8-4

## **Sidewalks, (See Streets)**

### **Signs,**

across streets, 34-2-6

### **Social media policy,**

mission statement, 12-4-1

policy, 12-4-3

purpose, 12-4-2

rules and regulations, 12-4-4

### **Solicitors,**

appeal, 7-2-31

application for, 7-2-25

defined, 7-2-1

disclosure requirements, 7-2-34

exceptions, 7-2-37

exhibited upon request, 7-2-32

fees, 7-2-26

interstate commerce, 7-2-39

issuance of permit, 7-2-28

no agreement to evade, 7-2-38

nontransferable, 7-2-33

penalty, 7-2-41

permit denial, 7-2-29

posted premises, 7-2-35

prohibited practices, 7-2-36

regulations, intersections, 7-2-40

revocation, 7-2-30

standards for permit issuance, 7-2-27

### **Special meetings, 1-2-4**

### **Sports,**

in streets, 27-2-20

### **Streets,**

barbed-wire fences, 33-2-17

building materials in, 33-2-11

burning, 33-2-18, 33-2-22

closing, 33-2-5

construction of utility facilities,

- action on permit applications, 33-4-5
- annual registration required, 33-4-3
- change of ownership, 33-4-12
- cleanup and restoration, 33-4-19
- construction methods and materials, 33-4-16
- definitions, 33-4-2
- enforcement, 33-4-23
- effect of permit, 33-4-6
- general construction standards, 33-4-13
- indemnification, 33-4-9

- insurance, 33-4-8



## **Streets, (Cont'd.)**

construction of utility facilities, (Cont'd.)

- location of facilities, 33-4-15
- maintenance and emergency maintenance, 33-4-20
- penalties, 33-4-22
- permit required; applications and fees, 33-4-4
- permit suspension and revocation, 33-4-11
- purpose and scope, 33-4-1
- removal, relocation, or modification, 33-4-18
- revised permit drawings, 33-4-7
- security, 33-4-10
- traffic control, 33-4-14
- variances, 33-4-21
- vegetation control, 33-4-17

culverts,

- cost of installation, 33-6-4
- obstruction of drain or storm sewer, 33-6-1
- permit, 33-6-2
- type, 33-6-3

curbs, 33-5-2

department,

- commissioner of streets, 33-1-2
- established, 33-1-1

deposits on sidewalks, 33-2-8

driveway construction,

- grade surface, 33-7-2
- permit required, 33-7-1
- repair, 33-7-4
- specifications, 33-7-3

encroachments, 33-2-13

games in, 27-2-20

grass mowing, 33-2-19

gutters, 33-5-2

house numbering, 33-2-21

injury to new pavements, 33-2-16

merchandise on public street, 33-2-12

moving buildings,

- application for permit, 33-9-2
- approval of route, 33-9-16
- clearance of site, 33-9-9
- control and supervision, 33-9-13
- default in performance of conditions, 33-9-15
- denial of permit, 33-9-4
- estimate of cost and deposit, 33-9-6
- inspection fee and permit fee, 33-9-10
- investigation, 33-9-3
- issuance of permit, 33-9-11
- liability insurance, 33-9-7
- lights and barricades, 33-9-18
- notice required, 33-9-14

## **Streets, (Cont'd.)**

moving buildings, (Cont'd.)

- obstructing streets, 33-9-17
- owner's completion bond, 33-9-8
- permit required, 33-9-1
- refunding of deposits, 33-9-22
- repairs to public property, 33-9-21
- suspension or revocation, 33-9-12
- terms and conditions, 33-9-5
- trees, plants and shrubs, 33-9-20
- wires and structural supports, 33-9-19

obstruction, removal of, 33-2-9

open doors, 33-2-2

playing in street, 33-2-20

posting bills, 33-2-14

rainwater drains, 33-2-10

repairing sidewalks, 33-2-3

sidewalks, 33-5-1

signs across, 33-2-6

signs on poles, 33-2-15

snow removal,

- definitions, 33-8-1
- depositing, 33-8-3
- designated, 33-8-6
- mayor's authority, 33-8-4
- parking prohibited, 33-8-5
- removal by private persons, 33-8-2
- secondary, 33-8-7

stairways on, 33-2-4

storm sewers, 33-5-3

trees and shrubs,

- advertisements or notices, 33-3-5
- dangerous trees, 33-3-6
- gas pipes, 33-3-8
- injury, 33-3-4
- planting, 33-3-1
- planting trees in right-of-way, 33-3-2
- removal, 33-3-3
- wires, 33-3-7

undermining, 33-2-1

vacation of, 33-2-23

vehicles on sidewalks, 33-2-7

## **Subdivisions,**

administrative procedures,

- action by city council, variance standards, 34-4-4
- amendments, 34-4-5
- enforcement officer, duties, 34-4-1
- fees, time of payment, 34-4-7
- penalties, 34-4-8
- review by plan commission, 34-4-3
- schedule of fees, 34-4-6
- subdivision variances, 34-4-2

definitions,

- interpretation of terms, 34-2-1

- selected definitions, 34-2-2

### **Subdivisions, (Cont'd.)**

- design and improvement standards,
  - blocks,
    - crosswalks, 34-5-27
    - length, 34-5-26
    - width, 34-5-25
  - generally,
    - applicability of article, 34-5-1
    - suitability for development generally, 34-5-2
  - lot requirements,
    - access and relationship to street, 34-5-5
    - lot size, 34-5-4
    - reference monuments, 34-5-6
  - sanitary sewers,
    - alternate methods of disposal, 34-5-47
    - compliance with regulations, 34-5-45
    - when public system planned, 34-5-46
  - sidewalks,
    - required, 34-5-29
    - sidewalk construction standards, 34-5-30
  - street design standards,
    - dead-end streets, 34-5-12
    - improvements to existing streets, 34-5-15
    - intersections, 34-5-13
    - limited access to arterials, 34-5-11
    - plan integration, 34-5-7
    - reverse curves, 34-5-14
    - right-of-way and pavement widths, 34-5-8
    - through traffic discouraged, 34-5-10
    - topographical considerations, 34-5-9
    - when excess right-of-way required, 34-5-16
  - street improvement standards,
    - curb and gutter, 34-5-21
    - developer's expense, 34-5-20
    - maintenance responsibility, 34-5-22
  - street name signs,
    - specifications, 34-5-35
  - streetlights,
    - intersection lighting, 34-5-32
    - streetlight system standards, 34-5-33
  - utilities,
    - drainage easements, 34-5-39
    - maintenance easements, 34-5-40
    - utility easements, 34-5-38
    - utility location and easements required, 34-5-37

### **Subdivisions, (Cont'd.)**

- design and improvement standards,  
(Cont'd.)
  - water facilities,
    - fire hydrants, 34-5-43
    - potable water required, 34-5-42
- drainage and storm sewers,
  - design criteria,
    - general requirements, 34-6-12
    - hydraulic considerations for detention storage, 34-6-15
    - other references, 34-6-13
    - storm water runoff, 34-6-14
  - general guidelines,
    - affidavit of disclosure of property interest, 34-6-5
    - applicability, 34-6-4
    - detention of differential runoff, 34-6-7
    - facilities in floodplains, 34-6-9
    - flows from upstream areas, 34-6-8
    - land credit for detention facilities, 34-6-10
    - method of evaluation, 34-6-6
  - inspection, maintenance and acceptance by city,
    - acceptance, 34-6-22
    - inspection, 34-6-20
    - maintenance, 34-6-21
  - penalties for violation,
    - corrective actions, 34-6-25
    - general, 34-6-24
    - penalty, 34-6-26
  - plan requirements,
    - construction alternatives, 34-6-18
    - plan requirements, 34-6-17
  - purpose and definitions,
    - purpose and intent, 34-6-1
    - special definitions, 34-6-2
- general provisions,
  - disclaimer of liability, 34-1-6
  - instances when plats will not be required, 33-1-4
  - interpretation, 33-1-5
  - jurisdiction, 34-1-3
  - purpose, 34-1-2
  - title, 34-1-1
- penalty, 1-1-20
- plats and plans,
  - assurance for completion of required improvements
    - amount of bond or deposit, 34-3-15
    - approval of final plat – improvements, 34-3-13

eligible sureties, 34-3-16

## **Subdivisions, (Cont'd.)**

- plats and plans, (Cont'd.)
  - assurance for completion of required improvements (Cont'd.)
    - failure to complete improvements, 34-3-19
    - forms of assurance, 34-3-14
    - release of bond/escrow deposit, 34-3-18
    - term of assurance, extension, 34-3-17
- final plats,
  - action by city council, 34-3-27
  - administrative review, advisory report, 34-3-26
  - certificates required, 34-3-25
  - changes in approved final plats, 34-3-28
  - city council approval, 34-3-22
  - filing, time limits, 34-3-23
  - information required, 34-3-24
- improvement plans,
  - filing "as-built" records, 34-3-11
  - information required, 34-3-9
  - inspections required, 34-3-10
  - submission, 34-3-8
- maintenance of improvements,
  - maintenance bond, 34-3-36
  - subdivider's responsibilities, 34-3-35
- preliminary plats
  - filing procedure, 34-3-2
  - general procedure, 34-3-1
  - information required, 34-3-3
  - plan commission action, 34-3-4
  - review by council, time constraints, 34-3-5
  - rights and privileges of subdivider, 34-3-6
- vacation of plats,
  - vacation of plats, 34-3-37

## **- T -**

## **Taxation,**

- electric utility tax,
  - additional taxes, 36-5-3
  - collection, 36-5-4
  - credit for overpayment, 36-5-6
  - exceptions, 36-5-2
  - imposed, 36-5-1
  - penalty, 36-5-7
  - reports to city, 36-5-5
  - unconstitutional, 36-5-8
- foreign fire insurance companies,
  - conformance, 36-6-1
  - fees, 36-6-2

## **Taxation, (Cont'd.)**

- foreign fire insurance companies, (Cont'd.)
  - penalty, 36-6-6
  - recovery of monies, 36-6-4
  - required reports, 36-6-3
  - unlawful operation, 36-6-5
- gas tax,
  - additional taxes, 36-4-3
  - credit, 36-4-6
  - definitions, 36-4-4
  - exceptions, 36-4-2
  - penalty, 36-4-7
  - reports, 36-4-5
  - tax imposed, 36-4-1
- generally,
  - audit, 36-1-3
  - corporate, 36-1-1
  - FICA, 36-1-4
  - garbage, 36-1-6
  - general liability, 36-1-5
  - police, 36-1-2
  - street and bridge, 36-1-8
  - workmen's compensation, 36-1-7
- home rule municipal retailers' occupation tax,
  - imposed, 36-7-1
  - penalties, 36-7-2
- simplified telecommunications tax,
  - collection by retailers, 36-3-3
  - definitions, 36-3-1
  - resellers, 36-3-5
  - returns to department, 36-3-4
  - tax imposed, 36-3-2
- taxpayer's rights code,
  - abatement, 36-2-12
  - appeal, 36-2-9
  - application, 36-2-18
  - audit procedure, 36-2-8
  - certain credits and refunds, 36-2-7
  - definitions, 36-2-3
  - hearing, 36-2-10
  - installment contracts, 36-2-13
  - interest and penalties, 36-2-11
  - internal review procedure, 36-2-17
  - late payment, 36-2-5
  - notices, 36-2-4
  - payment, 36-2-6
  - publication of tax ordinances, 36-2-16
  - scope, 36-2-2
  - statute of limitations, 36-2-14
  - title, 36-2-1
  - voluntary disclosure, 36-2-15

**Trash franchise,**

- cars, 37-1-2
- franchise, 37-1-1
- general specifications, Exhibit "A"
- insurance requirements, Exhibit "B"
- municipal contract, Appendix "A"
- waste material collection and disposal rates
- contractor's pricing, Exhibit "C"

**Treasurer, (See Administration)****Trees and Shrubs,**

- advertisements or notices, 34-3-5
- dangerous trees, 34-3-6
- gas pipes, 34-3-8
- injury, 34-3-4
- planting, 34-3-1
- planting trees in right-of-way, 34-3-2
- removal, 34-3-3
- wires, 34-3-7

**- W -****Water and Sewer,**

- application for water system service connection, Appendix #1
- application for sanitary sewer service connection
- residential or commercial building sewer
- application industrial sewer connection
- application receipt, Appendix #4
- certificate of inspection, Appendix #5
- department established, 38-1-1
  - duties of superintendent, 38-1-4
  - public property department, 38-1-2
  - superintendent, 38-1-3
- disconnect notice, Appendix #6
- objectionable material effluent limits, Appendix #7
- private waste disposal application, Appendix #3
- rates and regulations,
  - adjustments, 38-2-4
  - consumer lists, 38-2-5
  - contract, 38-2-1
  - damage to streets and alleys, 38-2-8
  - deposits, 38-2-7
  - estimated charge, 38-2-3
  - liability for charges, 38-2-2
  - no free service, 38-2-6
- utility main extension contract, Appendix #2

**Water System,**

- cross-connection administration,
  - backflow prevention devices, 38-3-30
  - contamination costs, 38-3-35
  - cross-connection prohibited, 38-3-31
  - investigation by superintendent, 38-3-32
  - notice to customer, 38-3-34
  - right to enter premises, 38-3-33

**Water System, (Cont'd.)**

- cross-connection control code,
  - application, 38-3-39
  - backflow prevention devices, 38-3-47
  - booster pumps, 38-3-49
  - cross-connection prohibited, 38-3-43
  - definitions, 38-3-41
  - inspection and maintenance, 38-3-48
  - purpose, 38-3-38
  - responsibility of owner, 38-3-40
  - survey and investigations, 38-3-44
  - type of protection required, 38-3-46
  - violations and penalties, 38-3-50
  - water system, 38-3-42
  - where protection is required, 38-3-45
- extension of mains,
  - determination of expense, 38-3-55
  - easements, 38-3-56
  - maintenance and replacement, 38-3-59
  - size and type, 38-3-57
  - title, 38-3-58
- rates,
  - general,
    - access to books, 38-3-73
    - access to records, 38-4-5
    - accounts, 38-4-3
    - adequacy of service charges, 38-3-76
    - appeals, 38-3-75
    - building unit defined, 38-4-1
    - computation, 38-3-77
    - connection charge, 38-3-78
    - notice of rates, 38-4-4
    - requested shutoff, 38-3-80
    - revenues, 38-4-2
    - water rates, 38-3-79
  - water rates,
    - Illinois plumbing code, 38-4-11
    - maintenance of water lines, 38-4-12
    - rates, 38-4-13
    - tap-on fees, inside city, 38-4-10
- regulations,
  - abandoned connection, 38-3-22
  - all service to be by meter, 38-3-3
  - alternative water source, 38-3-23
  - application, 38-3-2
  - building or construction purposes, 38-3-10
  - city not liable, 38-3-20
  - cost, 38-3-19
  - damage to interruption of service, liability, 38-3-6
  - dangerous usage, 38-3-8
  - definitions, 38-3-1
  - easements, 38-3-15
  - electric ground wires, 38-3-9

**Water System, (Cont'd.)**

regulations, (Cont'd.)

- fire hydrants, 38-3-11
- groundwater use prohibited, 38-3-24
- inspection, 38-3-4
- limited usage in emergencies, 38-3-12
- meter damaged, 38-3-5
- non-compliance, 38-3-14
- resale of water, 38-3-7
- rules to become part of contract, 38-3-26
- shortage and purity of supply, 38-3-13
- specifications, 38-3-17
- use on consumer's premises, 38-3-16
- utility services protocol for non-residents, 38-3-25
- water line size, 38-3-18
- water well permits required, 38-3-21

**Zoning and Planning Commission,**

annexations, 4-1-5

duties of, 4-1-5

established, 4-1-1

expenditures, 4-1-7

improvements, 4-1-7

membership on, 4-1-2

official map of, 4-1-6

powers of, 4-1-5

procedure, 4-1-4

re-subdivision approval, 4-1-6

term of office, 4-1-3